

118TH CONGRESS
1ST SESSION

S. 3211

To enhance our Nation’s nurse and physician workforce by recapturing unused immigrant visas.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 2, 2023

Mr. DURBIN (for himself, Mr. CRAMER, Mr. BOOKER, Ms. COLLINS, Mr. CARPER, Ms. ERNST, Mr. COONS, Mr. ROUNDS, Ms. DUCKWORTH, Mr. THUNE, Mr. PADILLA, Mr. TILLIS, Ms. SINEMA, Mr. WICKER, Mr. WYDEN, and Mr. YOUNG) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To enhance our Nation’s nurse and physician workforce by recapturing unused immigrant visas.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Healthcare Workforce
5 Resilience Act”.

6 **SEC. 2. RECAPTURING UNUSED IMMIGRANT VISAS FOR**
7 **PROFESSIONAL NURSES AND PHYSICIANS.**

8 Section 106(d) of the American Competitiveness in
9 the Twenty-first Century Act of 2000 (title I of Public

1 Law 106–313; 8 U.S.C. 1153 note) is amended to read
2 as follows:

3 “(d) RECAPTURE OF UNUSED EMPLOYMENT-BASED
4 IMMIGRANT VISAS.—

5 “(1) IN GENERAL.—Subject to paragraph (2),
6 and notwithstanding any other provision of law, the
7 number of employment-based visas made available
8 under section 203(b) of the Immigration and Na-
9 tionality Act (8 U.S.C. 1153(b)) shall be increased
10 by the number calculated in paragraph (3).

11 “(2) LIMITATIONS.—

12 “(A) IN GENERAL.—Visas may only be
13 made available under this subsection for up to
14 40,000 employment-based immigrants (and
15 their family members accompanying or fol-
16 lowing to join under section 203(d) of such Act
17 (8 U.S.C. 1153(d))) whose immigrant worker
18 petitions are filed not later than 3 years after
19 the date of the enactment of the Healthcare
20 Workforce Resilience Act.

21 “(B) RESERVATIONS.—Of the visas au-
22 thorized under subparagraph (A)—

23 “(i) 25,000 shall be reserved for pro-
24 fessional nurses; and

1 “(ii) 15,000 shall be reserved for phy-
2 sicians.

3 “(C) EXEMPTION FROM COUNTRY CAPS.—
4 Visas made available under this subsection—

5 “(i) shall not be subject to the per
6 country numerical limitation set forth in
7 section 202(a)(2) of the Immigration and
8 Nationality Act (8 U.S.C. 1152(a)(2)); and

9 “(ii) shall be issued in order of the
10 priority date assigned at the time the visa
11 petition was filed.

12 “(D) ADDITIONAL LIMITATION.—Visas
13 may only be made available under this sub-
14 section to a beneficiary and such beneficiary’s
15 dependents if visas are not otherwise imme-
16 diately available to such individuals pursuant to
17 the worldwide and per country allocations set
18 forth in sections 202(a)(2) and 203(b) of the
19 Immigration and Nationality Act (8 U.S.C.
20 1152(a)(2) and 1153(b)).

21 “(3) NUMBER AVAILABLE.—

22 “(A) UNUSED VISAS.—Subject to subpara-
23 graph (B), the number calculated in this para-
24 graph is the difference between—

1 “(i) the total number of employment-
2 based visas that were made available in fis-
3 cal years 1992 through 2021; and

4 “(ii) the total number of such visas
5 that were used in such fiscal years.

6 “(B) REDUCTION AND LIMITATION.—The
7 number described in subparagraph (A) shall be
8 reduced, for each fiscal year following the fiscal
9 year during which the Healthcare Workforce
10 Resilience Act is enacted, by the cumulative
11 number of immigrant visas used pursuant to
12 paragraph (1).

13 “(C) FAMILY MEMBERS.—

14 “(i) IN GENERAL.—Family members
15 described in section 203(d) of the Immi-
16 gration and Nationality Act (8 U.S.C.
17 1153(d)) who are accompanying or fol-
18 lowing to join a principal beneficiary seek-
19 ing admission under this subsection shall
20 be entitled to an unreserved visa in the
21 same status and in the same order of con-
22 sideration as such principal beneficiary.

23 “(ii) EXEMPT FROM SKILL-BASED NU-
24 MERICAL LIMITATION.—Visas described in
25 clause (i)—

1 “(I) shall be made available from
2 the pool of recaptured unused immi-
3 grant visas calculated under subpara-
4 graph (A); and

5 “(II) shall not be counted against
6 the total number of immigrant visas
7 reserved for professional nurses and
8 physicians under paragraph (2).

9 “(D) RULE OF CONSTRUCTION.—Nothing
10 in this paragraph may be construed as affecting
11 the application of section 201(c)(3)(C) of the
12 Immigration and Nationality Act (8 U.S.C.
13 1151(c)(3)(C)).

14 “(4) PREMIUM PROCESSING; EXPEDITED PROC-
15 ESSING.—

16 “(A) PREMIUM PROCESSING.—The Sec-
17 retary of Homeland Security, in conjunction
18 with the Secretary of State, shall provide pre-
19 mium processing procedures, as provided for
20 under section 286(u) of the Immigration and
21 Nationality Act (8 U.S.C. 1356(u)), for review-
22 ing and acting upon petitions and applications
23 for immigrants described in paragraph (2).
24 Notwithstanding such section, U.S. Citizenship

1 and Immigration Services may not charge a
2 premium fee for such services.

3 “(B) SHIPPING PETITIONS.—The Director
4 of U.S. Citizenship and Immigration Services
5 shall expedite the shipping of each petition de-
6 scribed in subparagraph (A) requiring consular
7 processing to the Department of State imme-
8 diately after—

9 “(i) the completed petition has been
10 resolved; and

11 “(ii) the petitioner has replied to any
12 request from U.S. Citizenship and Immi-
13 gration Services for additional evidence.

14 “(C) EXPEDITED PROCESSING.—The Sec-
15 retary of State shall expedite the processing of
16 applications for immigrants described in para-
17 graph (2) after receiving a petition on behalf of
18 such immigrants from U.S. Citizenship and Im-
19 migration Services.

20 “(5) LABOR ATTESTATION.—Before an immi-
21 grant visa reserved under paragraph (2)(B)(i) is
22 issued to an alien, the petitioner shall attest, in the
23 job offer letter presented by the alien to a consular
24 officer during the consular interview or to the De-
25 partment of Homeland Security as an application

1 for an adjustment of status, that the hiring of the
2 alien has not displaced and will not displace a
3 United States worker.”.

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