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## Immigration News Update

August 17, 2010

Welcome to Immigration News Update, your resource for the latest developments in U.S. immigration laws, procedures, and breaking news. Immigration News Update is published bi-monthly by [Bashyam Spiro](#), a firm committed solely to the practice of Immigration and Nationality Law. To further explore what is happening in immigration across our nation and the world follow us on [Twitter](#) and [Facebook](#).

***Have an immigration question?*** Direct message your questions to us on [Twitter](#). Your answers may be featured in our next *Immigration News Update!*

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Bashyam Spiro LLP handles U.S. immigration cases in all 50 states and around the world. We are located at The Summit Building, 4101 Lake Boone Trail, Suite 200, Raleigh, North Carolina 27607. Telephone: 919-833-0840. Web Site: [www.bashyamspiro.com](http://www.bashyamspiro.com).

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### **Sign Up For Our FREE Webinars**

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*Bashyam Spiro LLP – Immigration Law Group brings you a monthly series of **FREE** educational Webinars on **immigration law topics** that you can access from anywhere.*

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**Upcoming web events:**

**9-16-2010 (12 pm - 1 pm) – *THE SKIL BILL: If Passed, How it Will Help Employment-Based Immigration***

### **SIGN UP HERE!**

On July 1, 2010 Senator Cornyn's SKIL (Securing Knowledge, Innovation, and Leadership) Act (HR 5658) was re-introduced in the House, this time by Rep. John Shadegg.

This legislation aims to amend the Immigration and Nationality Act in order to promote the migration of people with particular professional skills to the United States. Provisions include raising the cap on the number of H-1B visas granted and easing immigration requirements for people with advanced degrees in math, science, and engineering.

No one knows what is going to happen to this proposal but many are interested in learning more about what the language of the bill means for immigrant workers and employers.

Join Bashyam Spiro's Managing Partner, Murali Bashyam, and Senior Counsel, Ame Coats, for an interactive and enlightening discussion on the SKIL Bill, the legislative process, and their thoughts on Comprehensive Immigration Reform during this LIVE webinar.

**To register please visit:** <http://www.bashyamspiro.com/seminars-training.aspx>

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**USCIS Updates H-1B Cap Count**

The United States Citizenship and Immigration Service (USCIS) updated its H-1B cap count on August 6, 2010. Here are the most recent cap numbers:

*Regular H-1B Cap:* 28,500

## *U.S. Masters H-1B Cap: 11,900*

The H-1B numbers are moving very slowly. It is likely a result of the economy and different adjudication standards by the USCIS. The bottom line, however, is that employers have plenty of time to make a decision on hiring a worker who may need an H-1B visa.

We will update our web site at [www.bashyamspiro.com](http://www.bashyamspiro.com) when more information becomes available.

## **DOS Releases September Visa Bulletin**

The U.S. Department of State released its September 2010 Visa Bulletin. To view the Visa Bulletin, please click [here](#).

Here's what happened:

Employment-Based Category Two (EB-2):

- China – advanced 2 months
- India – advanced 2 months

Employment-Based Category Three (EB-3)

- All Other Chargeability Areas – advanced 6 months
- China – advanced 1 months
- Dominican Republic – advanced 6 months
- India – stayed the same
- Philippines – advanced 6 months
- Mexico – Unavailable

We will keep you updated at [www.bashyamspiro.com](http://www.bashyamspiro.com) as additional information becomes available.

## **Why 2K? President Signs Bill to Increase H-1B Filing Fees**

By Murali Bashyam, Esq.

The United States Senate, in a largely bi-partisan vote, [passed a bill](#) on August 5, 2010 which, among other things, would impose an additional \$2000 filing fee for companies that file H-1B applications on behalf of foreign professional workers. This filing fee is in addition to the normal H-1B filing fee of \$2320 or \$1570, depending on the size of the company's

workforce.

If you run a company and hire H-1B professional workers, is it time to panic? Yes.

When this article was originally written last week, the Senate bill was not law. It still had to be reconciled with the House bill (HR 6080), which passed on August 10, 2010. However, it quickly did so and the bill was signed by President Obama last Friday. The key question is why the Senate, House and President are proposing this fee increase on employers in a weak economy?

Illegal immigration is a hot topic right now. In fact, it has been for years. You cannot turn on the television without hearing a sound-bite on immigration from politicians who really do not understand the topic. For example, Senator Chuck Schumer (D), a sponsor of the Senate bill, says the following:

“There is a part of H-1B that is abused, and it is by companies that are not American companies or even companies that are making something. Rather, they are companies that take foreign folks, bring them here, and then they stay here for a few years, learn their expertise, and go back. We think we should increase the fees when they do that,” the Senator said.

In summary, Sen. Schumer is basically saying:

- There is abuse in the H-1B program, but none by American companies or companies that ‘make something.’
- Companies hire foreign workers and the workers learn their ‘expertise’ in the U.S.
- Foreign workers in the H-1B program stay a few years and then go back to their home countries.

Other than acknowledging that there is some abuse in the H-1B program, every other point or assumption made by Sen. Schumer is completely false.

- Only an ‘American’ company can hire an H1B worker! The H1B program is strictly for American employers to hire foreign workers on a temporary basis. And even though a company may not ‘make something’, it does not mean they are irrelevant or insignificant.
- Foreign workers do not come to the US to learn their expertise. They must have it before they can be issued H1B status! In fact, they must be offered a professional position – one that requires at least a Bachelor’s degree (or equivalent). And they must prove, with an evaluation by a US credentials agency, that they have the equivalent of a US Bachelor’s degree specifically related to the position offered.

Most of these workers have many years of professional experience as well before they come to the U.S.

- The H1B program is designed to be temporary. Foreign workers are *supposed* to go home after six years! If we wanted them to stay, we wouldn't make the Permanent Residency process so difficult and time-consuming.

Foreign workers come to the U.S., earn money and contribute to our economy through consumption and taxation. Many apply for permanent residency so they can live in the U. S. , but many also return home for family reasons (or because the U.S. residency process takes far too long). Studies have established that many of the immigrant workers who remain in the U.S. are entrepreneurs who start businesses and employ U.S. workers. Sen. Schumer fails to acknowledge the contributions foreign professional workers make to the United States economy and culture.

We believe that most people in the U.S. are pro-immigrant. In fact, polls have proven as much. But they are for legal immigration and understandably against illegal immigration. By increasing H-1B filing fees on U.S. employers, the government goal is to raise more revenue to hire 1500 additional border patrol agents to patrol our southern border. In essence, our government wants to penalize companies that hire *legal* foreign workers under the H-1B program to help prevent *illegal* immigration. Why should illegal immigration negatively impact a U.S. company that legally hires a foreign professional worker? It should not. These two issues are – and should be – separate.

Penalizing law-abiding employers in a down economy is not good for our country. As Mohandas Pai, Director of Human Resources for Infosys, said in reaction to the Senate bill, “it sends a very negative message from America that highly skilled people are not welcome, the markets are closing up.” Instead of a being what is the backbone of this great country, immigration now seems to be an unnecessarily negative and divisive issue.

Let's hope for real, positive change in our immigration policies, not just talk of it.

### **USCIS Announces Filing Location Change for Certain Types of Cases**

The United States Citizenship and Immigration Service (USCIS) announced a host of filing location changes for forms I-130, I-526 and I-140. To obtain more information on which types of cases and locations were impacted by these changes, please click on the appropriate link below.

For EB-5 Immigrant Entrepreneurs filing I-526 petitions, click [here](#).

For petitioners residing in Canada who want to file I-130 petitions, click [here](#).

For employers filing I-140 petitions, please click [here](#).

### **Immigration Meditation Staff Blogger: Pam Prather**

In our latest *Immigration-Meditation* blog post, Bashyam Spiro's Client Relations Manager, Pam Prather, describes how a recent trip to Kenya, Africa made her realize that there is still a lot to learn, and helped reinvigorate her sense of purpose. The blog post contains a video of Mrs. Prather's visit to a school in Kilisa, Kenya.

Mrs. Prather is the Vice President of Friends Unite, a [non-profit organization](#) dedicated to providing the support necessary for people and communities to help themselves. Learn more about how [Friends Unite](#) makes a difference by reading this thoughtful blog post at: <http://www.bashyamspiro.com/immigration-meditation/2010/08/13/friendsuniteforkiberafrica/>.

### **HELPFUL LINKS**

To access some helpful immigration related web sites, please click [here](#).

To schedule a consultation, please send an email [info@bashyamspiro.com](mailto:info@bashyamspiro.com) or click [here](#).

To learn more about Bashyam Spiro LLP, please visit [www.bashyamspiro.com](http://www.bashyamspiro.com).

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