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(Original Signature of Member)

114TH CONGRESS  
2D SESSION

# H. R.

To amend title 10, United States Code, to prevent unlawful aliens from enlisting in the United States Armed Forces, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. GOSAR introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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# A BILL

To amend title 10, United States Code, to prevent unlawful aliens from enlisting in the United States Armed Forces, and for other purposes.

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 “Military Amnesty Pre-  
5 vention Act”.

6 **SEC. 2. FINDING; PURPOSE.**

7 (a) FINDINGS.—Congress makes the following find-  
8 ings:

1           (1) The Undersecretary of Defense for Per-  
2           sonnel and Readiness signed a memorandum entitled  
3           “Military Accessions Vital to the National Interest  
4           Program Changes” and dated September 25, 2014.

5           (2) The September 25, 2014 memorandum un-  
6           lawfully expanded eligibility in the Military Acces-  
7           sions Vital to the National Interest (MAVNI) pilot  
8           program to include unlawful aliens.

9           (3) Prior to this memo, the Department of De-  
10          fense never attempted to enlist aliens granted de-  
11          ferred action by the Department of Homeland Secu-  
12          rity pursuant to the memorandum of the Secretary  
13          of Homeland Security entitled “Exercising Prosecu-  
14          torial Discretion with Respect to Individuals Who  
15          Came to the United States as Children” and dated  
16          June 15, 2012.

17          (4) Department of Defense enlistment rules  
18          prohibit unlawful aliens from enlisting in the Armed  
19          Forces.

20          (5) MAVNI is a military pilot program intended  
21          for lawful immigrants and lawful nonimmigrants ini-  
22          tially approved by the Department of Defense in  
23          2008.

1           (6) The Department of Defense has stated that  
2 the authority for the MAVNI program is found in  
3 section 504(b)(2) of title 10, United States Code.

4           (7) MAVNI was intended to be a one-year pilot  
5 program and initially began with a cap of 1,000 re-  
6 cruits for all branches of the Armed Forces.

7           (8) The pilot program expired on December 21,  
8 2009.

9           (9) On August 17, 2010, the Department of  
10 Defense issued guidance extending MAVNI through  
11 December 31, 2011.

12           (10) However, in order to assure the safety and  
13 security of Department of Defense personnel, equip-  
14 ment, and operations, implementation of the August  
15 17, 2010 guidance was delayed until the Deputy  
16 Secretary of Defense issued a memorandum entitled  
17 “Reinstatement of Military Accessions Vital to Na-  
18 tional Interest Pilot Program” and dated May 16,  
19 2012.

20           (11) The May 16, 2012 memorandum extended  
21 the pilot program for two years and increased the  
22 cap for the pilot program to 1,500 recruits for all  
23 branches of the Armed Forces.

24           (12) As a result of a request from the Army,  
25 the Department of Defense in March of 2015 in-

1        creased the cap for MAVNI to 3,000 recruits for all  
2        branches of the Armed Forces for fiscal year 2015  
3        and 5,200 recruits for all branches of the Armed  
4        Forces for fiscal year 2016.

5            (13) The Department of Defense relies on the  
6        United States Citizenship and Immigration Services  
7        (USCIS) to validate “self-declared” recruits and  
8        documents for unlawful aliens participating in  
9        MAVNI.

10           (14) In fiscal year 2015, every branch of the  
11        Armed Services met their enlistment goal. In fact,  
12        the Army, Navy, Air Force, and Marine Corps have  
13        all met their enlistment goals every year since 2003,  
14        with the exception of one branch missing its target  
15        in 2006.

16           (15) In recent years, approximately 80 percent  
17        of individuals who have sought to enlist in the  
18        Armed Forces have been rejected.

19           (16) There is currently no shortage of qualified  
20        applicants for service in the Armed Forces, and the  
21        Department of Defense is in the midst of elimi-  
22        nating 160,000 uniformed personnel positions over a  
23        nine-year period.

24           (17) MAVNI is a pilot program created by the  
25        Executive Branch that allows participants to receive

1 United States citizenship after one day of wartime  
2 service.

3 (18) The Department of Defense has stated the  
4 agency's intent to renew the MAVNI program pend-  
5 ing a reevaluation and final decision.

6 (19) The changes to the program that allowed  
7 unlawful aliens to be eligible for enlistment were  
8 never authorized by Congress.

9 (20) Article I, section 8, clause 4 of the United  
10 States Constitution grants Congress exclusive juris-  
11 diction with regard to United States citizenship and  
12 immigration matters.

13 (b) PURPOSE.—It is the purpose of this Act to pre-  
14 vent amnesty within the Department of Defense by  
15 amending section 504(b)(2) of title 10, United States  
16 Code, to ensure that unlawful aliens are not eligible to  
17 enlist in the Armed Forces.

18 **SEC. 3. ADMISSION AND LAWFUL STATUS REQUIRED FOR**  
19 **ELIGIBILITY TO ENLIST IN THE UNITED**  
20 **STATES ARMED FORCES.**

21 Paragraph (2) of section 504(b) of title 10, United  
22 States Code, is amended to read as follows:

23 “(2) Notwithstanding paragraph (1), the Secretary  
24 concerned may authorize the enlistment of a person not

1 described in such paragraph if the Secretary determines  
2 that—

3           “(A) the person is an alien in a lawful immigra-  
4           tion status who was admitted and inspected pursu-  
5           ant to the immigration laws, as defined in section  
6           101(a)(17) of the Immigration and Nationality Act  
7           (8 U.S.C. 1101(a)(17)); and

8           “(B) the enlistment of the alien is vital to the  
9           national interest.”.