

117TH CONGRESS
1ST SESSION

S. 1024

To enhance our Nation’s nurse and physician workforce during the COVID–19 crisis by recapturing unused immigrant visas.

IN THE SENATE OF THE UNITED STATES

MARCH 25, 2021

Mr. DURBIN (for himself, Mr. CORNYN, Mr. LEAHY, Mr. YOUNG, Mr. COONS, and Ms. COLLINS) 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 during the COVID–19 crisis 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”.

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

3 Section 106(d) of the American Competitiveness in
4 the Twenty-first Century Act of 2000 (Public Law 106–
5 313; 8 U.S.C. 1153 note) is amended to read as follows:

6 “(d) RECAPTURE OF UNUSED EMPLOYMENT-BASED
7 IMMIGRANT VISAS.—

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

14 “(2) LIMITATIONS.—

15 “(A) IN GENERAL.—Visas may only be
16 made available under this subsection for up to
17 40,000 employment-based immigrants (and
18 their family members accompanying or fol-
19 lowing to join under section 203(d) of such Act
20 (8 U.S.C. 1153(d))) whose immigrant worker
21 petitions were filed before the date that is 90
22 days after the termination of the President’s
23 declaration of a national emergency under sec-
24 tions 201 and 301 of the National Emergencies
25 Act (50 U.S.C. 1601 et seq.) pertaining to the
26 COVID–19 outbreak in the United States (re-

1 ferred to in this subsection as the ‘COVID–19
2 emergency declaration’).

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

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

7 “(ii) 15,000 shall be reserved for phy-
8 sicians.

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

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

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

18 “(3) NUMBER AVAILABLE.—

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

22 “(i) the total number of employment-
23 based visas that were made available in fis-
24 cal years 1992 through 2020; and

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

3 “(B) REDUCTION AND LIMITATION.—The
4 number described in subparagraph (A) shall be
5 reduced, for each fiscal year following the first
6 fiscal year in which the COVID–19 emergency
7 declaration is in effect, by the cumulative num-
8 ber of immigrant visas used pursuant to para-
9 graph (1).

10 “(C) FAMILY MEMBERS.—

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

20 “(ii) EXEMPT FROM SKILL-BASED NU-
21 MERICAL LIMITATION.—Visas described in
22 clause (i)—

23 “(I) shall be made available from
24 the pool of recaptured unused immi-

1 grant visas calculated under subpara-
2 graph (A); and

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

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

12 “(4) PREMIUM PROCESSING; EXPEDITED PROC-
13 ESSING.—

14 “(A) PREMIUM PROCESSING.—The Sec-
15 retary of Homeland Security, in conjunction
16 with the Secretary of State, shall provide pre-
17 mium processing procedures, as provided for
18 under section 286(u) of the Immigration and
19 Nationality Act (8 U.S.C. 1356(u)), for review-
20 ing and acting upon petitions and applications
21 for immigrants described in paragraph (2).
22 Notwithstanding such section, U.S. Citizenship
23 and Immigration Services may not charge a
24 premium fee for such services.

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

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

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

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

18 “(5) LABOR ATTESTATION.—Before an immi-
19 grant visa reserved under paragraph (2)(B)(i) is
20 issued to an alien, the petitioner shall attest, in the
21 job offer letter presented by the alien to a consular
22 officer during the consular interview, that the hiring
23 of the alien has not displaced and will not displace
24 a United States worker.”.

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