

Siskind's Immigration Bulletin –
March 23, 2006

Published by Greg Siskind, partner at the Immigration Law Offices of Siskind Susser, P.C., Attorneys at Law; telephone: 800-748-3819, 901-682-6455; facsimile: 800-684-1267 or 901-339-9604, e-mail: gsiskind@visalaw.com, WWW home page: <http://www.visalaw.com>.

Siskind Susser serves immigration clients throughout the world from its offices in the US and its affiliate offices across the world. To schedule a telephone or in-person consultation with the firm, go to <http://www.visalaw.com/intake.html>.

Editor: Greg Siskind. Associate Editor: Penny Egel. Contributors: Hadley Bajramovic, Maria Bjornerud.

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>.

1. Openers
2. The ABC's of Immigration: Foundations of Immigration Law, Part I
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. Immigration Service Reopens Past Citizenship Denials
11. Siskind Susser Career Opportunity: Immigration Paralegal

1. Openers

Dear Readers:

Last week we provided a detailed summary of the Specter comprehensive immigration reform bill. This is the most likely bill to pass of a number of major immigration bills introduced in this session of the Senate.

There were several key developments this past week on the legislation. First, Senate Majority Leader Bill Frist (R-TN) introduced an enforcement-only immigration bill. Frist says his goal is to ensure something on immigration passes before the Senate goes into recess April 10th. Frist has given a deadline to the Judiciary Committee of March 27th to get a bill out in order to have two weeks to debate a measure.

Senator Specter made a major move that could very well make it possible to meet the Frist deadline. The Judiciary Committee will now simply vote March 27th on either including the guest worker immigration provisions of either the Kennedy-McCain immigration bill or the provisions of the more restrictive Cornyn bill. The 'gold card' provision in the Specter bill will now be replaced with this new language. The Kennedy-McCain language seems to have the votes.

Even if Specter is not successful in meeting the deadline, Senator Frist got an unexpected challenge on Wednesday from Senate Minority Leader Harry Reid (D-NV) who vowed to lead a filibuster of the Frist bill if the Majority Leader attempts to bypass the Judiciary Committee. Senator Hillary Clinton (D-NY), widely considered the frontrunner for the 2008 Democratic Presidential nomination also strongly criticized the Frist bill, noting that the harsher enforcement provisions were contrary to Biblical Scriptures.

We'll report next week on whether the Judiciary Committee is successful in meeting the Frist deadline.

We wanted to let readers know that we are seeking experienced business and employment immigration paralegals in our Memphis headquarters office. Booming Memphis, Tennessee is one of America's most affordable cities and a great place to live. Candidates should have 3+ years experience and be strong writers. Benefits include health, cafeteria, retirement. Salary negotiable. Send resume to Greg Siskind at gsiskind@visalaw.com

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. ABCs of Immigration: Foundations of Immigration Law, Part I

This week you'll find part one of a two part article. The two articles provide a VERY quick overview of the ways a person can legally come to the US. More in depth discussions of each of these topics can be found in our site's ABCs section at www.visalaw.com/abcs.html.

INTRODUCTION:

There are five (5) Major Immigration Status/ Visa Categories and for the purposes of this paper, the first three will be discussed.

1. Non-Immigrant Visas – temporary visitors (work, student, visitor, etc.)
2. Immigrant Visas – lawful permanent residents (green card holders)
3. Asylees and other special groups – Asylum, refugee, and TPS status holders
4. Citizens
5. Undocumented – illegal immigrants

1. Non-Immigrant Visas

There are several types of non-immigrant visas. Non-immigrant visas are usually designated by letters. Below are brief summaries of the most common ones:

H-1B Visas – Available to people in “specialty occupations”

1. Do you have a university degree?
2. Do most people in your field in the US have university degrees?
3. If you lack a degree, do you have several years of work experience in your field?
4. Do you have an employer in the US willing to hire you?
5. Does the job pay as much as similarly employed American workers?
6. Does the employer typically only hire people with university degrees for the job?
7. Does the employer guarantee that they will have continuous work available to you?
8. If the occupation requires a license, do you have the necessary license?

General Notes: Valid for up to six years; can simultaneously have green card application pending; spouses and children not allowed to work; do not need to maintain ties to your home country; limited to 65,000 people per year (but many H-1B workers are exempt from this cap and there is an additional quota of 20,000 for people holding masters degrees or higher granted by a US university); can change employers quickly, but need new visa approval for each new employer; self-employment permitted in limited circumstances; if applicant lacks appropriate degree, equivalent work experience must be demonstrated and evaluation from expert obtained; companies employing many H-1B workers may be subject to additional requirements; USCIS must approve before consulate can issue visa; filing fees are expensive and vary significantly depending on the employer and the need for expedited processing.

B-1/B-2 Visas – Available to Short term visitors for pleasure or business

1. Do you have a job that pays well and which you can leave for a few weeks on a vacation?
2. Do you have close relatives who will be remaining in your home country when you come to the US?
3. Are you coming for a short visit?
4. Do you have assets in your home country?
5. Do you own property in your home country?
6. Do you have a set itinerary for your trip to the US?
7. Do you have a roundtrip plane ticket?
8. Do you have close community ties in your home country?
9. Do you have money or proof of support from friends or relatives in the US to show adequate financial arrangements to carry out purpose of trip?
10. If you are coming for business, is the work you are doing work that would typically be done by an American worker?
11. If you are coming for business, is the main place where profits are earned outside the US?

12. If you are coming to the US on business, is your payment going to be made abroad rather than in the US?
13. If you are coming as a B2 visitor for pleasure, are you coming for one of the following purposes?:
 - a. Tourist
 - b. Social visits to friends/relatives
 - c. Health purposes
 - d. Participants in conventions of social organizations
 - e. Participants in amateur musical, sports or similar events with no pay
 - f. Spouses and children of people in the US armed forces
 - g. People accompanying B-1 business visitors
 - h. Coming to marry a US citizen but the person plans on departing after the wedding
 - i. Coming to marry someone on a non-immigrant visa
 - j. Non-spouse partners (regardless of gender) that accompanies an E, H or L visa holder
 - k. Parent seeking to accompany an F-1 student visa holder
 - l. Language students in course of short duration when the course of study is under 18 hours per week
14. If you are coming on a B1 business visitor visa, are you coming for one of the following purposes?:
 - a. Engaging in commercial transactions not involving employment (negotiating contracts, litigation, consulting with clients or business associates)
 - b. Participating in scientific, educational, professional, religious or business conventions
 - c. Religious workers coming to do missionary work in the US, ministers exchanging pulpits but who are paid by their own church abroad, and ministers on evangelical tours
 - d. Domestic servants accompanying returning US citizens temporarily assigned to the US or who permanently reside in a foreign country
 - e. Domestic servants accompanying non-immigrant visa holders if the applicant has worked for the employer for a year or more
 - f. Professional athletes only receiving tournament money
 - g. Foreign medical students seeking to take "elective clerkship" without pay
 - h. Serving on a board of directors of a US company
 - i. Coming to the US to set up a US subsidiary and explore investment opportunities
 - j. Installing equipment as part of a contract
 - k. Participating in a volunteer service program if religious only
 - l. Attending an executive seminar
 - m. Observing the conduct of business
 - n. Domestic partner of a person on a non-immigrant visa.

General Notes: Usually can get an authorized stay of up to six months; chances improve if a shorter trip is requested; no USCIS approval required before consulate issues visa; not allowed to work while on a visitor visa; visa must be granted by consular officer except in most cases if the national is from one of more than two dozen countries granted Visa Waiver status allowing such persons to enter the US for up to 90 days. Visa Waiver entrants cannot have their status extended and cannot change to other non-immigrant categories while in the US.

F-1 Visas – Available to Students

1. Do you have a residence in your home country you don't intend to abandon?
2. Have you been admitted to study full-time in a degree program or an English language program?
3. Is the school where you intend to study approved for students to attend on student visas?
4. Do you have proof of adequate financial resources to attend school full-time without the need to work in the US?
5. If you are not going to the US an English language program, are you proficient in English?
6. Will the education you obtain in the US improve your career prospects in your home country?

General Notes: Must be enrolled full-time; has limited on-campus work eligibility; off-campus employment is prohibited unless the student fits under limited exceptions and the employment authorization is granted by the school or the USCIS; can get up to a year of work authorization upon completion of program; can remain in the US for a period needed to complete the educational program; spouses and children not entitled to work; children can enroll in K-12 education, spouse cannot study unless he or she has a separate student visa; no USCIS approval required before consulate can issue visa.

J-1 Visas – Exchange Visitors

1. Are you coming to the US to participate in an exchange program designed by the US State Department?
2. Do you have fluency in English and sufficient funds to live here if the program does not pay J-1 visa holders?
3. If you are looking at the au pair program, have you registered with one of the eight designated au pair programs in the US?
4. If you are a doctor seeking to train in the US, are you admitted into a medical residency or fellowship program and have you obtained sponsorship from the Educational Commission on Foreign Medical Graduates?
5. If you are coming for a business trainee visa, have you found an employer to provide you with a training opportunity?
6. If you have found a training opportunity, have you found a program sponsor?

General Notes: Available to trainees, professors or research scholars, short term scholars, foreign doctors, camp counselors, au pairs and students in work/travel programs in the US; often requires person to return home for two years before switching to another visa; time limits vary depending on type of program (training – 18 months; scholars and professors – up to three year; au pairs – one year; medical residents – up to seven years; students are not limited); students eligible for up to 18 months (36 if post-doctoral work) of post-graduate work authorization; students must be enrolled full-time; spouses and children entitled to work authorization; no USCIS approval required before consulate can issue visa.

O Visas – People with extraordinary ability in the sciences, arts, crafts, education, business, athletics or any field of “creative endeavor”

1. Are you one of the top people in your field in your country?
2. Do you have an employer, manager or agent in the US who can sign your application?
3. Is there a peer organization willing to say that they have no objection to your being granted an O-1 visa?

4. Can you show that you have won a major international award OR at least three of the following?:
 - a. Documentation of the alien's receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor;
 - b. Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields;
 - c. Published material in professional or major trade publications or major media about the alien, relating to the alien's work in the field for which classification is sought, which shall include the title, date, and author of such published material, and any necessary translation;
 - d. Evidence of the alien's participation on a panel, or individually, as a judge of the work of others in the same or in an allied field of specialization to that for which classification is sought;
 - e. Evidence of the alien's original scientific, scholarly or business-related contributions of major significance in the field;
 - f. Evidence of the alien's authorship of scholarly articles in the field, in professional journals or other major media;
 - g. Evidence that the alien has been employed in a critical or essential capacity for organizations and establishments that have a distinguished reputation;
 - h. Evidence that the alien has commanded and now commands a high salary or other remuneration for services, evidenced by contracts or other reliable evidence.

General Notes: Can be admitted for up to three years at a time; no need to maintain residence abroad; can have green card application pending while on O-1 status without problems; USCIS approval required before the consulate can issue visa.

L Visas – Intra-company Transfers

1. Are you coming to the US to work for a company that has offices both in the US and outside the US?
2. Have you worked for the company abroad full-time for at least one year of the last three?
3. Are you coming to the US as an owner, executive, manager or an employee with special knowledge of the company's operations?

General Notes: Seven year stays for owners, executives and managers; five year stay for special knowledge employees; easy to get green card for owners, managers and executives; spouses are allowed to work; USCIS must approve before consulate can issue visa; difficult for workers working on a contract basis at other employers.

E Visas – E-2 Treaty Investors and E-1 Treaty Traders

1. If you are seeking an E-1 Treaty Trader visa, are you currently working for a business that has a substantial volume of trading business with the United States (more than 50%)?
2. Are you a national of a country that has a bi-lateral trade treaty with the United States?
3. Are you coming to the US to work as an owner, executive, manager or "essential skills" employee?

4. Is at least 50% of the business owned by foreign nationals who are not US citizens or permanent residents?
5. For E-2 visas, are you investing a "substantial amount" of money in a commercial investment in the US?

General Notes: No limit on total time in E visa status; spouses can work; no initial USCIS approval required; permanent residency applications do not adversely affect E visas. More information about the E visas and a list of treaty countries may be found at:

<http://www.visalaw.com/abcs.html>

R Visas – Religious Workers

1. Are you coming to the US to work as a minister or work in a religious vocation or occupation?
2. Have you been a member of the religious denomination for at least two years?
3. Is the employer a "nonprofit" organization (most churches, synagogues and mosques qualify as well as institutions affiliated with them)?

General Notes: Valid for up to five years; convertible to a green card after two years of work in R-1 status unless the applicant has worked in the job for two years prior to entering the US; no USCIS approval required for consulate to issue visa.

TN Visas – NAFTA Visas for Canadians and Mexicans

1. Are you coming to the US to work in an occupation listed within the NAFTA occupation schedule? <http://www.visalaw.com/03dec3/2dec303.html>
2. Are you a citizen/ national of Canada or Mexico?
3. Do you meet the minimum job requirements for that position as listed in the TN NAFTA Schedule?

General Notes: Valid for a year; can be extended in one year increments; is a non-immigrant visa, therefore the beneficiary cannot have immigrant intent; is employer specific; there are no prevailing wage requirements; experience cannot be used as a substitute for the degree requirement; there is no annual limit to the visas issued; Canadians can apply for the status at the port of entries with "TN offer letters" and Mexicans can apply directly at the US Consulates; extensions and change of status applications may be filed in the US (only at the USCIS' Nebraska Service Center).

This list is not an exclusive list of all the non-immigrant visas. Currently there are over 25 major non-immigrant visa classifications and the above discussion includes only the most common ones. More information about these and other non-immigrant visas may be found at our website <http://www.visalaw.com/abcs.html>

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 - When I come to US on an H-1B, I plan to marry my girlfriend who is in the US on a tourist visa. May I file her for H-4? Does she have to come back to the Philippines for visa stamping?

A - If your Filipina girlfriend is in the US on a B-2 and marries you, she should be able to apply for a change of status to H-4 without having to leave the country. The H-1B is a non-immigrant visa so questions of your fiancé having intentions to immigrate should not be an issue. There may be an issue with her having a pre-conceived intent not to leave at the end of her stay and it might make sense to make sure that some time has passed before she marries and applies for a visa change. I would encourage consulting with an immigration lawyer about that issue.

Q - I have a friend from Australia who won the green card lottery about ten years ago, and never did anything with it. He is wondering if there is an expiration date, if he can still use it after all these years. He's finally ready to make the move!

A - Yes, there is a time limit on taking advantage of winning the lottery. Lottery winners can only apply for a permanent residency visa in a specific one year period shortly following notification of winning. That period would have passed several years ago.

Q - I am a Russian born naturalized citizen of Australia, entered the U.S. on a visa waiver program. I have a green color I-94 W card called "Departure record". It is valid for 6 months. What do I do to have my stay extended for another 6 months? Do I request "extension of status" like those who entered on B type visas? If yes, how much would you charge for this case?

A - Unfortunately, extensions are not permitted under the Visa Waiver program. That's part of the deal when you skip going to the consulate to get a visa. But I am confused why the I-94W is valid for six months. It is supposed to just be for three months. I'd probably make an appointment with an immigration lawyer and have him or her take a look and advise.

Q - I am a Canadian citizen and moved back to Canada from the US about 1 1/2 years ago. My green card expired in May of last year and I would like to know if I am supposed to return it or just destroy it. If I have to return it to whom and where do I do this.

A - To abandon US permanent residency, you would need to either file a Form I-407 with a consulate or USCIS office or you would need to write USCIS a letter stating your intent to

abandon your status and enclose your green card. If you are going to send a letter, use a form of certified mail. You should also consult a US tax expert to make sure that you are aware of the tax implications of abandoning US residency status.

Q - My wife is about to file for I-751 to remove the conditional status of her permanent residency. My question is:

1. Does her time since acquiring her CR-1 status or conditional permanent resident count towards her time for naturalization?
2. After filing an I-751, what keeps her green card from expiring?

A - All time since getting the initial conditional green card counts toward the naturalization residency requirements. As for the green card expiration, a person who has timely filed an I-751 automatically has their green card time extended while that application is pending.

4. Border and Enforcement News

Immigration and Customs Enforcement (ICE) officers worked with law enforcement authorities around the country to arrest 375 gang members in 23 states according to a press release by the Department of Homeland Security. The two week action was the result of a new program called "Operation Community Shield" which is now barely in its second year. The partnership is the result of an investigation into violent street gangs that revealed a majority of targeted gangs were foreign born and in the country illegally. This operation is not the first of its kind. Since the partnerships were forged, ICE agents have been involved in the apprehension of 2,388 gang members from 239 different gangs.

A recent Senate Judiciary subcommittee hearing cleared the Mexican Government of involvement in a drug smuggling operation. Video taken of the illegal activity along the Mexican border showed members of the smuggling outfit driving hummers and wearing uniform-like clothing. Mexico denied possible involvement and stated that the hummers and uniforms being used by the smugglers were no longer in use by the Mexican Military. Despite being cleared of direct involvement with the drug operation, some US officials are still displeased with Mexico for allowing drug cartels to operate within their borders.

In El Centro, California, two border patrol agents are facing a number of charges, including bribery. Mario Alvarez and Samuel McClaren are being prosecuted for taking bribes in exchange for releasing immigrants into a smuggling ring which took the immigrants into LA. The two men worked in a joint program with Mexico designed to deport smugglers to their home country for prosecution. Neither the prosecution nor the defense has made a statement on the upcoming trial.

5. News From the Courts

The News From the Courts column is written by Maria Bjornerud, an immigration attorney with an office in Southaven, MS. Originally from Russia, Ms. Bjornerud is licensed to practice law in Tennessee and Mississippi. She can be contacted via email at mbjorne@msn.com.

GAO v. GONZALES, Nos. 04-1874-ag, (2nd Cir. 2006) holds that women who have been sold into marriage and who live in a feudal community in China where forced marriage is condoned constitute "particular social group"; petitioner has established that she fears the persecution "on account of" her membership in a "particular social group"; IJ's conclusion that petitioner failed to show that she would not have been protected by the government and that petitioner could safely relocate within China were not based on substantial evidence. BIA's decision affirming denial of asylum, withholding of removal, and protection against torture vacated and remanded.

Before: CALABRESI, STRAUB, and WESLEY:

Petitioner grew up in a rural part of China where the practice of forced marriages was sanctioned by society and by the local authorities. Petitioner's parents sold her into forced marriage in return for an up-front payment of 18,800 RBM. Petitioner was to marry upon reaching her twenty-first birthday. When Petitioner tried to break the engagement, her husband-to-be threatened her that if she refused to marry him, his uncle, a powerful local official, would arrest her.

To escape Petitioner moved away from home and took a job in another part of the country. When her parents refused to tell Petitioner's husband-to-be where she had moved, he vandalized their home. He eventually found out about Petitioner's whereabouts and Petitioner had to flee to the United States six months later out of fear that, if she remained in China, she would be forced into marriage. Since Petitioner left her husband-to-be continued to harass her family.

At the hearing, in addition to her testimony and a corroborating affidavit from her mother, Petitioner introduced into evidence the 2001 State Department Country Report on Human Rights Practices in China, consistent with her testimony. The IJ found Petitioner credible, but concluded that Petitioner's persecution did not arise from a protected ground such as membership in a particular social group, but was simply "a dispute between two families." The IJ also found that the record did not establish that the government would not protect her from her husband-to-be. Finally, the IJ found that because Petitioner "was able to relocate safely to another city," she did not need asylum in the United States. The IJ denied Petitioner's claims for asylum, withholding of removal and also without separate analysis her CAT claim. The BIA summarily affirmed.

The court concluded that the IJ failed to apply the correct definition of the "particular social group" ground as established by BIA and judicial precedent in finding that Petitioner's persecution were not "on account of" a legally protected ground. The court stressed that *Matter of Acosta's* broad interpretation of "particular social group" encompassed "any group, however populous, persecuted because of shared characteristics that are either immutable or fundamental." In *Fatin v. INS*, 12 F.3d 1233 (3d Cir. 1993). The court held that the statutory term "particular social group" was broad enough to encompass groups whose main shared trait was a common one, such as gender, so long as the group shared a further characteristic that was identifiable to would-be persecutors and was immutable or fundamental.

The court established that Petitioner belonged to a particular social group that shared more than a common gender. The court found that Petitioner's social group consisted of women who had been sold into marriage (whether or not that marriage had yet taken place) and who lived in a part of China where forced marriages were considered valid and enforceable. The court found that these characteristics satisfied the Matter of Acosta test. Moreover, the court found that Petitioner had established that she might well be persecuted in China—in the form of lifelong, involuntary marriage—"on account of" her membership in this group.

The court rejected the IJ's conclusion that the financial arrangement between the families and subsequent breach of an oral marriage contract somehow precluded a finding that Petitioner had been persecuted "on account of" her membership in a "particular social group." The court held that Petitioner had established a nexus between the persecution she feared and the "particular social group" to which she belonged.

The court held that the IJ's finding that Petitioner had not met her burden of establishing that the Chinese government would not protect her was not supported by substantial evidence. The court found that the Country Report was consistent with Petitioner's testimony and clearly stated that trafficking in women, for marriage and prostitution, was widespread, and that official efforts to combat the problem were unsuccessful.

The court also held that the IJ's conclusion that Petitioner could have relocated within China because she "was able to relocate safely to another city" was contradicted by the record. The court found that the record clearly showed that Petitioner was unable to safely relocate within the country and, indeed, had to flee shortly after her whereabouts were discovered. The court has pointed out that when the BIA denies a claim based on the availability of internal refuge, the BIA must find not only that Petitioner could avoid persecution by relocating, but also that "under all the circumstances it would be reasonable to expect the applicant to do so," 8 C.F.R. § 208.13(b)(2)(ii). The regulations, further, direct the BIA to consider, among other things, "whether the applicant would face other serious harm in the place of suggested relocation; ... administrative, economic, or judicial infrastructure; geographical limitations; and social and cultural constraints, such as age, gender, health, and social and familial ties." Id. § 208.13(b)(3).

The court vacated BIA's decision affirming denial of asylum, withholding of removal, and remanded to the IJ to consider Petitioner's CAT claim.

6. Government Processing Times

There are new processing times for the following service centers:

Vermont (3/7/2006): <http://www.visalaw.com/vermont.html>
California (3/7/2006): <http://www.visalaw.com/california.html>
Missouri (3/7/2006): <http://www.visalaw.com/missouri.html>
Nebraska (3/15/2006): <http://www.visalaw.com/nebraska.html>
Texas (3/15/2006): <http://www.visalaw.com/texas.html>

7. News Bytes

The Executive Office for Immigration Review (EOIR) allows individuals to check on their case status at any time by phone. In order to access information, a caller needs an alien registration number which can be found on any EOIR correspondence. The automated system will notify an individual of their hearing date, time and location as well as the status of their cases. It will also give information regarding the Board of Immigration Appeals (BIA). The phone number for this service is (703) 305-1662 or 1-800-898-7180.

An estimated one hundred thousand people took to the streets in Chicago for an organized rally in protest of a new immigration bill that would punish employers and aid organizations for assisting or hiring immigrants. The crowd, which consisted primarily of immigrants, marched through town in a line that reached two miles long. According to the *Chicago Tribune*, the march stands as one of the largest pro-immigration rallies in US history. The gathering attracted local, state and national politicians, including Governor Rod Blagojevich. Police reported no incidents or arrests during the demonstration, despite the large number of people who took part. Immigrants were joined by immigrant supporters who are grateful for the services that immigrants provide, especially to employers with blue collar jobs. The rally lasted approximately two hours.

After restructuring the Board of Immigration Appeals (BIA) in August of 2002, a recent study done on the program has revealed that the change has not compromised the agency's efficiency. The changes, which were aimed at streamlining the process of immigration appeals without sacrificing the quality of decisions made by the organization, came after a prior attempt to expedite the process of immigration appeals had been implemented in 1999. A review of the most recent restructuring has shown that backlog of cases has been cut in half, delays have been shortened in the administrative review process and cases are being efficiently prioritized. Furthermore, feedback from the appeals courts has shown that the remand rate for BIA has remained consistent.

A drawback from the new structuring is the number of appeals being made by individuals hoping to reverse their opinions. The rate has grown from about five percent to thirty percent since the restructuring. The review notes that the increase in the number of appeals may not be directly linked to the new system. According to the USDOJ release on the restructuring, appeals may be being used as a method to procrastinate being returned home rather than a legitimate channel for staying in the United States. Despite this drawback, the evidence in favor of the new restructuring is overwhelmingly positive.

Recent democratic elections in Liberia have ended the longstanding resettlement program which the United States has offered to Liberians seeking refuge. According to the Bush Administration, the elections appear to be final evidence that Liberia is making a concerted effort at democratic change. President Johnson Sirleaf, who is being supported by the United States, has issued a request for all displaced Liberians to return home to help in the rebuilding process.

After spending twenty-eight million dollars in repatriation and reintegration programs for Liberia in 2005, the United States has expressed support for wide scale repatriation of Liberians. In response to the stabilizing nature of Liberia, the US will no longer designate

any groups for resettlement. The US will also suspend Affidavits of Relationship (AOR) in September of 2006. Finally, in order to prevent detracting from Liberia's democratic movement, the US will suspend Priority 3 AOR's in order to aid in the repatriation process. All cases filed before the September 30th deadline will be processed, but, as of now, no date has been set for the resumption of case reviews.

Canada's ambassador to Washington has expressed displeasure over Bush's proposal to make Canadians carry a passport or other form of secure identification when crossing the American-Canadian border. The plan, which Ambassador Michael Wilson feels is too expensive and will deter cross-border travel, will eliminate the old policy of allowing drivers licenses and birth certificates to serve as adequate forms of identification when traveling to the US. In order to reduce the financial burden of the new policy, the United States has revealed plans for a less expensive PASS card to substitute as a valid form of ID in place of a passport. Canada has not yet expressed plans for a similar ID. In hopes of protecting Canadian-American travel, Wilson has expressed his desire to lobby congress to reject Bush's plan in favor of a less expensive way to ensure border security.

In Cuba, 533 visa holders are waiting for exit permits in order to emigrate to the United States. The Cuban government is withholding these exit permits for various political reasons. About two hundred of the individuals have been claimed by relatives in the United States while the rest are entering through the normal channels. A majority of the exit permits that were denied were withheld for people in the medical profession and individuals who held military and political positions. According to an article in *The Miami Herald*, most medical professionals have a civil obligation to work for a number of years and so Cuban officials feel justified in denying their requests. The majority of individuals emigrating are viewed as political or military defectors and therefore their applications are being denied under seemingly clear-cut political reasons. Though Cuba allows documented individuals to leave, over a thousand individuals were denied their petitions in 2005.

The Pew Hispanic Center plans to release a report on undocumented immigrants in the United States in the near future. The report, which will estimate the number of undocumented immigrants, will also release information on the background of these individuals. According to a press release by Pew earlier in the week, the report will explain immigrants' nationalities, family characteristics, and work experience. The report was written by Jeffery Passel by using information from the March 2005 Current Population Survey. Anyone wanting to read a copy of the report can find one on the Pew website at www.pewhispanic.org.

Renowned short story writer Yiyun Li plans to continue to fight for a green card after being denied her prior petition. Li is a currently a writer and teacher living in Oakland, California. Her accomplishments include the Frank O'Conner International Short Story Award and a Pushcart Prize. Despite her qualifications, her petition to remain in the US was denied twice. Li has said that she plans to keep fighting to stay in the United States. Rather than filing again on the basis of her writing, Li will try using her job as a teacher to prevent having to return to China.

A study released by the Center for Disease Control and Prevention (CDC) shows that immigrants are healthier than those individuals who are born in the United States. The study, which compares individuals within their own ethnic groups, reveals that the longer an individual stays in the United States, the higher chance that person will have to develop health problems. An article by M. A. J. McKenna of *The Atlanta Journal* attributes this to the lifestyle that immigrants adopt as they become "Americanized." Exercising less and eating more fast food, immigrants who have been in the country for five years show a clear increase in health problems. This percentage is even higher for individuals who are born in America. The study states that immigrants become both physically and mentally more like Americans the longer they stay in the United States.

McKenna's article suggests the reason for declining health in immigrants is the heavy work schedule which many immigrants adopt. Exercise cannot be practiced with the same frequency as it was prior to coming to the United States. Immigrants also have less time to eat, and so they choose to consume unhealthy fast food. Unlike McKenna's article, the CDC study does not explain why the trends occur. Rather than go into speculation on the results which they gathered through phone interviews, the study simply provides statistical evidence that proves immigrants are healthier than long term residents and American citizens.

According to a press release by the Tennessee Department of Safety, Tennessee has begun reissuing Certificates for Driving (CFD's) for only those individuals who can prove that they have legal presence in the United States. On February 24th, the government halted offering CFD's to individuals who could not prove their legal presence until the program could be reviewed. Now, all individuals seeking a CFD will be unable to receive a CFD from a County Clerk and must go to a Driver's License Bureau.

Almost Fifty-two thousand CFD's have been granted since the program began in 2004. Unlike a driver's license, CFD's do not serve as valid identification for its bearer. Though driver's licenses are only offered to legal residents of the United States, the Tennessee Department of Safety is working with lawmakers in hopes of offering a temporary driver's licenses to individuals who can prove legal presence. These licenses would be valid for the duration of their stay. In a statement regarding their ability to make such decisions, the Department of Safety maintains that Tennessee safety is a state issue and therefore their duty to protect.

Condoleezza Rice recently released the State Department's *2005 Country Reports on Human Rights Practices* in compliance with the requirements of the Foreign Assistance Act. These reports will be considered while conducting diplomacy and reshaping foreign policy. In the 2005 reports, one hundred and ninety-six countries are examined in relation to their commitment to democracy and human rights. This information lets the United States know how each country is doing and if they are making progress toward or away from a stable human rights record. The individual country reports can be found on the US Department of State Website. The reports are also critical in evaluation of asylum claims by USCIS officers and Immigration Judges.

8. International Roundup

According to an article in *Management Issues*, British employers are pleased with the points-based immigration plan which would attract the most needed individuals from around the world. The new plan is expected to streamline the process of immigration and cut costs. It is also expected to eliminate the outsourcing of jobs to foreign workers by attracting workers to fill gaps in the workforce. Despite strong support for the proposals, the plans are still in their beginning stages and many people are cautious in their praise. Major parts of the proposals have not been defined and so the success of the new points-based system is still uncertain. Some critics question whether or not it will be feasible to make distinctions between desirable and undesirable workers while others fear that the points system will simply create another bureaucratic barrier to active immigrant recruitment. With a quarter of UK employers having expressed plans to hire migrant workers in the fall of 2005, it is clear that immigration is a high priority for the United Kingdom. Until the points-based system progresses out of its "embryonic stages" it will hard for anyone to determine the strengths and weaknesses of the widely supported program.

9. Legislative Update

In an interview with George Stephanopoulos, Senate Majority Leader Bill Frist revealed some of his thoughts regarding the upcoming immigration reform. When asked directly about his position on a guest-worker program, Frist responded by first addressing the issue of border security. For Frist, the primary objective of the upcoming Senate Floor debate will be tightening our borders and enacting "interior enforcement" to deal with undocumented immigration as it moves inland. Frist's third objective for the Senate debate is the need and nature of a guest-worker program. With President Bush and Senator McCain in support of a guest worker program, Frist has cautiously skirted the issue, claiming that his decision will be made when a proposal is offered. More concretely however, Senator Frist stated that he believes a guest-worker program will be approved when the Senate finishes debating the issues in upcoming days.

Recent immigration legislation was condemned by Atlanta Archbishop Wilton Gregory for its dispassionate stance toward immigrants. Looking at the proposals both within the state of Georgia and the Nation, Archbishop Gregory turned to scripture to argue against legislation that would deny immigrants access to necessities like health care and education. Archbishop Gregory coauthored his six page "pastoral letter" with Savannah Bishop Kevin Boland. The letter appeals to the Christian duty to welcome strangers and offer them assistance. As well as stating our religious obligation, Archbishop Gregory also encouraged legislators to look to our past and recognize that the United States is a nation of immigrants. Though much of the letter is dedicated to arguing against legislation, Gregory writes in support of the Kennedy-McCain proposal which he feels is fair and comprehensive.

Mexican President Vicente Fox has expressed doubts about the current US policy on immigration. With plans to tighten border security and construct a fence along the Mexican border, the US will be cutting off a valuable source of labor in the coming years. According to Kevin Hall of the Kansas City Star, Fox claimed that the US is making a mistake in preventing immigration. President Fox believes that shutting off the flow of laborers between the countries will cause the US to run into major difficulties after the baby boom generation begins to enter into retirement.

Fox, an advocate for more labor alliances with the United States, was making progress towards a more open border before the events of 9/11. After the terrorist attacks, President Bush placed national security as a border priority. Despite the tightened security, Mexican citizens still brave border crossings in order to find work in the US. Fox claims that this will not always be the case due to the declining population growth of Mexico. Fox pointed to the year 2010 as a time when both Mexico and the US will be in need of laborers, and argued that immigration to the US would be slowed by a surplus of open jobs in the Mexican market. Analysts agree that Mexico's declining population growth will open up more jobs in Mexico, but question whether these jobs will be enough to draw workers away from the higher paying jobs in the United States. With a strengthening Mexican economy and an inflation rate lower than the United States, it is debatable whether or not Mexican jobs will be able to compete with American employers. Unfortunately for Fox, he will not be in office when the labor scales tilt. His presidency will expire in nine months.

Colorado has just passed two immigration bills aimed at reducing identification counterfeiting and increasing police enforcement of undocumented immigration. These bills were the only two of nine proposals to pass. Senate bill 90, which is targeted at reducing undocumented immigration, will increase police strength to help report potential undocumented immigrants to federal authorities. Bill 110 has created a fifty thousand dollar fine for producing illegal documentation. Support for the bill came from a desire to target counterfeiters rather than immigrants and put a stop to those profiting off unfortunate immigrant circumstances. Republicans were quick to praise Democrats for passing these bills after partisan disputes killed the other seven proposals.

A provision within Senate Judiciary Chairman Arlen Specter's immigration bill is causing unease because of its subtle implications. The provision will require the Department of Homeland Security to work with the Social Security Administration and the Treasury Department to study the possibility of creating temporary worker investment accounts. This provision is worrisome to both Democrats and Republicans who were against President Bush's campaign to privatize social security.

The proposed legislation will offer temporary work visas to immigrants who wish to come to the US or are already within US borders. After the visas expire in six years, proponents of the bill provision hope that the temporary worker investment accounts will encourage immigrants to return home rather than stay in the United States. The provision will also equalize the market for nationals and immigrants by returning money that immigrants have paid in taxes. Despite these apparent benefits, detractors are wary. Fearing conservative attempts to keep the social security issue going, critics have questioned whether the provision is simply a back door attempt to privatize social security in a test population.

[H.R.4901](#): To establish a fact-finding Commission to extend the study of a prior Commission to investigate and determine facts and circumstances surrounding the relocation, internment, and deportation to Axis countries of Latin Americans of Japanese descent from December 1941 through February 1948, and the impact of those actions by the United States, and to recommend appropriate remedies, and for other purposes.

Sponsor: Rep Becerra, Xavier [CA-31] (introduced 3/8/2006) **Cosponsors** (2)

Committees: House Judiciary

Latest Major Action: 3/8/2006 Referred to House committee. Status: Referred to the House Committee on the Judiciary.

[H.R.4906](#): To improve science, technology, engineering, and mathematics education, and for other purposes.

Sponsor: Rep Ford, Harold E., Jr. [TN-9] (introduced 3/8/2006) **Cosponsors** (None)

Committees: House Science; House Education and the Workforce; House Judiciary

Latest Major Action: 3/8/2006 Referred to House committee. Status: Referred to the Committee on Science, and in addition to the Committees on Education and the Workforce, and 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.4923](#): To abolish the death penalty under Federal law.

Sponsor: Rep Kucinich, Dennis J. [OH-10] (introduced 3/9/2006) **Cosponsors** (43)

Committees: House Judiciary

Latest Major Action: 3/9/2006 Referred to House committee. Status: Referred to the House Committee on the Judiciary.

[H.R.4939](#): Making emergency supplemental appropriations for the fiscal year ending September 30, 2006, and for other purposes.

Sponsor: Rep Lewis, Jerry [CA-41] (introduced 3/13/2006) **Cosponsors** (None)

Committees: House Appropriations

House Reports: 109-388

Latest Major Action: 3/16/2006 Passed/agreed to in House. Status: On passage Passed by the Yeas and Nays: 348 - 71 (Roll no. 65).

[H.R.5011](#): To award posthumously a congressional gold medal to John Pehle in recognition of his contributions to the Nation in helping rescue Jews and other minorities from the Holocaust during World War II.

Sponsor: Rep Woolsey, Lynn C. [CA-6] (introduced 3/16/2006) **Cosponsors** (None)

Committees: House Financial Services

Latest Major Action: 3/16/2006 Referred to House committee. Status: Referred to the House Committee on Financial Services.

[H.R.5012](#): -- Private Bill; For the relief of Rafael Camacho, Rosa B. Camacho, and Rosa Camacho.

Sponsor: Rep Waters, Maxine [CA-35] (introduced 3/16/2006) **Cosponsors** (None)

Committees: House Judiciary

Latest Major Action: 3/16/2006 Referred to House committee. Status: Referred to the House Committee on the Judiciary.

[S.CON.RES.83](#): An original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2007 and including the appropriate budgetary levels for fiscal years 2006 and 2008 through 2011.

Sponsor: Sen Gregg, Judd [NH] (introduced 3/10/2006) **Cosponsors** (None)

Committees: Senate Budget

Latest Major Action: 3/16/2006 Passed/agreed to in Senate. Status: Resolution agreed to in Senate with amendments by Yea-Nay Vote. 51 - 49. Record Vote Number: 74.

10. Immigration Service Reopens Past Citizenship Denials

According to an article in the *Immigrant Advocate*, the Washington State immigration office will be reopening cases of citizenship denials under the pressure of a class action suit filed by local applicants who were denied their petition on moral character grounds. The article claims that the lawsuit was initiated by a man whose petition was rejected because he took 33 too many oysters at a beach one day. This close scrutiny of immigrants' characters makes it extremely hard for permanent residents to make the transition to citizen.

An attorney for the plaintiffs pointed out that the denials were improper because the law does not state that an individual must have perfect moral character. He also criticized the nature of Immigration Services' understanding of good moral character. Rather than assess the individual from a balanced standpoint, Immigration tends to overlook good character evidence in favor of making judgments based on the mistakes an individual has made.

The article claims makes it clear that not all claims will be reopened. Those claims that were justly denied, such as individuals convicted of drug trafficking and fraud, will be ignored in favor of individuals whose petitions were denied on the basis of one minor infraction, such as a DUI. Those individuals who will be reassessed will have one year from the day they are notified to reapply. The article suggests that these individuals bring in character references to support their cases.

11. Siskind Susser Career Opportunity: Immigration Paralegal

Siskind Susser (www.visalaw.com), one of America's largest and best known immigration firms, is seeking experienced business and employment immigration paralegals in its Memphis headquarters office. Booming Memphis, Tennessee is one of America's most affordable and liveable cities. Candidates should have at least three years experience and be strong writers. Siskind Susser was recently rated by Chambers and Partners as one of the top 15 immigration practices in the US based on our cutting edge use of technology and our strong reputations in the healthcare and entertainment immigration sectors. Evenings and weekends are rarely required, but we have a productivity bonus program that rewards people who voluntarily seek extra work. Benefits include health, cafeteria, retirement. Salary negotiable. Send resume to Greg Siskind at gsiskind@visalaw.com.