SEC. 544. MODIFICATION OF CRITERIA FOR ELIGIBILITY FOR NATURALIZATION THROUGH SERVICE IN THE ARMED FORCES.

Section 328(a) of the Immigration and Nationality Act (8 U.S.C. 1439(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2)(A) In addition to the authorities provided in paragraph (1), a qualifying noncitizen United States veteran may be naturalized without having been lawfully admitted to the United States for permanent residence if the person's application for naturalization is filed while the applicant is serving in the armed forces of the United States or within six months after the termination of such service.

"(B) For purposes of subparagraph (A), a qualifying noncitizen United States veteran is a person—

"(i) who has served in the armed forces of the United States as described in subparagraph (C); and

"(ii) whose enlistment in the armed forces—

"(I) was lawful under section 504(b) of title 10, United States Code; and

"(II) was not procured by a knowingly false representation or by deliberate concealment as to the person's qualifications for that enlistment.

"(C) A person's service in the armed forces of the United States is described in this subparagraph if —

"(i) the person served honorably in the armed forces for a period or periods aggregating one year, any part of which was served after the date of the enactment of this paragraph; and

1 "(ii) in the case of a person who has been separated from such service, the person

2 was never separated except under honorable conditions.".

Section-by-Section Analysis

This proposal would amend section 328(a) of the Immigration and Nationality Act (INA) (8 U.S.C. 1439) to allow any person who has served honorably and performed any of the military service described in this Act on or after the date of the enactment of these amendments for a period or periods aggregating one year to naturalize (if otherwise eligible under section 328) whether or not the person has been lawfully admitted to the United States for permanent residence, as long as the application is filed while the applicant is still in the service or within six months after discharge and the applicant met immigration status requirements for enlistment. This proposal would permit naturalization during peacetime of aliens who are not Lawful Permanent Residents (LPRs), i.e., Green Card holders. This change would allow for the continuation of the Military Accessions Vital to the National Interest (MAVNI) program, at such time in the future when no Executive Order is in place declaring that the Armed Forces of the United States are engaged in armed conflict with a hostile foreign force.

Under current law, if a President has not issued an Executive Order stating that the U.S. Armed Forces are engaged in hostilities, non-citizens without LPR status cannot be naturalized (gain U.S. citizenship). Section 328(a) of the INA is the Armed Forces peacetime naturalization statute. It requires serving honorably for at least one year AND that the individual has obtained lawful permanent resident status, something not required under section 329 of the INA (8 U.S.C. 1440) (the wartime naturalization statute), which permits immediate naturalization of Service members who are not LPRs as long as they were in the United States or on a U.S. vessel at the time of enlistment of reenlistment.

This proposed legislation is needed in order for DoD to continue to recruit persons under the current MAVNI program and allow them to receive citizenship if and when the current Executive Order (EO 13269), which has been in place since July 3, 2002 and retroactive to periods of service beginning September 11, 2001, is revoked by the President. The MAVNI program expands the recruiting market to certain non-citizens if they speak one of 44 strategic languages approved by the Department of Defense and the Office of Management and Budget (OMB) or are licensed healthcare professionals. The current enlistment statute, 10 U.S.C. 504(b)(2), allows the enlistment of certain non-citizens who do not have LPR status if they are considered vital to the national interest,[1] but does not provide for their naturalization based on their military service if there is no Executive Order in effect. This proposal corrects the gap in naturalization law created when 10 U.S.C. 504(b) was enacted.

Currently, the law allows enlistment of non-citizens (other than LPRs) through the MAVNI program to continue when no Executive Order is in effect, but does not allow such non-

[1] Under section 504(b)(1)(C), nationals of certain Pacific nations with Compacts of Free Association with the United States also may enlist without being LPRs, without a determination of national interest. These Service members would also be eligible for naturalization under section 328 as amended by this proposal.

citizens to become U.S. citizens without the Executive Order invoking the wartime statute. Without an Executive Order in place, such non-citizens who enlist may have no means to naturalize. As a result of this gap in the law, as a practical matter, the current MAVNI program may need to end if and when the President revokes the current Executive Order allowing wartime military naturalizations. This proposal would allow MAVNI to continue during peacetime and give the Services the flexibility to access individuals needed to fill critical capability shortfalls. After 12 years of persistent war, the need for language-capable Service members in difficult strategic languages is clear. The Services must be continually prepared for world-wide contingency operations as international events can change in an instant. MAVNI provides this strategic capability embedded within the force.

This proposal does not address comprehensive immigration reform. This proposal affects only military naturalization in specific situations for a small number of Service members. Even if comprehensive immigration reform is passed, this law must still be amended to affect the intended population.

Budget Implications: The Department of Defense has estimated the cost of this proposal as follows:

The Services are currently funding the costs associated with accessing MAVNI Service members. Those costs are approximately $4,545 per accession. This change in law would allow the Services flexibility to enlist these individuals if needed. Any and all of the Services may determine that they need far fewer, or that the cost is too great and they must access fewer. Without this change, the ability to fill this critical need for native-level proficiency in language and culture or medical professionals will be inhibited. MAVNI increases the readiness of the force.

Cost Methodology: The cost per accession, as shown above, to access MAVNIs vice U.S. citizens is due to the cost of the Single Scope Background Investigation (SSBI) which is mandated by USD(I) for all MAVNI accessions as part of increased security measures. U.S. citizen enlistees are only subject to a National Agency Check with Local Agency Check and Credit Check (NACLC). The need for SSBIs for MAVNIs will be assessed after 2 years. There are no additional costs to recruit, train or maintain a MAVNI compared to a U.S. citizen Service member.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Army	~$4.5	~$4.5	~$4.5	~$4.5	~$4.5	Operation & Maintenance, Army	BA 04	SAG 411	0305128A
Navy	~$1.1	~$1.1	~$1.1	~$1.1	~$1.1	Operation & Maintenance, Navy	BA 04	4C-4C1P	0208547N
Marine Corps	~0.6	~0.6	~0.6	~0.6	~0.6	Operation & Maintenance,	BA 04	4C-4C1P	0208547N

						Marine Corps			
Air Force	~0.6	~0.6	~0.6	~0.6	~0.6	Operation & Maintenance, Air Force	BA 04	043A	81771
Total	~$6.8	~$6.8	~$6.8	~$6.8	~$6.8		BA 04		

NUMBER OF PERSONNEL AFFECTED									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Army	1,000	1,000	1,000	1,000	1,000	Operation & Maintenance, Army	BA 04	SAG 411	0305128A
Navy	250	250	250	250	250	Operation & Maintenance, Navy	BA 04	4C-4C1P	0208547N
Marine Corps	125	125	125	125	125	Operation & Maintenance, Navy	BA 04	4C-4C1P	0208547N
Coast Guard	0	0	0	0	0	N/A	N/A	N/A	N/A
Air Force	125	125	125	125	125	Operation & Maintenance, Air Force	BA 04	043A	81771
Total	1,500	1,500	1,500	1,500	1,500				
The Services have the ability to access "up to" the number noted. * This proposal will only be effective when the current Executive Order is terminated (peacetime) so the exact FY is not known.									

Changes to Existing Law: This proposal would make the following changes to section 328(a) of the Immigration and Nationality Act (8 U.S.C. 1439):

NATURALIZATION THROUGH SERVICE IN THE ARMED FORCES OF THE UNITED STATES

SEC. 328. (a)**(1)** A person who has served honorably at any time in the armed forces of the United States for a period or periods aggregating one year, and, who, if separated from such service, was never separated except under honorable conditions, may be naturalized without having resided, continuously immediately preceding the date of filing such person's application, in the United States for at least five years, and in the State or district of the Service in the United States in which the application for naturalization is filed for at least three months, and without having been physically present in the United States for any specified period, if such application is filed while the applicant is still in the service or within six months after the termination of such service.

(2)(A) In addition to the authorities provided in paragraph (1), a qualifying noncitizen United States veteran may be naturalized without having been lawfully admitted to the United States for permanent residence if the person's application for naturalization is filed while the

applicant is serving in the armed forces of the United States or within six months after the termination of such service.

(B) For purposes of subparagraph (A), a qualifying noncitizen United States veteran is a person—

(i) who has served in the armed forces of the United States as described in subparagraph (C); and

(ii) whose enlistment in the armed forces—

(I) was lawful under section 504(b) of title 10, United States Code; and

(II) was not procured by a knowingly false representation or by deliberate concealment as to the person's qualifications for that enlistment.

(C) A person's service in the armed forces of the United States is described in this subparagraph if —

(i) the person served honorably in the armed forces for a period or periods aggregating one year, any part of which was served after the date of the enactment of this paragraph; and

(ii) in the case of a person who has been separated from such service, the person was never separated except under honorable conditions.