SEC. ___. ADMISSION OF ESSENTIAL SCIENTISTS AND OTHER EXPERTS TO ENHANCE THE TECHNOLOGICAL SUPERIORITY OF THE UNITED STATES.

(a) SPECIAL IMMIGRANT STATUS.—Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) is amended—

(1) by adding a semicolon at the end of subparagraph (L);

(2) by striking the period at the end of subparagraph (M) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(N) an immigrant (and the immigrant's spouse and children if accompanying or following to join the immigrant) who—

"(i) has been recommended for a special immigrant visa, or, if in the United States, special immigrant status, by the Secretary of Defense, the Secretary of Energy, or the head of any other United States national security agency designated for purposes of this subparagraph by the Secretary of Homeland Security, with the concurrence of the Secretary of State, based on a finding that the individual—

"(I) is a current or past participant in research funded by the recommending agency;

"(II) is a current or past employee or contracted employee with the recommending agency; or

"(III) as determined by the recommending agency—

"(aa) earned a master's, doctoral, or professional degree from an accredited United States institution of

higher education, or completed a graduate fellowship or graduate medical education at an accredited United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), that entailed research in a field of importance to national security;

"(bb) is a current employee with, or has a documented job offer from, a company that develops new technologies or cutting-edge research that contributes to the national security of the United States;

"(cc) is a founder or co-founder of a United States-based company that develops new technologies or cutting-edge research that contributes to the national security of the United States; or

"(dd) has extensive expertise and scientific knowledge of crucial national security importance that would advance national security; and

"(ii) based on a recommendation described in clause (i), the Secretary of Homeland Security or the Secretary of State, as applicable, finds that the individual possesses scientific or technical expertise that will contribute to the national security of the United States and approves such status.".

(b) EXEMPTION FROM NUMERICAL LIMITS.—Section 201(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following new subparagraph:

"(F) Special immigrants (and the spouses and children of such immigrants) who are described in section 101(a)(27)(N), until the number of principal immigrants (excluding their spouses and children) under section 101(a)(27)(N)(i) during a fiscal year reaches 200.".

Section-by-Section Analysis

This proposal expands the definition of "special immigrant" described in 8 U.S.C. 1101(a)(27)) to include immigrants with skills or expertise of importance to U.S. technological superiority, and to their accompanying spouses and children. To qualify for this category, the Secretary of Defense, the Secretary of Energy, or the head of any other United States national security agency must determine that the immigrant will make contributions to the national security of the United States through the immigrant's scientific or technical expertise, and the Secretary of State and the Secretary of Homeland Security must concur and approve the immigrants for special immigrant status. If qualified, immigrants will be eligible to self-petition for immigrant classification Employment Based category 4 (EB4) and then apply for lawful permanent resident status through the United States Citizenship and Immigration Services (USCIS). This proposal limits the number of special immigrant visas under this category to no more than 200 per year, excluding spouses and children, and exempts these 200 visas from other numerical limitations on special immigrant visas.

(a) EXPANSION OF THE DEFINITION OF SPECIAL IMMIGRANT

The United States has less than 5 percent of the world's population, which means that the majority of the best scientific minds will be born outside U.S. borders. Current U.S immigration policy affords some opportunity for skilled scientific talent to immigrate to the United States, but the Department of Defense, the Department of Energy, and other United States national security agencies have no mechanism by which to select or encourage immigration for researchers with technical or scientific skills important for national security.

This proposal provides the Department of Defense, the Department of Energy, and other United States national security agencies an opportunity to recommend high-skilled foreign nationals, whose scientific or technical expertise are important for the national security interests of the United States, for lawful permanent residence in the United States. Lawful permanent residence will enable these skilled researchers to stay and work in the United States, contributing to the national security research enterprise through work at academic institutions and private industry. This will help ensure that the United States is first in developing new capabilities and

maintain the U.S. technological edge. If top talent contributes skills to economic competitors or adversary nations, the U.S. warfighter risks being technologically surprised.

This proposal does not grant the Department of Defense, the Department of Energy, or other United States national security agencies authority to issue visas or grant lawful permanent resident status. The authority to issue visas belongs to the Department of State, and the authority to grant lawful permanent resident status belongs to the Department of Homeland Security and the Department of Justice. The authority that would be granted to the Department of Defense, the Department of Energy, or other United States national security agencies in this proposal is only to recommend certain immigrants for this special category that will make them eligible to apply for lawful permanent residence. USCIS and State Department processes, including background checks and general eligibility criteria, will not be affected if this proposal is enacted. Further, this proposal does not modify any rules pertaining to lawful permanent residence or hiring rules and is not intended to recruit individuals for direct employment with the Department of Defense, the Department of Energy, or other United States national security agencies.

If this authority is granted, each agency will create a process to evaluate immigrants for this category.

(b) EXEMPTION FROM NUMERICAL LIMITS.

This proposal exempts individuals who fall under the expanded definition of special immigrant from the current numerical limitations on visas allotted to special immigrants.

Numerical limitations on visas can create delays in an individual's ability to obtain status as a lawful permanent resident. By excluding special immigrants that meet the criteria described in this proposal from existing numerical caps on visas, these skilled immigrants will be able to enter the workforce with fewer delays and will be placed on an expedited path to contribute their skills and expertise to growing the national security research base.

The proposal also sets a cap on the number of special immigrant visas made available under the new definition to identify immigrants specifically working to support U.S. national security interests. The identified principal immigrants, plus, in addition, their spouses and children, are exempt from both the worldwide limitations and per-country caps.

Resource Information: This proposal has no significant impact on the use of resources requested within the Fiscal Year (FY) 2024 President's Budget.

Changes to Existing Law: This proposal would amend section 101(a)(27) and section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27) and 8 U.S.C. 1151(b)) as follows:

DEFINITIONS

SECTION 101. As used in this Act—

* * * * *

(27) The term "special immigrant" means-

(A) an immigrant, lawfully admitted for permanent residence, who is returning from a temporary visit abroad;

(B) an immigrant who was a citizen of the United States and may, under 324(a) or 327 of title III [8 U.S.C. 1435(a) or 1438], apply for reacquisition of citizenship;

(C) an immigrant, and the immigrant's spouse and children if accompanying or following to join the immigrant, who-

(i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;

(ii) seeks to enter the United States-

(I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,

(II) before September 30, 2015, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

(III) before September 30, 2015, in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 [26 U.S.C. 501(c)(3)) at the request of the organization in a religious vocation or occupation; and

(iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i);

(D) an immigrant who-

(i) is an employee, or an honorably retired former employee, of the United States Government abroad, or of the American Institute in Taiwan, and who has performed faithful service for a total of fifteen years, or more, and his accompanying spouse and children: *Provided*, That the principal officer of a Foreign Service establishment (or, in the case of the American Institute in Taiwan, the Director thereof), in his discretion, shall have recommended the granting of special immigrant status to such alien in exceptional circumstances and the Secretary of State approves such recommendation and finds that it is in the national interest to grant such status; or

(ii) is the surviving spouse or child of an employee of the United States Government abroad: *Provided*, That the employee performed faithful service for a total of not less than 15 years or was killed in the line of duty;

(E) an immigrant, and his accompanying spouse and children, who is or has been an employee of the Panama Canal Company or Canal Zone Government before the date on which the Panama Canal Treaty of 1977 (as described in section 3(a)(1) of the Panama Canal Act of 1979 [22 U.S.C. 3602(a)(1)]) enters into force [October 1, 1979], who was resident in the Canal Zone on the effective date of the exchange of instruments of ratification of such Treaty [April 1, 1979], and who has performed faithful service as such an employee for one year or more;

(F) an immigrant, and his accompanying spouse and children, who is a Panamanian national and (i) who, before the date on which such Panama Canal Treaty of 1977 enters into force [October 1, 1979], has been honorably retired from United States Government employment in the Canal Zone with a total of 15 years or more of faithful service, or (ii) who, on the date on which such Treaty enters into force, has been employed by the United States Government in the Canal Zone with a total of 15 years or more of faithful service and who subsequently is

honorably retired from such employment or continues to be employed by the United States Government in an area of the former Canal Zone;

(G) an immigrant, and his accompanying spouse and children, who was an employee of the Panama Canal Company or Canal Zone Government on the effective date of the exchange of instruments of ratification of such Panama Canal Treaty of 1977 [April 1, 1979], who has performed faithful service for five years or more as such an employee, and whose personal safety, or the personal safety of whose spouse or children, as a direct result of such Treaty, is reasonably placed in danger because of the special nature of any of that employment;

(H) an immigrant, and his accompanying spouse and children, who-

(i) has graduated from a medical school or has qualified to practice medicine in a foreign state,

(ii) was fully and permanently licensed to practice medicine in a State on January 9, 1978, and was practicing medicine in a State on that date,

(iii) entered the United States as a nonimmigrant under subsection (a)(15)(H) or (a)(15)(J) before January 10, 1978, and

(iv) has been continuously present in the United States in the practice or study of medicine since the date of such entry;

(I)(i) an immigrant who is the unmarried son or daughter of an officer or employee, or of a former officer or employee, of an international organization described in paragraph (15)(G)(i), and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least seven years between the ages of five and 21 years, and (II) applies for a visa or adjustment of status under this subparagraph no later than his twenty-fifth birthday or six months after October 24, 1988, whichever is later;

(ii) an immigrant who is the surviving spouse of a deceased officer or employee of such an international organization, and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least 15 years before the date of the death of such officer or employee, and (II) files a petition for status under this subparagraph no later than six months after the date of such death or six months after October 24, 1988, whichever is later;

(iii) an immigrant who is a retired officer or employee of such an international organization, and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least 15 years before the date of the officer or employee's retirement from any such international organization, and (II) files a petition for status under this subparagraph no later than six months after the date of such retirement or six months after October 25, 1994, whichever is later; or

(iv) an immigrant who is the spouse of a retired officer or employee accorded the status of special immigrant under clause (iii), accompanying or following to join such retired officer or employee as a member of his immediate family;

(J) an immigrant who is present in the United States-

(i) who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court located in the United States, and whose reunification with 1 or both of the immigrant's parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law;

(ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; and

(iii) in whose case the Secretary of Homeland Security consents to the grant of special immigrant juvenile status, except that-

(I) no juvenile court has jurisdiction to determine the custody status or placement of an alien in the custody of the Secretary of Health and Human Services unless the Secretary of Health and Human Services specifically consents to such jurisdiction; and

(II) no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this chapter;

(K) an immigrant who has served honorably on active duty in the Armed Forces of the United States after October 15, 1978, and after original lawful enlistment outside the United States (under a treaty or agreement in effect on October 1, 1991) for a period or periods aggregating-

(i) 12 years and who, if separated from such service, was never separated except under honorable conditions, or

(ii) 6 years, in the case of an immigrant who is on active duty at the time of seeking special immigrant status under this subparagraph and who has reenlisted to incur a total active duty service obligation of at least 12 years,

and the spouse or child of any such immigrant if accompanying or following to join the immigrant, but only if the executive department under which the immigrant serves or served recommends the granting of special immigrant status to the immigrant;

(L) an immigrant who would be described in clause (i), (ii), (iii), or (iv) of subparagraph (I) if any reference in such a clause-

(i) to an international organization described in paragraph (15)(G)(i) were treated as a reference to the North Atlantic Treaty Organization (NATO);

(ii) to a nonimmigrant under paragraph (15)(G)(iv) were treated as a reference to a nonimmigrant classifiable under NATO–6 (as a member of a civilian component accompanying a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement, a member of a civilian component attached to or employed by an Allied Headquarters under the "Protocol on the Status of International Military Headquarters" set up pursuant to the North Atlantic Treaty, or as a dependent); and

(iii) to the Immigration Technical Corrections Act of 1988 or to the Immigration and Nationality Technical Corrections Act of 1994 were a reference to the American Competitiveness and Workforce Improvement Act of 1998;

(M) subject to the numerical limitations of section 203(b)(4) [8 U.S.C. 1153(b)(4)], an immigrant who seeks to enter the United States to work as a broadcaster in the United States for the International Broadcasting Bureau of the Broadcasting Board of Governors, or for a

grantee of the Broadcasting Board of Governors, and the immigrant's accompanying spouse and children. ; or

(N) an immigrant (and the immigrant's spouse and children if accompanying or following to join the immigrant) who—

(i) has been recommended for a special immigrant visa, or, if in the United States, special immigrant status, by the Secretary of Defense, the Secretary of Energy, or the head of any other United States national security agency designated for purposes of this subparagraph by the Secretary of Homeland Security, with the concurrence of the Secretary of State, based on a finding that the individual—

(I) is a current or past participant in research funded by the recommending agency;

(II) is a current or past employee or contracted employee with the recommending agency; or

(III) as determined by the recommending agency—

(aa) earned a master's, doctoral, or professional degree from an accredited United States institution of higher education, or completed a graduate fellowship or graduate medical education at an accredited United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), that entailed research in a field of importance to national security;

(bb) is a current employee with, or has a documented job offer from, a company that develops new technologies or cutting-edge research that contributes to the national security of the United States;

(cc) is a founder or co-founder of a United States-based company that develops new technologies or cutting-edge research that contributes to the national security of the United States; or

(dd) has extensive expertise and scientific knowledge of crucial national security importance that would advance national security; and

(ii) based on a recommendation described in clause (i), the Secretary of Homeland Security or the Secretary of State, as applicable, finds that the individual possesses scientific or technical expertise that will contribute to the national security of the United States and approves such status.

* * * * *

WORLDWIDE LEVEL OF IMMIGRATION

SEC. 201. [8 U.S.C. 1151] (a) IN GENERAL.—Exclusive of aliens described in subsection (b), aliens born in a foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

(1) family-sponsored immigrants described in section 203(a) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(a)) in a number not to exceed in any fiscal year the number specified in subsection (c) for that year, and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under such subsection for all of such fiscal year;

(2) employment-based immigrants described in section 203(b) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(b)), in a number not to exceed in any fiscal year the number specified in subsection (d) for that year, and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under such subsection for all of such fiscal year; and

(3) for fiscal years beginning with fiscal year 1995, diversity immigrants described in section 203(c) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(c)) in a number not to exceed in any fiscal year the number specified in subsection (e) for that year, and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under such subsection for all of such fiscal year.

(b) ALIENS NOT SUBJECT TO DIRECT NUMERICAL LIMITATIONS.—Aliens described in this subsection, who are not subject to the worldwide levels or numerical limitations of subsection (a), are as follows:

(1)(A) Special immigrants described in subparagraph (A) or (B) of section 101(a)(27).

(B) Aliens who are admitted under section 207 or whose status is adjusted under section 209.

(C) Aliens whose status is adjusted to permanent residence under section 210 or 245A.

(D) Aliens whose removal is cancelled under section 240A(a).

(E) Aliens provided permanent resident status under section 249.

(F) Special immigrants (and the spouses and children of such immigrants) who are described in section 101(a)(27)(N), until the number of principal immigrants (excluding their spouses and children) under section 101(a)(27)(N)(i) during a fiscal year reaches 200.

(2)(A)(i) IMMEDIATE RELATIVES.—For purposes of this subsection, the term ''immediate relatives'' means the children, spouses, and parents of a citizen of the United States, except that, in the case of parents, such citizens shall be at least 21 years of age. In the case of an alien who was the spouse of a citizen of the United States and was not legally separated from the citizen at the time of the citizen's death, the alien (and each child of the alien) shall be considered, for purposes of this subsection, to remain an immediate relative after the date of the citizen's death but only if the spouse files a petition under section 204(a)(1)(A)(ii) within 2 years after such date and only until the date the spouse remarries. For purposes of this clause, an alien who has filed a petition under clause (iii) or (iv) of section 204(a)(1)(A) of this Act remains an immediate relative in the event that the United States citizen spouse or parent loses United States citizenship on account of the abuse.

(ii) Aliens admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative.

(B) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad.

* * * * *

SEC. ___. EXPANSION OF ENLISTMENT ELIGIBILITY TO CERTAIN NONCITIZENS.

Section 504(b) of title 10, United States Code, is amended—

(1) in paragraph (1), by adding at the end the following new subparagraph:

"(D) A person who, on the date of the enlistment—

"(i) is not a citizen of the United States; and

"(ii) has deferred action under the Deferred Action for Childhood Arrivals policy of the Department of Homeland Security (or a successor policy).”; and

(2) in paragraph (3)(A), by striking "paragraph (2)" and inserting "paragraph (1)(D) or (2)".

[Please note: The "Changes to Existing Law" section below sets out in red-line format how the legislative text would amend existing law.]

Section-by-Section Analysis

This proposal would allow the enlistment of a person in an Armed Force who, as of the date of enlistment, has deferred action under the Deferred Action for Childhood Arrivals policy of the Department of Homeland Security (DACA) (or a successor policy).

This proposal would offer a very specific subset of young noncitizens the opportunity to serve the nation in which they grew up and a path to become productive citizens and contributing members of our economy. Currently, the military recruiting market is extremely challenging, to a point that the viability of an all-volunteer military is at risk. A robust economy with near record low unemployment and a declining percentage of the youth population eligible to enlist, coupled with dramatic decreases in youth propensity to serve, make recruiting today more challenging than any time in our history. Recruiting costs are increasing significantly and there is considerable concern, both within the Department of Defense and from the public, about recruit quality – particularly for the Army. This proposal will allow the military to reach an untapped market. The DACA policy includes approximately 636,000 individuals between the age of 15 and 33, many of whom are bright, energetic, and patriotic. However, their futures are limited. Under current law, these noncitizens are not eligible to enlist in the military, except under the very limited authority for certain noncitizens possessing critical skill or expertise under section 504(b)(2) of title 10, U.S. Code. Under the proposal, all the standard military screening and qualification requirements (graduated high school/General Educational Test (GED), Armed Forces Qualification Test (AFQT) scores, moral character, etc.) will apply to this population, and

they will not be able to report to initial training until all required background investigations and security and suitability screening have been completed.

Resource Information: This proposal has no significant impact on the use of resources requested within the Fiscal Year (FY) 2024 President's Budget.

Changes to Existing Law: This proposal would amend section 504 of title 10, United States Code, as follows:

§ 504. Persons not qualified

(a) CITIZENSHIP OR RESIDENCY.—(1) A person may be enlisted in any armed force only if the person is one of the following:

(A) A national of the United States, as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(B) An alien who is lawfully admitted for permanent residence, as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

(C) A person described in section 341 of one of the following compacts:

(i) The Compact of Free Association between the Federated States of Micronesia and the United States (section 201(a) of Public Law 108–188 (117 Stat. 2784; 48 U.S.C. 1921 note)).

(ii) The Compact of Free Association between the Republic of the Marshall Islands and the United States (section 201(b) of Public Law 108–188 (117 Stat. 2823; 48 U.S.C. 1921 note)).

(iii) The Compact of Free Association between Palau and the United States (section 201 of Public Law 99–658 (100 Stat. 3678; 48 U.S.C. 1931 note)).

(D) A person who, on the date of the enlistment—

(i) is not a citizen of the United States; and

(ii) has deferred action under the Deferred Action for Childhood Arrivals policy of the Department of Homeland Security (or a successor policy).

(2) Notwithstanding paragraph (1), and subject to paragraph (3), the Secretary concerned may authorize the enlistment of a person not described in paragraph (1) if the Secretary determines that such person possesses a critical skill or expertise—

(A) that is vital to the national interest; and

(B) that the person will use in the primary daily duties of that person as a member of the armed forces.

(3)(A) No person who enlists under paragraph (1)(D) or (2) may report to initial training until after the Secretary concerned has completed all required background investigations and security and suitability screening as determined by the Secretary of Defense regarding that person.

(B) A Secretary concerned may not authorize more than 1,000 enlistments under paragraph (2) per military department in a calendar year until after—

(i) the Secretary of Defense submits to Congress written notice of the intent of that Secretary concerned to authorize more than 1,000 such enlistments in a calendar year; and

(ii) a period of 30 days has elapsed after the date on which Congress receives the notice.