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

“(d) **Recapture of Unused Employment-Based Immigrant Visas.**—

“(1) **In general.**—Subject to paragraph (2), and notwithstanding any other provision of law, the number of employment-based visas made available under section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) shall be increased by the number calculated in paragraph (3).

“(2) **Limitations.**—

“(A) **In general.**—Visas may only be made available under this subsection for up to 40,000 employment-based immigrants (and their family members accompanying or following to join under section 203(d) of such Act (8 U.S.C. 1153(d))) whose immigrant worker petitions are filed not later than 3 years after the date of the enactment of the Healthcare Workforce Resilience Act.

“(B) **Reservations.**—Of the visas authorized under subparagraph (A)—

“(i) 25,000 shall be reserved for professional nurses; and
“(ii) 15,000 shall be reserved for physicians.

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

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

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

“(D) ADDITIONAL LIMITATION.—Visas may only be made available under this subsection to a beneficiary and such beneficiary’s dependents if visas are not otherwise immediately available to such individuals pursuant to the worldwide and per country allocations set forth in sections 202(a)(2) and 203(b) of the Immigration and Nationality Act (8 U.S.C. 1152(a)(2) and 1153(b)).

“(3) NUMBER AVAILABLE.—

“(A) UNUSED VISAS.—Subject to subparagraph (B), the number calculated in this paragraph is the difference between—
“(i) the total number of employment-based visas that were made available in fiscal years 1992 through 2021; and

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

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

“(C) FAMILY MEMBERS.—

“(i) IN GENERAL.—Family members described in section 203(d) of the Immigration and Nationality Act (8 U.S.C. 1153(d)) who are accompanying or following to join a principal beneficiary seeking admission under this subsection shall be entitled to an unreserved visa in the same status and in the same order of consideration as such principal beneficiary.

“(ii) EXEMPT FROM SKILL-BASED NUMERICAL LIMITATION.—Visas described in clause (i)—
“(I) shall be made available from
the pool of recaptured unused immi-
grant visas calculated under subpara-
graph (A); and
“(II) shall not be counted against
the total number of immigrant visas
reserved for professional nurses and
physicians under paragraph (2).
“(D) RULE OF CONSTRUCTION.—Nothing
in this paragraph may be construed as affecting
the application of section 201(c)(3)(C) of the
Immigration and Nationality Act (8 U.S.C.
1151(c)(3)(C)).
“(4) PREMIUM PROCESSING; EXPEDITED PROC-
ESSING.—
“(A) PREMIUM PROCESSING.—The Sec-
retary of Homeland Security, in conjunction
with the Secretary of State, shall provide pre-
mium processing procedures, as provided for
under section 286(u) of the Immigration and
Nationality Act (8 U.S.C. 1356(u)), for review-
ing and acting upon petitions and applications
for immigrants described in paragraph (2).
Notwithstanding such section, U.S. Citizenship
and Immigration Services may not charge a premium fee for such services.

“(B) SHIPPING PETITIONS.—The Director of U.S. Citizenship and Immigration Services shall expedite the shipping of each petition described in subparagraph (A) requiring consular processing to the Department of State immediately after—

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

“(ii) the petitioner has replied to any request from U.S. Citizenship and Immigration Services for additional evidence.

“(C) EXPEDITED PROCESSING.—The Secretary of State shall expedite the processing of applications for immigrants described in paragraph (2) after receiving a petition on behalf of such immigrants from U.S. Citizenship and Immigration Services.

“(5) LABOR ATTESTATION.—Before an immigrant visa reserved under paragraph (2)(B)(i) is issued to an alien, the petitioner shall attest, in the job offer letter presented by the alien to a consular officer during the consular interview or to the Department of Homeland Security as an application
for an adjustment of status, that the hiring of the alien has not displaced and will not displace a United States worker.”.