

Siskind's Immigration Bulletin – May 12, 2010

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: [Aaron Markowitz](#) . Contributors: Aaron Markowitz.

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. ABCs of Immigration Law: R-1 Religious Visas
3. Ask Visalaw.com
4. Border and Enforcement News
 - U.S. program Global Entry expands to German fliers
 - McCain, Kyl want troops on U.S.-Mexico border
 - D.C. Council bill opposes immigrant fingerprint checks
5. News from the Courts
 - Justices Agree on Detainee Death Case: Immigrant survivors cannot sue federal health officials
6. News Bytes
 - Pinoy teachers win suit in Louisiana
 - Paterson Move May Help Immigrants Facing Deportation
 - U.S. extradites Bosnian Serb suspected of genocide
7. Washington Watch
 - Dem to Obama: Push immigration or I'll tell Latino voters to stay home
 - U.S. Senators Postpone Climate Bill Unveiling
 - Reid tries to jump Graham roadblock
 - Boehner: Immigration reform unlikely
 - Bill Clinton: U.S. needs immigrants
8. Arizona Immigration Legislation Special
 - Obama calls for immigration overhaul, says Ariz. bill 'misguided'
 - Ariz. governor signs tough immigration law
 - Obama tells feds to check Arizona immigration bill

- Court fight looms on new immigration law
- Immigration law protested by more than 2,500 at state Capitol
- Both sides in immigration debate blame congressional inaction for Arizona law
- Arizona agency seeks federal help on immigration law
- Bishop suggests joining immigration lawsuits
- Lawmaker wants to bring Arizona immigration law to Utah
- Immigration law puts MLB in a terrible situation
- Republicans hit Arizona immigration law
- 'Los Suns' Join Protest, Then Stop the Spurs
- AZ Law Dampens Spirits on Cinco de Mayo: Fear Keeps Hispanics at Home
- Colo. GOP candidate applauds Ariz. immigration law
- Some TX reps jump on Arizona bandwagon

9. Notes from the Visalaw.com Blogs

1. Openers

Dear Readers:

The past few weeks have been extremely eventful when it comes to immigration. It seems that immigration is the issue that refuses to be ignored no matter how dangerous politically it is for politicians. In our last issue, we mentioned the then breaking news that Arizona had passed a draconian immigration law that was sending shockwaves around the country.

We also spent a lot of time explaining the dueling immigration news – the unveiling of the Democrats' plans for immigration reform.

The two issues are not unrelated – far from it. Many backers of the Arizona law have blamed Washington for failing to address the broken immigration system and the vacuum of leadership has led states to try and deal with the problem themselves. Thus, if Congress would just address immigration, SB1070, the Arizona law, would not be needed.

Of course, if it were it so simple, Congress would have passed immigration reform a long time ago. There currently seem to be major areas of contention preventing Congress from passing a reform bill. First, there is a major disagreement over what is the appropriate punishment for people who are seeking legalization after having broken immigration laws. The hardliners believe permanent exile is the only appropriate punishment. The moderates and those on the left believe there are other appropriate, proportionate punishments including paying fines, providing community service, paying back taxes, learning English, etc.

The other major area of disagreement is really an inside fight between two groups supporting reform – organized labor and organized business owners. The fight is over proposed changes to our legal immigration system. Creating a guest worker program and reforming existing immigration programs for workers has become a push and pull over issues like whether a commission should be created to control admission numbers and how restrictive the H-1B program should become.

That's not to say that there are not other issues, but these two present the most serious obstacles.

Whether we'll get reform this year has become the new parlor game amongst immigration advocates, but it seems to me that we've crossed a line where at least a major immigration bill will be introduced. It might be that a vote happens in the next few months or the vote will be postponed until after the election. In my opinion, it's now less likely that reform will be postponed until next year or after the 2012 elections. This also doesn't mean that the bill will pass – only that it will get debated and get a vote. Many political observers believe that merely getting a vote helps Democrats.

In firm news, I've been on the radio a lot over the last week – four interviews with stations in Phoenix, Tucson, Santa Fe and on Sirius/XM Radio's Mike Feder Show.

Also, Siskind Susser is a co-sponsor of a program on employer immigration compliance that will be held at the Brooks Museum in Memphis on May 20th. More information can be found at <http://immigrationpanel.eventbrite.com/>.

Readers are reminded that they are welcome to contact my law office if they would like to schedule a telephone or in person consultation with me or one of my colleagues. If you are interested, please call my office at 901-682-6455.

Regards,

Greg Siskind

2. ABCs of Immigration Law: R-1 Religious Visas

Religious workers seeking to temporarily enter the US to pursue work in their field are likely to enter using the R nonimmigrant visa.

On November 21, 2008, USCIS released a final rule that made substantial changes to the R-1 religious worker program. The rule was mandated by Congress when it extended the special immigrant religious worker categories for non-ministers that expired on October 1, 2008. The new rule is designed to address various concerns regarding fraud and also to clarify various issues that have arisen over the years with the R-1 program.

Who qualifies for an R visa?

To qualify for an R visa, the applicant must be

- A minister,

- A person working in a professional capacity in a religious occupation or vocation, or
- A person who works for a religious organization or an affiliate in a religious occupation who has been a member of the religious group for at least the two years immediately preceding the application.

The applicant must be a member of the religious denomination for at least two years immediately preceding the time of application for admission and be coming to work at least part time.

What is a “Religious Denomination”?

A religious denomination is defined as a religious group that have some form of ecclesiastical government, a common belief or statement of faith, some form of worship, a set of religious guidelines, religious services and ceremonies, established places for worship, religious congregations or comparable evidence of a bona fide religious organization.

USCIS has noted that a denomination does not mean that there must be a governing hierarchy. Rather, the focus is on “the commonality of the faith and internal organization of the denomination. An individual church that shares a common creed with other churches, but which does not share a common organizational structure or governing hierarchy can still satisfy the “ecclesiastical government” requirement by submitting a description of its own internal governing or organizational structure.

What are examples of “Religious Occupations”?

A religious occupation is an activity relating to “traditional religious functions.” The work must be recognized as a religious occupation within the denomination and the duties must be primarily related to, and must clearly involve inculcating or carrying out the religious creed and beliefs of the denomination.

Note that USCIS no longer includes a list of example occupations in its regulations. But over the years, USCIS has approved R-1 religious occupation petitions for liturgical workers, religious instructors, religious counselors, cantors, workers in religious hospitals or religious health care facilities, missionaries, religious translators and religious broadcasters.

Maintenance workers, janitors and clerical employees do not qualify. And positions primarily administrative in nature also do not qualify. Positions that are strictly related to fundraising do not qualify for R-1 status, though USCIS has acknowledged that selling literature may not bar someone if they have other religious functions in their position. And religious study or training for religious work does not constitute a religious occupation (though a religious worker may pursue study or training incident to status).

The 2008 R-1 rule requires religious organizations to submit evidence identifying religious occupations that are specific to that denomination and that the alien’s proposed duties meet the religious occupation’s requirements.

What is a “Religious Vocation”?

A religious vocation is defined under the 2008 R-1 rule as “a formal lifetime commitment, through vows, investitures, ceremonies, or similar indicia, to a religious way of life.” Examples include nuns, monks, religious brothers and sisters.

What is a “Minister”?

The 2008 R-1 rule adds a new definition of “minister”. Under the rule, a minister is “an individual authorized by a religious denomination, and fully trained according to the denomination’s standards, to conduct religious worship and to perform other duties as usually performed by authorized members of the clergy of that denomination.” Lay preachers are not included in this definition.

How do I apply for an R visa?

Until release of the November 2008 rule, an applicant outside the US could apply for a visa directly at a US consulate without prior USCIS approval. The new rule now requires all R-1 applicants, whether applying for a change of status in the US or for consular processing abroad, to get an I-129 and R visa supplement approved by USCIS.

As of November 2008, all R-1 and immigrant religious worker petitions are filed at the USCIS California Service Center. Premium processing was not available as of November 2008 and in the 2008 rule USCIS indicated it was not likely to change this any time soon.

What attestations must an employer make regarding the petition?

Under the 2008 rule, Employers must now complete, sign and date an attestation and submit it along with the petition attesting to the following:

1. The employer is a bona fide non-profit religious organization or religious organization affiliated with a religious denomination and is exempt from taxation;
2. The worker has been a member of the denomination for at least two years and that the alien is otherwise qualified for the position offered;
3. The number of members of the prospective employer’s organization;
4. The number of employees working at the location where the beneficiary will be employed and a summary of the type of responsibilities of those employees. USCIS may request a list of the employees, their titles and a brief description of their duties;
5. The number of individuals holding religious worker status (both special immigrant and nonimmigrant) within the preceding five years;
6. The number of individuals the organization filed for religious worker status (both special immigrant and nonimmigrant) within the preceding five years;
7. The title of the position offered to the alien and a detailed description of the alien’s proposed daily duties;

8. The complete package of salaried or non-salaried compensation being offered; and
9. That an alien seeking nonimmigrant religious worker status will be employed for at least 20 hours per week (the rule also imposed a 35 hour per week requirement for immigrant petitions);
10. The specific location or locations of the proposed employment; and
11. That the alien will not be engaged in secular employment.

What additional documentation must be submitted regarding the qualifications of the petitioning organization?

Aside from the attestation, the employer must submit with the I-129 and fee,

- a currently valid determination letter from the IRS establishing that the organization is a tax-exempt organization
- documentation of the religious nature and purpose of the organization, such as a copy of the organizing instrument of the organization that specifies the purposes of the organization;
- organizational literature, such as books, articles, brochures, calendars, flyers, and other literature describing the religious purpose and nature of the activities of the organization; and
- a religious denomination certification (the organization must complete, sign and date a statement certifying that the petitioning organization is affiliated with the religious denomination)

What additional documentation must be submitted regarding the qualifications of a minister?

For ministers, the following documentation must be submitted:

1. a copy of the certificate of ordination or similar document reflecting acceptance of the alien's qualifications as a minister in the religious denomination;
2. documentation that the worker has completed any course of prescribed theological education at an accredited or normally recognized institution including transcripts, curriculum, and documentation that establishes that the theological education is accredited, or
3. For denominations that don't require a prescribed theological education, evidence of
 - a. The denomination's ordination requirements;
 - b. The duties allowed to be performed by virtue of ordination;

- c. The denomination's level of ordination, if any; and
- d. The alien's completion of the denomination's requirements for ordination

What documentation must be submitted regarding compensation?

The petitioner must explain how it intends to compensate the R-1 worker, including specific monetary and in-kind compensation or whether the worker will be self-supporting (if the work is for temporary, uncompensated missionary work that is part of a broader international program of missionary work sponsored by the denomination). If compensation is being paid, evidence may include

- Past evidence of compensation for similar positions;
- Budgets showing monies set aside for salaries, leases, etc.;
- Verifiable documentation that room and board will be provided; or
- Other evidence acceptable to USCIS

Plus, IRS documentation such as W-2s or certified tax returns must be submitted if available.

How does an organization show it is a qualifying religious organization?

An organization petitioning for an R-1 religious workers must show that it is a "bona fide non-profit religious organization in the United States" or a "bona fide organization which is affiliated with the religious denomination."

To qualify, an organization must be tax exempt under Section 501(c)(3) of the Internal Revenue Code. And to demonstrate this, under the 2008 rule, an employer must provide USCIS with a copy of a valid determination letter from the IRS confirming such exemption. To qualify based on an affiliation, the organization must show it is "closely associated" with a religious denomination that is tax exempt under Section 501(c)(3).

In the 2008 regulation, USCIS has expressly barred 501(d) religious organizations from applying for R-1 status even though an organization is tax-exempt under that section of the IRC.

The 2008 rule added a requirement that an R-1 sponsor must file a determination letter from the Internal Revenue Service (IRS) of the tax-exempt status of the petitioning religious organization under the Internal Revenue Code (IRC) 501(c)(3). The organization need not get a new determination for each petition and determination letters do not expire. If an organization changes addresses from the address on the letter, the same determination letter may be used as long as an explanation is provided in the petition.

The sponsoring organization also needs to submit a letter on behalf of the R-1 visa holder. This letter should outline the applicant's two-year minimum membership, including where that membership occurred, in or out of the US. It should also

include a statement that the foreign-based religious group and the US based religious group for which the applicant will work belong to the same denomination. It must state the name and location of the organization in the US for which the applicant will work. Finally, it should outline the applicant's qualifications and salary.

What is the new inspection requirement under the R-1 rule?

USCIS has been conducting on site inspections of R-1 change of status petitions for some time, but now all R-1 sponsors will need to have an on site inspection even if the religious worker is applying for consular processing. Technically, the rule says that USCIS can verify the evidence being submitted by a petitioning organization "through any appropriate means" but the USCIS has made it clear that on site inspections are the means that will be used for this purpose.

At an inspection, USCIS may tour the facilities, interview organization officials and review organization records relating to the organization's compliance with immigration laws and regulations.

Is there a minimum salary an R-1 religious worker must be paid?

There is no prevailing wage requirement like H-1B cases, but the 2008 R-1 rule has added a requirement that an R-1 nonimmigrant must be compensated either by salaried or non-salaried compensation and the petitioner must provide verifiable evidence of such compensation. If there is no compensation, the petitioner must prove that the non-compensated worker is participating in a traditionally non-compensated missionary program within the denomination which is part of a broader "international program of missionary work" sponsored by the denomination. Plus, the petitioner must provide evidence of how the aliens will be supported while participating in the program. This is stricter than the old rule which generally allowed uncompensated, self-supporting nonimmigrants to see R-1 visas.

To qualify for R-1 status based on temporary, uncompensated missionary work, the petitioner must show it is a missionary program in which: (1) foreign workers, whether compensated or uncompensated, have previously participated in R-1 status; (2) missionary workers are traditionally uncompensated; (3) the organization provides formal training for missionaries; and (4) participation in such missionary work is an established element of religious development in that denomination. A petitioner may submit evidence in the form of books, articles, brochures or similar documents that describe the missionary program, the religious duties associated with the missionary work and proof that the alien has been accepted in to the program and describing the alien's responsibilities. Plus, the organization must demonstrate that the alien has the means to support himself or herself or has otherwise provided for the alien's support.

Note that it may still be possible to seek a B-1 visitor status classification if this test cannot be met.

Petitioners must show proof of past compensation or support for nonimmigrants when apply for an extension.

How long can I have R status?

The maximum stay in R-1 status is 5 years. A person can obtain R-1 status again after remaining outside the US for one year before making another application.

Under the 2008 R-1 rule, R-1s can be initially admitted for a period up to 30 months (down from the prior 36 month limit) and an extension of up to 30 months may be issued by USCIS. If a person's employment in the US is seasonal or intermittent or for an aggregate of six months or less per year, the five year limit does not apply. It also doesn't apply to people who reside abroad and regularly commute to the US to engage in part-time employment. To demonstrate this, an applicant needs to show arrival and departure records, tax returns and employment records outside the US.

Can I have more than one employer if I am an R-1?

Yes. But each qualifying employer must submit a separate petition with all of the required documentation.

What visa status do the spouse and children of an R-1 nonimmigrant receive?

Spouses and children of R-1 nonimmigrants and classified as R-2. They are not permitted to work unless they have their own work visas. R-2 status is granted for the same period of time and subject to the same time limits as the R-1 regardless of the time the spouse and children may have spent in the US in R-2 status.

Are there any differences between the special immigrant religious worker category for green card applicants and R-1 non-immigrant visas?

The most important difference between the two religious worker categories is that the R-1 visa is temporary and the special immigrant religious worker visa is permanent. An applicant for a green card as a special immigrant religious worker must have been working for the religious group for at least two years prior to making the application. This work may be done either in or out of the US. In most cases where the work is done in the US, the person has been in the US on an R-1 visa. Another difference between the two is the forms involved. A special immigrant religious worker applies using Form I-360 in place of the I-129 and R supplement. Also, under the 2008 rule, special immigrant religious workers must work at least 36 hours per week while R-1 visa holders can work 20 hours per week.

Generally speaking, the evidence that should accompany the special immigrant religious worker petition and the role of the beneficiary within the religious organization are the same as for the R-1 applicant.

Are R-1 visas "dual intent"?

The 2008 rule for the first time addresses the impact a green card petition has on R-1 status. The new rule states that R classification may not be denied solely because a labor certification or preference petition, including a Form I-360, has been filed by or on behalf of the alien.

Can R-1 denials be appealed?

Yes. The 2008 R-1 rule provides a right to appeal a denial of an R-1 petition. This now makes the R-1 similar to H, L, O, P and Q visas.

Can R-1 approvals be revoked?

Yes. The 2008 R-1 rule provides for USCIS to be able to revoke an R-1 petition.

What are an employer's obligations if the R-1 is working less than 20 hours per week or has been terminated from employment before the expiration of the authorized R-1 stay?

The employer must notify DHS within 14 days.

What alternatives are available if the R-1 is not an option?

There are a number of other nonimmigrant categories that may be fit if the R-1 is out. They include the L-1 intracompany transfer category, the H-1B specialty occupation and J-1 trainee status. Unpaid workers may qualify for B-1 status. And F-1 students may be able to engage in some employment activities such as on campus work and curricular training off campus.

3. Ask Visalaw.com

In our Ask Visalaw.com section of the SIB, attorney [Ari Sauer](#) answers immigration law questions sent in by our readers. If you enjoy reading this section, we encourage you to visit Ari's blog, [The Immigration Answer Man](#), where he provides more answers to your immigration questions. You can also follow The Immigration Answer Man on [Facebook](#) and [Twitter](#).

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.

* * *

1) QUESTION:

My wife is a U.S. citizen. I am scheduled to be interviewed by USCIS for my green card application. Do I need an attorney for this interview?

ANSWER:

There is no requirement to have an attorney go with you to your immigration interview.

But I would recommend that you meet with an immigration attorney before your interview. An experienced attorney will be able to tell you what you can expect at the interview, what kinds of questions will be asked, and what documentation the officer will be expecting you to present to them at the interview to show that the marriage

is real. The attorney will also be able to point out any issues that there might be with the application, that you might not have been aware of, and suggest the best ways to deal with these issues at the interview. Meeting with an attorney before your interview will make you much more comfortable during the interview and will help the interview go more smoothly.

At the appointment, you and the attorney can discuss whether you would benefit from having an attorney with you at the interview. If there are complications with your application, then it is recommended that you bring an attorney with you to the interview.

Also, do not forget that you are allowed to bring a translator with you to your green card interview if you wish. If you are not fluent in English, this is recommended. This does not have to be a professional translator, but should be someone you trust to translate the questions and answers accurately. USCIS will not provide a translator for the interview.

2) QUESTION:

Recently I was told that the child of my daughter could not immigrate with her because I am a citizen and there is no derivative status for grandchildren of citizens. I was told my daughter has to get her green card and then separately petition for her son, my grandchild. Is this correct?

ANSWER:

The unmarried child of a U.S. citizen who is under 21, the spouse of a U.S. citizen, or the parents of a U.S. citizen are considered to be "immediate relative". Being an immediate relative is a benefit. A petition filed for an immediate relative does not have to wait for a visa to become available under the DOS Visa Bulletin, and so immediate relatives can receive their green cards or immigrant visas quicker.

But immediate relatives cannot have derivative beneficiaries. That means that if a U.S. citizen has a child under 21 who has a child of their own, the U.S. citizen can petition for their child, but the grandchild cannot receive an immigrant visa or green card with the child. Likewise, if a U.S. citizen is petitioning for their parents, the U.S. citizen's siblings cannot receive a green card or immigrant visa with the parents, even if they are minors.

So the answer to your question depends of how old your child is. If you child is under 21 and unmarried, then your child can receive an immigrant visa sooner, but your grandchildren cannot come as her derivative beneficiary. If you daughter is over 21 or married, then she is no longer an immediate relative. There is a long wait for her to receive an immigrant visa based upon your petition, but when she becomes eligible, her children and spouse will be able to receive an immigrant visa along with her as her derivative beneficiaries.

4. Border and Enforcement News:

U.S. program Global Entry expands to German fliers

USA Today reports that the Global Entry Program, run by the US Customs and Border Patrol, is expanding its international presence, to include Germany, the

second country to join the program, behind the Netherlands. Talks are also underway with the United Kingdom to join the program. There are currently 42,000 members in the program, started two years ago.

The program is designed to expedite the customs process for international travelers who are "trusted" or considered low terror risks. After undergoing an interview and background check, people who are accepted to the program are able to bypass most of the customs process by passing through automated kiosks, where their biometric information is processed, along with a scan of the traveler's passport. Travelers are then free to proceed to the luggage claim area. The program reduces the time in customs to around 40 seconds. 20 airports in the US currently have Global Entry kiosks. The benefits are reciprocal to Americans travelling to other member nations.

http://www.usatoday.com/travel/flights/2010-04-19-airportcheckin19_ST_N.htm

* * * * *

McCain, Kyl want troops on U.S.-Mexico border

The Washington Times reports that the two US Senators from Arizona have called on President Obama to deploy 3000 National Guard troops to the Arizona-Mexico border. Senators John McCain and Jon Kyl, both Republicans, made the on the same day that the Arizona State Legislature passed the infamous bill making it a state crime to be an illegal immigrant.

The Senators want the troops deployed until the Governor declares that the government has operational control over the border. A Homeland Security spokesperson said that the department is evaluating possible enforcement options. The spokesman added, however, that "The Border Patrol is better staffed today than at any time in its 85-year history," with over 4,000 agents in Arizona alone, and over 20,000 nationally—twice the number from only 6 years ago.

While there is a precedent for deployment of troops to the border, the results were mixed at best. In 2006, the Bush Administration sent troops there. Many ended up doing infrastructure work, or clerical work, freeing up Border Patrol agents. Other times though, Border Patrol agents had to be assigned as bodyguards to the Guard units, as many are not allowed to carry loaded weapons. Thus the Border Patrol dubbed the assignment "the nanny patrol."

<http://www.washingtontimes.com/news/2010/apr/20/mccain-kyl-want-troops-on-us-mexico-border/>

* * * * *

D.C. Council bill opposes immigrant fingerprint checks

The Washington Examiner reports that DC City Council members are planning to introduce a bill that would prevent DC Police from joining the Secure Communities program, designed to catch illegal immigrants by matching fingerprints of arrested immigrants against a database.

DC announced it would join the program in November, but the program has not been implemented yet due to technical difficulties. Councilmen Jim Graham and Phil Mendelson say they will sponsor a bill to prevent the program from ever being implemented. While the DC Police Chief has said that she supports the program, she does not want it to be as sweeping as it is in other communities.

http://www.washingtonexaminer.com/local/crime/D_C_-Council-bill-opposesimmigrant-fingerprint-checks-92329484.html

* * * * *

5. News from the Courts:

Justices Agree on Detainee Death Case: Immigrant survivors cannot sue federal health officials

The New York Times reports that The Supreme Court has ruled that a man who received negligent medical treatment while being held by immigration authorities may not sue the federal health officials who failed to treat him.

Francisco Castaneda suffered from what turned out to be penile cancer while being detained at an immigration facility for ten months. Despite repeatedly seeking medical attention for the painful lesions, Mr. Castaneda was denied access to doctors to receive a biopsy, given painkillers and antibiotics instead. Upon release from the facility, he sought medical treatment. After being diagnosed with penile cancer, and undergoing a penile amputation, the cancer had already spread, and Mr. Castaneda died around a year later.

The Federal Tort Claims Act bars lawsuits against individuals in cases like these, instead allowing suits against the government, which are less lucrative, capped at \$250,000 and ineligible for punitive damages. Mr. Castaneda's estate is eligible to receive that compensation, but none further, and cannot sue the federal health officials. Steven R. Shapiro, an attorney with the ACLU, who represented Mr. Castaneda, said "Today's decision highlights the need for Congress to address the systemic failure of our immigration detention system."

<http://www.nytimes.com/2010/05/04/us/04scotus.html>

* * * * *

6. News Bytes:

Filipino teachers win suit in Louisiana

The ABS-CBN News out of the Philippines reports that a Louisiana judge has ordered a California recruitment agency to refund \$1.8 million, part of the funds that the agency illegally collected from 350 Filipino teachers hired by the state's public schools. Universal Placement International (UPI) violated at least 5 Louisiana labor statutes.

The judge has ordered UPI to refund the teachers all unauthorized fees collected, plus \$7500 in court fess, and a \$500 fine for operating without a license in the state.

<http://www.abs-cbnnews.com/global-filipino/04/17/10/pinoy-teachers-win-suit-louisiana>

* * * * *

Paterson Move May Help Immigrants Facing Deportation

The New York Times reports that New York Governor David Paterson has announced that the state will consider granting pardons to legal immigrants for old or minor

convictions which could lead them to be deported. The move is in conflict with federal immigration officials that have increased deportations in recent years. "Some of our immigration laws, particularly in respect to deportation, are embarrassingly and wrongly inflexible," Paterson said.

Federal immigration laws enacted in 1996 expanded the categories of legal immigrants subject to mandatory deportation, including people who had pleaded guilty to misdemeanor drug possession. In the past, immigration authorities had neither the resources nor political will to detain legal permanent residents. As a result, many people, years ago, pleaded guilty to criminal charges in exchange for lesser jail sentences, without having been advised by their lawyers that the pleas subjects them to deportation. The Supreme Court recently ruled that lawyers must advise their immigrant clients of the immigration and deportation consequences of guilty pleas. Only a Governor's pardon can prevent deportation in these cases, even if the immigrant is married to a US citizen and has citizen children.

Nationally, more than 97,000 non-citizens are deported annually based on criminal convictions, rather than for unlawful immigration status. There is no real precedent for the policy Gov. Paterson is seeking to enact. It is uncertain how Congress and the Board of Immigration Appeals will react to the proposed policy. The Governor plans to draw on existing state employees to serve on the five-person Special Immigration Board of Pardons.

<http://www.nytimes.com/2010/05/04/nyregion/04deport.html>

* * * * *

U.S. extradites Bosnian Serb suspected of genocide

Reuters reports that the US has extradited a former Serb soldier under investigation for genocide during the 1995 massacre at Srebrenica to Bosnia. Marko Boskic was arrested in the US where he was convicted of immigration fraud for lying about his involvement in the military engagement in the Bosnian war.

<http://www.washingtonpost.com/wpdyn/content/article/2010/04/29/AR2010042900731.html>

* * * * *

7. Washington Watch:

Dem to Obama: Push immigration or I'll tell Latino voters to stay home

The Hill reports that Illinois Congressman Louis Gutierrez has threatened to encourage Latino voters to stay home from the polls in the fall, if President Obama and the Democratic Party do not an effort to pass comprehensive immigration reform before then.

Gutierrez, a member of the Congressional Hispanic Caucus (CHC) says that Latinos have lost patience with waiting for reform, and predicted that there would be an 'escalation' of activism aimed at forcing the issue of immigration reform to the top of the party agenda. One of the last straws for activists came in January, when the President glossed over the issue in the State of the Union, barely giving it more than a mention in passing.

<http://thehill.com/homenews/house/93183-dem-to-obama-push-immigration-or-ill-tell-latino-votersto-stay-home>

* * * * *

U.S. Senators Postpone Climate Bill Unveiling

The New York Times reports that one of the administration's priorities—climate control and tackling global warming—has taken a hit, in the wake of the fight over immigration reform. The climate reform was hurt when Republican Senator Lindsey Graham pulled his support, the only bipartisan participation in the proposed climate bill, if immigration overhaul is brought up in the Senate before climate change is.

The fate of both bills rests on the ability of Majority Leader Harry Reid and President Obama to rally support from Republicans, who have so far resisted cooperating for the past two years on most major Democratic initiatives. Senators were holding out hope though, as Senator Joe Lieberman declared that Democrats "are hopeful that Lindsey (Graham) will rejoin us (on climate control) once the politics of immigration are solved."

<http://www.nytimes.com/reuters/2010/04/24/us/politics/politics-us-climate-usa-congress.html>

* * * * *

Reid tries to jump Graham roadblock

The Politico is reporting that Senate Democrats, with Harry Reid at the lead, have been circulating a framework for immigration reform that they hope will attract a Republican sponsor to replace Lindsey Graham, and may ease the path to tackling both energy reform and immigration reform this year.

Graham, the lone Republican sponsor on both bills, threatened to withdraw his support from both measures unless the Democrats agreed to table immigration reform for the year. A Democratic aide confirmed that "Senate Democrats were not prepared to give him that promise." President Obama has urged passage of both bills.

Immigration advocates and some Democratic lawmakers have become convinced that Graham is trying to delay the debate and vote this year on immigration because it could damage Sen. John McCain. McCain faces a tough primary in Arizona, a state where immigration is a hot-button issue, after the recently passed state legislation. Majority Leader Harry Reid, however, has promised Hispanic supporters in Nevada that he will move immigration reform to the Senate floor this year.

<http://dyn.politico.com/printstory.cfm?uuid=46AEBBEA-18FE-70B2-A8FF78E46FA1158C>

* * * * *

Boehner: Immigration reform unlikely

The Politico reports that top House Republican John Boehner (R-OH) has claimed that the immigration overhaul legislation will not be brought up this year, calling it a 'cynical ploy' to drive up Hispanic and liberal voters in the fall midterm elections. Boehner said "There is not a chance that immigration is going to move through the Congress." This is significant, as any reform bill would likely need bipartisan support to pass in either chamber.

<http://www.politico.com/news/stories/0410/36558.html>

* * * * *

Bill Clinton: U.S. needs immigrants

The Politico reports that former President Bill Clinton has voiced support for two hot-button political issues: immigration and financial overhauls. The former President made a "robust pitch" for immigration reform, saying that allowing new immigrants into the country is not only acceptable, but necessary for preserving the economic future of the country.

Saying that the US has become an 'older society,' Clinton stressed the need for newcomers to provide a labor force and contribute taxes which will be necessary for financing the retiring generation. Stressing the possibility for immigrants to reverse the age ratio, Clinton added, "If we have any advantage over China...or India...it's that we've got people from everywhere. This country still works for immigrants."

<http://www.politico.com/news/stories/0410/36531.html>

* * * * *

8. Arizona Immigration Legislation Special

Obama calls for immigration overhaul, says Ariz. bill 'misguided'

The Washington Post reports that President Obama has urged Congress to overhaul the nation's immigration system, saying that inaction on the issue has caused 'misguided efforts' and 'irresponsibility of others' in their attempts to do so.

The President further detailed that an immigration bill on the Arizona Governor's desk was 'misguided' and has told his staff to 'closely monitor the situation' to ensure that the measure does not violate peoples' civil rights. The bill would require authorities in Arizona to question people about their immigration status if there is reason to suspect the person is in the country illegally.

Senator Harry Reid is also pushing for action on immigration, bringing the issue to the top of the Democratic agenda. He told Senators Graham and Schumer that if they cannot come to an agreement soon, the Democrats will bring the issue up without bipartisan support. Even if a Democratic immigration bill were to fail, the debate alone could rally Hispanic voters against the GOP, and put Republicans on the defensive.

http://www.washingtonpost.com/wp-dyn/content/article/2010/04/23/AR2010042301441.html?wprss=rss_politics%2Fcongress

* * * * *

Ariz. governor signs tough immigration law

The Washington Times reports that on April 23rd Arizona Governor Jan Brewer signed into law the bill SB 1070, making it a state crime to be an illegal immigrant. Hours earlier President Obama had called the pending legislation 'misguided' and instructed his staff to look into the constitutionality and legality of the proposed law. The law is set to go into effect 90 days after the signing and makes it a state crime to be in Arizona without proof of legal status. Additionally, it authorizes police to demand a

person's documents if the officer suspect them of being illegally present. Further, it makes it a state crime to transport or hide an illegal immigrant.

While supported by the state's two Senators, a Democratic Congressman, Rep. Raul Grijalva, has voiced his opposition, and encouraged the rest of the country to boycott Arizona businesses until the legislation is overturned. The law looks certain to face legal and social challenges in the near future.

<http://www.washingtontimes.com/news/2010/apr/23/ariz-governor-signs-tough-immigration-law/>

* * * * *

Obama tells feds to check Arizona immigration bill

The Washington Times reports that on the same day that Arizona Governor Jan Brewer signed an immigration bill into law, making it illegal to an illegal immigrant in the state, and illegal to transport or aid any illegal immigrants, President Obama has ordered his administration to examine the law and see if it violates civil rights. "Our failure to act responsibly at the federal level will only open the door to irresponsibility by others, and that includes, for example, the recent efforts in Arizona which threaten to undermine basic notions of fairness that we cherish as Americans, as well as the trust between police and our communities that is so crucial to keeping us safe."

<http://www.washingtontimes.com/news/2010/apr/23/obama-tells-feds-check-arizona-immigration-bill/>

* * * * *

Court fight looms on new immigration law

The Arizona Republic reports that opponents of the newly-passed immigration enforcement bill plan to challenge the legislation as an unconstitutional intrusion on federal authority and a violation of civil rights. Critics say that the US Constitution mandates that the federal government alone has the responsibility to enact and enforce immigration laws.

Further concerns have been expressed over possible violations of the 4th amendment, guaranteeing freedom from unreasonable searches and seizures, and the 14th amendment, which ensures equal protection under law. The President and General Counsel at the Mexican American Legal Defense and Education fund, Thomas Saenz, said, "I expect multiple lawsuits in federal and possibly state courts."

The timing of these lawsuits is not clear, but some experts predict some immediate challenges to the law, including the argument that federal authority is supreme on immigration, which could result in a judge blocking the law from ever taking effect.

An ACLU attorney confirmed that there are 'a number of constitutional flaws' that leave the bill subject to legal attack, including violation of the supremacy clause. The counter argument to this claim is that Arizona is simply taking action on something that Congress already deemed illegal, and thus is not infringing on federal authority or violating the supremacy clause.

<http://www.azcentral.com/arizonarepublic/news/articles/2010/04/25/20100425immigration-bill-jan-brewer-arizona.html>

* * * * *

Immigration law protested by more than 2,500 at state Capitol

The Arizona Republic reports that around 2,500 protesters marched on the state Capitol in Phoenix in opposition to the newly-passed anti-immigrant legislation. The group marched 2.5 miles through downtown Phoenix, and marked the third consecutive day of peaceful protest. Protesters converged from California, Colorado, Texas, and elsewhere. Represented in high numbers were Korean-Americans, 20% of whom are undocumented and effected by immigration enforcement.

Since the law was signed by the Governor, protests have broken out as far away as Boston. Reverend Al Sharpton, speaking in New York, said that just as freedom riders fought segregation in the 1960s, he would organize 'freedom walkers' to walk the streets of Arizona, without identification, thus forcing arrest if asked for papers.

<http://www.azcentral.com/arizonarepublic/local/articles/2010/04/25/20100425immigration-law-protest-arizona.html>

* * * * *

Both sides in immigration debate blame congressional inaction for Arizona law

The Washington Post reports that both sides in the immigration debate agree that Congressional inaction lead to the current situation. The inaction "created a vacuum" that either forced Arizona to take matters into their own hands, or lead to overzealous lawmakers usurping federal authority, depending which side you agree with.

"We in Arizona have been more than patient waiting for Washington to act," Governor Brewer said. "But decades of federal inaction and misguided policy have created a dangerous and unacceptable situation." President Obama, too, acknowledged past failure to effectively tackle the issue. Obama, and Senate Majority Leader Harry Reid has begun pushing for comprehensive immigration overhaul, saying it is a top priority of the Democrats and the current administration.

<http://www.washingtonpost.com/wp-dyn/content/article/2010/04/26/AR2010042600226.html>

* * * * *

Arizona agency seeks federal help on immigration law

USA Today reports that the Arizona agency that must train 15,000 law officers in the state to enforce the new, controversial law affecting illegal immigration has asked federal authorities for help. Administration officials say that it is unclear yet whether the government will help.

The Arizona Peace Officer Standards and Training Board (APOSTB) has claimed that federal assistance is 'critical' to the unprecedented effort necessary to prepare officers as soon as 3 months from now to enforce the new law, giving local authorities the right to identify and arrest illegal immigrants. President Obama has ordered a review of the bill's civil rights implications. The results of that review 'will inform the government's actions.'

The head of the APOSTB has said he may have to develop a curriculum and train all 15,000 officers by August 1. Arizona Attorney General Terry Goddard, a member of

the training board, has said "Ninety days to train officers may be asking the impossible."

http://www.usatoday.com/news/nation/2010-04-26-arizona-immigration_N.htm

* * * * *

Bishop suggests joining immigration lawsuits

The Arizona Daily Star out of Tucson, reports that Tucson Roman Catholic Bishop Gerald Kicanas has announced that the US Conference of Catholic Bishops should consider joining other lawsuits opposing the new immigration enforcement law in Arizona. Kicanas said that he has asked the Conference to consider filing a 'friend of the court' brief that challenges the law's constitutionality.

http://azstarnet.com/news/state-and-regional/article_8377aaa1-6c6e-5856-aa72-fd9751decxcb.html

* * * * *

Lawmaker wants to bring Arizona immigration law to Utah

The Salt Lake Tribune reports that a conservative Utah lawmaker wants to bring an anti-immigration law to Utah similar to that in Arizona. Rep. Stephen Sandstorm is drafting a bill that would require immigrants to carry proof of legal status and require law officials to question anyone believed to be illegally present. The current Governor of Utah has declined to comment on 'legislation that has not been drafted yet,' but said he understands the need for addressing illegal immigration.

Reflecting the concerns of many opponents of the similar legislation recently signed into law in Arizona, Salt Lake City Police Chief Chris Burbank said that to enforce Sandstorm's proposed law would set the state back 30-40 years, harkening back to the days of 'Driving While Black.'

http://www.sltrib.com/news/ci_14963407

* * * * *

Immigration law puts MLB in a terrible situation

NBC Sports reports that Major League Baseball (MLB) has to decide if it wants to keep the 2011 All-Star Game in Arizona, or pull it due to the new anti-immigrant legislation recently passed. If the game is not pulled, the league faces the potential of protests at ballparks across the country; players facing questions about the law, rather than baseball; Hispanic players voicing their objections to the law; fans in countries such as the Dominican Republic, Venezuela, Mexico, and elsewhere denouncing or boycotting the MLB; and a potential boycott of the MLB by its sponsors. If the league moves forward with the game, they also risk alienating the Latino community, one of its most important fan bases.

The BCS and the NCAA may face similar decisions soon, as they are set to stage the 2011 National Championship for college football in Arizona in January. The NFL pulled Super Bowl XXVII in the past over Arizona's refusal to establish a holiday honoring Dr. Martin Luther King, Jr., thus the BCS and NCAA should take similar action to avoid even the appearance of discrimination against Latinos.

<http://nbcsports.msnbc.com/id/14400754/ns/sports/>

* * * * *

Republicans hit Arizona immigration law

Politico reports that many national Republican voices have begun speaking out against the new immigration enforcement law in Arizona, calling it heavy-handed. While GOP critics have not gone as far as to call the bill "racist" they believe it to be the wrong approach, and hope it prompts federal action on the issue.

Marco Rubio said he fears the law puts the Arizona police force in an "incredibly difficult position." Former Governor Jeb Bush also said that the law is not "the proper approach. I think it creates unintended consequences," adding, "It's difficult for me to imagine how you're going to enforce this law." Even Karl Rove, former Bush strategist, said "I wish they hadn't passed it. I think there is going to be some constitutional problems with the bill....I think there are better tools."

Former Alaska Governor Sarah Palin, however, has defended the bill in an interview on FOX News, blaming the 'myth' of racial profiling on President Obama. On Capitol Hill, only two Republicans have spoken against the law- Sen. Lindsey Graham (R-SC), and Rep. Lincoln Diaz-Balart (R-FL).

Conservative talk show host Joe Scarborough has added that the bill is "un-American. It is unacceptable, and it's un-American."

<http://www.politico.com/news/stories/0410/36469.html>

* * * * *

'Los Suns' Join Protest, Then Stop the Spurs

The New York Times reports that NBA team The Phoenix Suns decided to wear their "Los Suns" jerseys at their playoff game on Wednesday, May 5th, both as a celebration of Cinco de Mayo, and as a form of protest against the recently passed anti-immigrant legislation in Arizona.

Robert Sarver, the Sun's managing partner, called the new law flawed and mean-spirited, adding it would likely hurt the state's economy. Sales of "Los Suns" shirts were higher than usual at the game, but outspoken political differences were at a minimum during the game, which The Suns went on to win.

<http://www.nytimes.com/2010/05/06/sports/basketball/06suns.html?hp>

* * * * *

AZ Law Dampens Spirits on Cinco de Mayo: Fear Keeps Hispanics at Home

Associated Press reports that Cinco de Mayo festivities were tempered this year in Arizona, over fear from the newly passed immigration enforcement law. Markets normally full of customers were quiet, and even family picnics were scaled back, amid rumors of immigration raids on Cinco de Mayo parties.

Many Hispanics are increasingly anxious about the new laws, and perceive themselves as targets. Some are afraid to leave their homes, even on a day of celebration. Cinco de Mayo celebrates an out-manned Mexican army's victory over a larger French force in 1862. But talks turned away from celebrations and increasingly towards what will happen to the Hispanic community. One local store-owner in Mesa, AZ said more and more people are fearful to leave their homes, afraid they'll be swept up by police, adding people have already left the state.

http://www.google.com/hostednews/ap/article/ALeqM5j0TKI0X_6XLaoaRV5tMvLQwbHuCOD9FH2E100

* * * * *

Colo. GOP candidate applauds Ariz. immigration law

The Associated Press reports that a Republican running for Governor of Colorado has said that he will pursue an "Arizona-style" immigrant crackdown if elected. Former Rep. Scott McInnis said I'd do something very similar' if elected. A Republican running for Governor in Minnesota called the law 'a wonderful first step,' and Republicans in Georgia, Nevada, and Texas have also promised to copy the law.

<http://www.washingtonexaminer.com/politics/congress/colo-gop-candidate-applaudsariz-immigration-law-92346649.html>

* * * * *

Some TX reps jump on Arizona bandwagon

KXAN News in Austin, TX reports that Republican lawmaker State Rep. Debbie Riddle has said she will propose immigration reform legislation similar to that recently signed in Arizona. Riddle joined Rep. Leo Berman, who recently announced he too would also introduce similar legislation in early 2011 when the Legislature reconvenes.

<http://www.kxan.com/dpp/news/politics/Texas-Rep-to-propose-Arizona-like-law>

* * * * *

9. Updates from the Visalaw.com Blogs

[Greg Siskind's Blog on ILW.com](#)

- [SENATOR MENENDEZ URGES BASEBALL PLAYERS TO BOYCOTT PHOENIX ALL STAR GAME](#)
- [REID: GOP IS THE "ANTI-IMMIGRANT" PARTY](#)
- [BARKLEY SLAMS ARIZONA LAW](#)
- [WILL IMMIGRATION FACTOR IN KAGAN NOMINATION?](#)
- [IMMIGRATION WORRIES HAUNT MILITARY FAMILIES](#)
- [SCHUMER ASKS ARIZONA GOVERNOR TO DELAY LAW FOR A YEAR](#)
- [DUNCAN HUNTER: DEPORTING CITIZEN KIDS IS GOOD FOR FAMILY VALUES](#)
- [MY GUEST SPOT ON JEFF FARIAS SHOW](#)
- [POLLS SHOW AMERICANS STILL WANT REFORM](#)
- [SANDRA DAY O'CONNOR CRITICIZES ARIZONA LAW](#)
- [ARIZONA'S CONSERVATIVE HISPANICS LEAVING GOP](#)
- [LOS SUNS](#)
- [H-1B USAGE HINTS CAP MAY NOT BE HIT THIS YEAR](#)
- [MORE CONFERENCES WEIGHING ARIZONA BOYCOTT](#)
- [THE IMPACT OF THE CHANGES TO THE ARIZONA LAW](#)
- [WHITE HOUSE CONSIDERING CHALLENGE TO ARIZONA LAW](#)
- [LUIS GUTIERREZ AND 35 OTHERS ARRESTED AT WHITE HOUSE PROTEST](#)
- [HALF MILLION PROTEST ARIZONA LAW](#)
- [ESCOBAR V. BREWER](#)
- [RACHEL MADDOW GRILLS FAIR'S DAN STEIN](#)
- [IMMIGRATION HUMOR: YOU'RE NOT FROM AROUND HERE, ARE YOU?](#)
- [DO I LOOK ILLEGAL?](#)

- [REPUBLICANS STARTING TO CRITICIZE SB1070](#)
- [DEMS FORMALLY UNVEIL IMMIGRATION PROPOSAL](#)
- [DEMS CIRCULATE DETAILED CIR PROPOSAL](#)
- [ADVOCACY GROUPS ANNOUNCE PLANS TO SUE ARIZONA](#)
- [TUCSON SHERIFF WON'T ENFORCE NEW LAW](#)
- [TIPS ON FIGHTING THE ARIZONA LAW](#)
- [PRO-IMMIGRATION RALLIES SET FOR SATURDAY AROUND THE COUNTRY](#)
- [UTAH CONSIDERING ARIZONA-STYLE IMMIGRATION LAW](#)
- [REID CONSIDERING BRINGING IMMIGRATION BILL DIRECTLY TO FLOOR](#)
- [ARIZONA BOYCOTT MOMENTUM GROWING](#)
- [IS REAL TARGET OF ARIZONA LAW HISPANIC US CITIZENS?](#)
- [COULD ARIZONA LAW COST REPUBLICANS GOVERNOR AND SENATOR SEATS?](#)
- [MEXICAN PRESIDENT SAYS ARIZONA LAW WILL HURT RELATIONS](#)
- [TANCREDO: ARIZONA HAS GONE TOO FAR](#)
- [ARIZONA TAXPAYERS WILL NOW HAVE TO PAY FOR LAWYERS FOR IMMIGRANTS](#)
- [CHRISTIAN ORGANIZATION VOWS TO DEFEY ARIZONA LAW](#)
- [BIPARTISAN CALL FOR ENDING DEPORTATION OF STUDENTS](#)
- [REID TO GRAHAM: YOU HAVE THREE WEEKS TO DELIVER REPUBLICANS OR WE'RE DOING IT OURSELVES](#)
- [SHERIFF JOE READY TO GO TO TOWN WITH NEW LAW](#)
- [IMMIGRATION HUMOR - A DRY FASCISM](#)
- [JEWISH ORGANIZATIONS SPEAK OUT AGAINST ARIZONA LAW](#)
- [PHOENIX MAY SUE STATE OF ARIZONA](#)
- [THE ARIZONA BOYCOTT](#)
- [ARIZONA GOVERNOR PULLS THE TRIGGER](#)
- [REP. BILBRAY: ARIZONA COPS CAN SPOT ILLEGALLY PRESENT IMMIGRANTS BY THE WAY THEY DRESS](#)
- [IMMIGRATION HUMOR: ARIZONA'S NEW LAW - NO PROBLEMO](#)

[The SSB I-9, E-Verify, & Employer Immigration Compliance Blog](#)

- UPDATED E-VERIFY CONTRACTOR FAQ RELEASED
- AUDITOR CRITICIZES STATE OF MINNESOTA OVER USE OF I-9 VENDOR
- SAN DIEGO BAKERY OWNER INDICTED FOR HIRING UNDOCUMENTED WORKERS
- ICE CONFIRMS EMPLOYERS HAVE TEN DAYS TO CORRECT TECHNICAL VIOLATIONS

[Visalaw Healthcare Immigration Blog](#)

- PRIMARY CARE MD SHORTAGE LOOMING
- DESPITE HEALTH CARE REFORM, FILIPINO NURSES STILL GLUM OVER US OPPORTUNITIES

[Visalaw Investor Immigration Blog](#)

- START UP VISA SEEN AS HELPING SW FLORIDA

[Visalaw Fashion, Sports, & Entertainment Blog](#)

- SENATOR MENENDEZ URGES BASEBALL PLAYERS TO BOYCOTT PHOENIX ALL STAR GAME
- THE GREAT BASEBALL BOYCOTT OF 2010
- LATINO STARS REACT TO ARIZONA LAW
- ACTRESS ARRESTED FOR MARRIAGE FRAUD

[Visalaw International Blog](#)

- CANADA: DISTURBING STUDY SHOWS HIGH RATES OF DIABETES IN IMMIGRANTS

[The Immigration Law Firm Management Blog](#)

- LENOVO MORPHS NOTEBOOK AND TABLET