

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 139

To provide for the recapture of unused employment-based immigrant visa numbers in order to facilitate improved health care for all persons in the United States.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 2005

Mr. LANTOS introduced the following bill; which was referred to the  
Committee on the Judiciary

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## A BILL

To provide for the recapture of unused employment-based immigrant visa numbers in order to facilitate improved health care for all persons in the United States.

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 “Health Improvement  
5       and Professionals Act of 2005”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds as follows:

1           (1) The United States is in the midst of a nurs-  
2           ing shortage that is expected to intensify as the need  
3           for health care services increases.

4           (2) The Department of Labor has identified  
5           registered nurses has one of the top 5 job growth oc-  
6           cupations in the United States, and that more than  
7           1,000,000 new and replacement nurses will be need-  
8           ed by 2012.

9           (3) By the year 2012, at least 44 States and  
10          the District of Columbia will be experiencing a nurs-  
11          ing shortage.

12          (4) According to surveys conducted by the Har-  
13          vard School of Public Health and the Henry J. Kai-  
14          ser Family Foundation, over 50 percent of physi-  
15          cians have indicated that the nursing shortage is a  
16          leading cause of medical error

17          (5) The New England Journal of Medicine has  
18          reported that a higher proportion of nursing care is  
19          associated with better outcomes for hospitalized pa-  
20          tients.

21          (6) In spite of this documented need for reg-  
22          istered nurses, enrollments in baccalaureate nursing  
23          programs at colleges and universities across the  
24          United States have declined for 5 consecutive years.

1           (7) Because of an important and overdue effort  
2           by the Department of Homeland Security to clear a  
3           backlog of adjustments of status from nonimmigrant  
4           employment-based visas to immigrant employment-  
5           based visas, the number of employment-based visas  
6           available to certified nurses living abroad who want  
7           to come to the United States has declined to vir-  
8           tually zero.

9           (8) The adjustment of status program will not  
10          bring new medical personnel to the United States.

11          (9) In 2000, Congress passed the American  
12          Competitiveness in the Twenty-first Century Act of  
13          2000, which, in part, recaptured unused employ-  
14          ment-based visas from previous years in order to in-  
15          crease the number of medical and other personnel  
16          available to fill critical jobs in the United States.

17          (10) Since the passage of that legislation, be-  
18          cause of ongoing backlogs, a large number of em-  
19          ployment-based visas have not been used, including  
20          more than 50,000 visas in fiscal year 2003 alone.

21 **SEC. 3. RECAPTURE OF UNUSED EMPLOYMENT-BASED IM-**  
22 **MIGRANT VISAS.**

23          (a) IN GENERAL.—Notwithstanding any other provi-  
24          sion of law, the number of employment-based visas (as de-  
25          fined in subsection (c)) made available for a fiscal year

1 (beginning with fiscal year 2005) shall be increased by the  
2 number described in subsection (b). Visas made available  
3 under this section shall only be available in a fiscal year  
4 to employment-based immigrants under paragraph (1),  
5 (2), or (3) of section 203(b) of the Immigration and Na-  
6 tionality Act (8 U.S.C. 1153(b)).

7 (b) NUMBER AVAILABLE.—

8 (1) IN GENERAL.—Subject to paragraph (2),  
9 the number described in this subsection is the dif-  
10 ference between the number of employment-based  
11 visas that were made available in fiscal years 2001,  
12 2002, 2003, and 2004 and the number of such visas  
13 that were actually used in such fiscal years.

14 (2) REDUCTION.—The number described in  
15 paragraph (1) shall be reduced, for each fiscal year  
16 after fiscal year 2005, by the cumulative number of  
17 immigrant visas actually used under subsection (a)  
18 for previous fiscal years.

19 (3) CONSTRUCTION.—Nothing in this sub-  
20 section shall be construed as affecting the applica-  
21 tion of section 201(c)(3)(C) of the Immigration and  
22 Nationality Act (8 U.S.C. 1151(c)(3)(C)).

23 (c) EMPLOYMENT-BASED VISAS DEFINED.—For  
24 purposes of this section, the term “employment-based  
25 visa” means an immigrant visa which is issued pursuant

1 to the numerical limitation under section 203(b) of the  
2 Immigration and Nationality Act (8 U.S.C. 1153(b)).

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