NO. ___

In the
Supreme Court of the United States

SAVE JOBS USA,
Petitioner,

v.

UNITED STATES DEPARTMENT OF HOMELAND SECURITY ET AL.,
Respondents.

On Petition for Writ of Certiorari Before Judgment to the United States Court of Appeals for the District of Columbia Circuit

PETITION FOR WRIT OF CERTIORARI BEFORE JUDGMENT

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QUESTION PRESENTED

1. Are the statutory terms defining nonimmigrant visas in 8 U.S.C. § 1101(a)(15) mere threshold entry requirements that cease to apply once an alien is admitted or do they persist and dictate the terms of a nonimmigrant's stay in the United States?

2. When Congress has enacted a statutory scheme governing a class of aliens in the Immigration and Nationality Act, is the Department of Homeland Security's power to extend employment authorization to that class of aliens through regulation limited to implementing the terms of that statutory scheme?

PARTIES TO THE PROCEEDING

Petitioner is Save Jobs USA. Petitioner was Appellant in the court of appeals. Respondent is the U.S. Department of Homeland Security. Intervenor Respondents are Anujkumar Dhamija, Immigration Voice

RULE 29.6 DISCLOSURE STATEMENT

Petitioner, Save Jobs USA has no shareholders.

RELATED PROCEEDINGS

The proceedings directly related to this case are:

- *Save Jobs USA* v. *U.S. Dep't of Homeland Sec.,* No. 15-CV-615, U.S. District Court for the District of Columbia. Judgment entered Mar. 28, 2023.
- *Save Jobs USA* v. *U.S. Dep't of Homeland Sec.,* No. 16-5287, United States Court of Appeals for the District of Columbia Circuit. Judgment entered Nov. 8, 2019.
- *Save Jobs USA* v. *U.S. Dep't of Homeland Sec.*, No. 15-CV-615, U.S. District Court for the District of Columbia. Judgment entered Sep 27, 2016.
- *Save Jobs USA* v. *U.S. Dep't of Homeland Sec.*, No. 15-CV-615, U.S. District Court for the District of Columbia. Judgment entered May 24, 2015.

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JURISDICTION

The judgment of the district court was entered on March 28, 2023. Pet App. 1a. This petition is filed under Supreme Court Rule 11. Jurisdiction was invoked in the district court under 28 U.S.C. §§ 1331, 1346, and 1361. This court's jurisdiction is invoked under 28 U.S.C. §§ 1254(1) and 2021(e)

STATUTES AND REGULATIONS

The statutes and regulations at issue are reproduced in the appendix at Pet. App. 69a-206a.

INTRODUCTION

The question of what authority an agency has to regulate where a statute is silent has long been a major issue before the federal courts. Generally, this question has been raised in the context of the framework announced in *Chevron, U.S.A.* v. *Nat. Res. Def. Council, Inc.,* 467 U.S. 837, 842–43 (1984). Yet this petition illustrates that the problem of agencies' regulating without implementing statutory terms, with the full blessing of federal courts, extends beyond *Chevron*, and simply reversing *Chevron* will not provide a comprehensive solution.

The presenting issue in this petition is whether the Department of Homeland Security (DHS) has the authority to permit unrestricted employment of aliens who hold H-4 visas as accompanying spouses of certain H-1B guestworkers. The statutory terms for the H-4 visa do not mention employment. When there is total silence on employment in a visa's terms, does that confer on DHS the discretion to permit employment?

In a case directly related to this one, the D.C. Circuit held that it was within DHS's authority to permit aliens to remain in the U.S. for years after graduation and work in student-visa status. *Wash. All. of Tech Workers* v. *U.S. Dep't of Homeland Sec.*, 50 F.4th 164 (D.C. Cir 2022) (pet. for cert. pending, No. 22-1071 (filed May 1, 2023)) (*Washtech*). The *Washtech* opinion announced three major holdings that vastly expanded agency power over alien employment under the Immigration and Nationality Act. First, the D.C. Circuit held that the statutory terms defining nonimmigrant

visas cease to apply the moment an alien enters the United States. *Id.* at 185–86. Second, the D.C. Circuit held that DHS may authorize alien employment independently of Congress through regulation. *Id.* at 183. Third, the D.C. Circuit held that DHS may authorize employment on any nonimmigrant visa that is reasonably related to the visa class. *Id.* at 169. The court below applied these new holdings to find that DHS had the authority to permit employment on H-4 visas through regulation and did so outside the *Chevron* framework. Here, as in *Washtech*, DHS created a major alien employment program without clear congressional authorization, and indeed without implementing any discernible statutory principle at all. The two cases illustrate that the D.C. Circuit's *Washtech* holdings confer on DHS "unrestricted Executive Branch discretion" over alien employment. *Wash. All. of Tech. Workers* v. *U.S. Dep't of Homeland Sec.*, 58 F.4th 506, 508 (D.C. Cir. 2023) (Rao, J., dissenting from denial of reh'g en banc).

This petition seeks a writ of certiorari before judgment with the expectation that this case will be consolidated with *Washtech* because the two cases present a clearer picture of the problem of extra-statutory regulation together than they do separately. This Court previously has consolidated cases involving the same issues that were at different stages in the ligation process. *E.g.*, *Brown* v. *Bd. of Educ.*, 344 U.S. 1, 73 S. Ct. 1 (1952). This case is so closely aligned with *Washtech* that the questions presented in the two petitions are exactly the same. The court below merely applied the radical holdings of the newly-minted *Washtech* decision to another visa. This Court should

grant certiorari and consolidate this case with *Washtech*.

STATEMENT OF THE CASE

1. The Immigration and Nationality Act was designed with strong protections for American workers. H.R. Rep. No. 82-1365 at 50–51 (1952); S. Rep. No. 82-1137 at 11 (1952). Since the Act became law in 1952, the executive branch has repeatedly undermined those protections by authorizing alien employment through regulation, and the courts have been called on to restrain such actions. *E.g., Int'l Union of Bricklayers & Allied Craftsmen* v. *Meese*, 616 F. Supp. 1387 (N.D. Cal. 1985). In 2015, DHS began issuing regulations authorizing alien employment under the claim that the definition of the term *unauthorized alien* in 8 U.S.C. § 1324a(h)(3) confers on the agency the authority to allow any class of aliens to work in the United States purely through regulation. Since then, the pace of such regulatory work authorizations has surged.

The Immigration and Nationality Act defines the terms of nonimmigrant visas in 8 U.S.C. § 1101(a)(15). Fifteen nonimmigrant visa categories have associated visas that authorize the admission of dependents to *accompany* or *follow to join* the principal alien. 8 U.S.C. §§ 1101(a)(15)(E)–(F), (H)–(P), (R)–(U). Congress has authorized employment for spouses admitted under only two of those categories (E and L). 8 U.S.C. §§ 1184(c)(2)(E) & (e)(2).

The H nonimmigrant visa category defines six nonimmigrant guestworker visas: H-1B, H-1B1, H-1C, H-2A, H-2B, and H-3. 8 U.S.C. § 1101(a)(15)(H). The

H-1B visa is the only one of the six H guestworker visas involved in this case. The H-1B visa authorizes the admission of nonimmigrant guestworkers in occupations that normally require a college degree. 8 U.S.C. § 1101(a)(15)(H)(i)(B). To protect U.S. workers, H-1B guestworkers are required to work subject to a Labor Condition Application, and there are quotas on the number of workers. 8 U.S.C. §§ 1182(n), 1184(g). An unnumbered clause at the end of subsection 1101(a)(15)(H) defines the H-4 visa that allows dependents of H visa category guestworkers to accompany or join the principal alien. *Ibid*. The H-4 visa was authorized in Pub. L. No. 91-225, 84 Stat. 116 (1970). The statutory terms of the H-4 visa do not mention work, and for forty-five years agency regulations interpreted the H-4 visa as not permitting work.

2. The regulation at issue in this case was the very first published under DHS's claim of having dual authority with Congress to authorize alien employment. Employment Authorization for Certain H-4 Dependent Spouses, 80 Fed. Reg. 10,284 (Feb. 25, 2015) (H-4 Rule) (Reproduced at Pet. App. 73a). The H-4 Rule allows spouses of H-1B guestworkers who have applied for permanent residency to work in the United States. While the principal alien on an H-1B visa must work subject to protections for American workers, the H-4 Rule permits the spouse to be employed with no restrictions. DHS estimated that 179,600 aliens would enter the program the first year and 55,000 each subsequent year. Pet. App. 80a. While the H-4 Rule is currently limited to a subclass of H-4 aliens, DHS stated that it "may consider expanding H-4 employment eligibility in the future." Pet. App. 97e.

3. In 2015, Southern California Edison replaced about 400 American workers with foreign H-1B guest-workers. Patrick Thibodeau, *Southern California Edison IT workers "beyond furious" over H-1B replacements*, ComputerWorld, Feb. 4, 2015. Some of the displaced American workers organized as Save Jobs USA (Petitioner) to challenge whether the H-4 Rule was within DHS's authority. In its complaint, Petitioner alleged that DHS lacks the authority to define classes of aliens eligible for employment in the United States. With this complaint, Petitioner filed a motion for preliminary injunction that was denied. *Save Jobs USA* v. *United States Dep't of Homeland Sec.*, 105 F. Supp. 3d 108 (D.D.C. 2015) (reproduced at Pet. App. 53a).

4. On summary judgment, the district court dismissed the case on standing. *Save Jobs USA* v. *United States Dep't of Homeland Sec.*, 105 F. Supp. 3d 108 (D.D.C. 2015) (Pet. App. 33a). Petitioner appealed. The D.C. Circuit applied its holdings in *Wash. All. of Tech. Workers* v. *United States Dep't of Homeland Sec.,* 892 F.3d 332 (D.C. Cir. 2018) to find that the H-4 Rule caused Petitioner competitive injury giving rise to standing. *Save Jobs USA* v. *U.S. Dep't of Homeland Sec.*, 942 F.3d 504, 509 (D.C. Cir. 2019) (Pet. App. 19a). The D.C. Circuit reversed and remanded.

5. While a second motion for summary judgment was pending, the D.C. Circuit issued its opinion in *Wash. All. of Tech. Workers* v. *U.S. Dep't of Homeland Sec.*, 50 F.4th 164 (D.C. Cir. 2022) (*Washtech*). *Washtech* made three key holdings related to this case. First, the statutory nonimmigrant visa terms merely set forth "threshold entry requirements" that cease to apply once an alien enters the United States. *Id.* at

164. Second, "employment authorization need not be specifically conferred by statute; it can also be granted by regulation." *Id.* at 191–92. Third, DHS may permit alien employment on any nonimmigrant visas when such employment is "reasonably related" to the visa. *Id.* at 169.

6. On remand, the district court denied Petitioner's motion for summary judgment. *Save Jobs USA* v. *U.S. Dep't of Homeland Sec.*, No. 15-CV-615, slip op. (D.D.C. Mar. 28, 2023) (*Save Jobs USA*) (reproduced at Pet. App. 1a). Following the new holdings announced in *Washtech*, *Save Jobs USA* held that employment under the H-4 Rule was reasonably related to the H-4 visa, and therefore a permissible exercise of DHS's authority to authorize employment through regulation, because DHS "explain[ed] why it had decided to authorize employment for H-4 spouses." Pet. App. 16a. The district court stated that the *per se* rules announced in *Washtech* made the two-step process of *Chevron* unnecessary to evaluate whether authorizing employment on H-4 visas was within DHS's authority. 467 U.S. 837 (1984). Pet. App. 9a–10a n. 2.

7. On April 25, 2023, Petitioners filed a timely notice of appeal (No. 23-5089). Petitioner's motion in the D.C. Circuit to hold the case in abeyance until this Court disposes of *Wash. All. of Tech Workers* v. *U.S. Dep't of Homeland Sec.*, pet. for cert. pending, No. 22-1071 (filed May 1, 2023) was granted on May 22, 2023.

REASONS FOR GRANTING THE PETITION

1. The question of whether the Immigration and Nationality Act confers "unrestricted Executive

Branch discretion" over alien employment is a "question of exceptional importance." *Wash. All. of Tech. Workers* v. *U.S. Dep't of Homeland Sec.*, 58 F.4th 506, 508 (D.C. Cir. 2023) (Rao, J., dissenting from denial of reh'g en banc). In the H-4 Rule DHS exercised forbidden legislative power, according to this Court's well-established precedents, when it created a massive program without implementing any principle laid down by Congress. If this Court allows these decisions to stand, DHS can continue to wipe out the statutory protections for American workers through still more regulations that fail to implement the provisions of the Immigration and Nationality Act.

DHS regulations authorizing employment on nonimmigrant visas that lack a congressional directive have followed two paths. First, some such regulations have contradicted the statutory terms of the operative visa. *Washtech*, 50 F.4th at 200 (Henderson, J., dissenting). Second, in other regulations DHS has *added* to statutory terms, as it did in the H-4 Rule by authorizing alien employment even though the visa terms make no mention of employment. 8 U.S.C. § 1101(a)(15)(H). Review of this case with *Washtech* would thus allow for a full treatment of two interrelated issues—*viz.*, the appropriate circumstances under which an agency may add to statutory terms that are silent on a given point, and whether all agency regulations must implement the terms of a statute—that are of fundamental importance in administrative law, and of great practical urgency in immigration law.

2. The decision below also presents another example of courts' simply ignoring the recent guidance of this Court in *West Virginia* v. *Env't Prot. Agency*, 142

S. Ct. 2587 (2022). The H-4 Rule is a massive program. DHS estimated that 179,600 aliens would receive employment under the H-4 Rule in the first year and 55,000 each subsequent year. Pet. App. 80a. Agencies require "'clear congressional authorization' to regulate in that manner." *Id.* at 2614 (quoting *Util. Air Regulatory Grp.* v. *Env't Prot. Agency*, 573 U.S. 302 (2014)). Even overruling *Chevron* would not solve the problem of unrestrained judicial deference to agencies because the decision below does not even involve the application of *Chevron*. Pet. App. 9a n. 2. Instead, the court below applied *per se* rules that the D.C. Circuit announced in *Washtech* (without itself relying on *Chevron*) to confer vast authority over alien employment on DHS. Pet. App. 8a.

3. The pace at which DHS has wielded its purported authority to grant work authorizations to classes of aliens through extra-statutory regulation has surged in the last ten years. DHS has issued five regulations since 2015 creating new alien employment programs. And recent, related regulation has made one of its previous regulatory work authorizations balloon alarmingly in scope. Such massive increases in the competition for new jobs faced by American workers must be enacted by Congress, not an agency acting on its own alleged authority. This Court should take the clear opportunity these cases present to bring DHS's authority to authorize alien employment within the bounds set by Congress and the Constitution.

I. DHS has exercised forbidden legislative power on a massive scale.

1. The decision below demonstrates how the D.C. Circuit has conferred on DHS "unrestricted Executive Branch discretion" over alien employment. *Wash. All. of Tech. Workers* v. *U.S. Dep't of Homeland Sec.*, 58 F.4th 506, 508 (D.C. Cir. 2023) (Rao, J., dissenting from denial of reh'g en banc). In *Wash. All. of Tech Workers* v. *U.S. Dep't of Homeland Sec.*, 50 F.4th 164 (D.C. Cir. 2022) (pet. for cert. pending, No. 22-1071 (filed May 1, 2023)) (*Washtech*), the D.C. Circuit adopted the never-before-seen interpretation that the statutory nonimmigrant visa terms (section 1101(a)(15)) cease to apply after an alien enters the country. *Washtech*, 50 F.4th at 192. This holding removes Congress's restrictions on nonimmigrants after they enter the U.S., and is contrary to the interpretation of this Court, every court of appeals, and every district court that had previously addressed the scope of the nonimmigrant visa statutes. *E.g.*, *Elkins* v. *Moreno*, 435 U.S. 647, 665–66 (1978). *Washtech* also announced the new interpretation of the Immigration and Nationality Act that DHS may permit alien employment on any nonimmigrant visa that is "reasonably related" to the visa class. 50 F.4th at 169. The decision below illustrates that these holdings allow subsequent courts to breeze by the terms of any nonimmigrant visa when considering regulations authorizing alien employment. Freed by *Washtech* of any need to apply the H-4 visa definition, the court below could, and did, go directly to finding that the H-4 Rule was "reasonably related" to the visa class because DHS

"explain[ed] why it had decided to authorize employment for H-4 spouses". Pet. App. 16a. The decision below demonstrates that the "reasonably related" standard announced in *Washtech* is meaningless because satisfying it merely requires an explanation why DHS is authorizing the employment. See *Ibid*. Furthermore, the court below stated that, under the holdings of *Washtech*, it did not even need to apply the *Chevron* framework. Pet. App. 9a–10a n.2. Unless this Court intervenes, courts no longer have to consider the terms of a visa when addressing whether the executive has the authority to permit employment, as they have done in the past. *E.g.*, *Int'l Longshoremen's & Warehousemen's Union* v. *Meese*, 891 F.2d 1374, 1380–84 (9th Cir. 1989).

The H-4 Rule illustrates how DHS uses statutory silence to exercise forbidden legislative power. Under the non-delegation doctrine, a delegation of power to an agency is forbidden by the separation of powers unless Congress provides, by legislative enactment, some intelligible principle that the agency must conform to when exercising that power. *Mistretta* v. *United States*, 488 U.S. 361, 372 (1989); *J. W. Hampton, Jr., & Co.* v. *United States*, 276 U.S. 394, 408-09 (1928). "The intelligible-principle rule seeks to enforce the understanding that Congress . . . may delegate no more than the authority to make policies and rules that implement its statutes." *Loving* v. *United States*, 517 U.S. 748, 771 (1996) (citing *Marshall Field & Co.* v. *Clark*, 143 U.S. 649, 693–94 (1892)). Thus, agencies act in excess of valid statutory authority—and, indeed, violate the separation of powers—when they exercise a delegated power without implementing—that is,

"execut[ing]," "apply[ing]," or "carry[ing] out"[1]—the terms of a statute.

The statutory definition of the H-4 visa does not state or imply anything about employment. 8 U.S.C. § 1101(a)(15)(H). Thus, rather than contradicting the H-4 visa terms, the H-4 Rule *added* to them when it authorized employment. Allowing employment does not parse, apply, or implement the statutory terms of the H-4 visa that allow an alien to *accompany* or *join* a guestworker in the United States.[2] Neither does the H-4 Rule "implement" DHS's power under 8 U.S.C. § 1184(a) to set the conditions of nonimmigrants' admission. That provision provides no congressional "rule[] of action" to conform to or implement, but merely delegates the power to set these conditions according to some principle located elsewhere. *Interstate Commerce Comm'n* v. *Goodrich Transit Co.*, 224 U.S. 194, 214 (1912), *quoted in J. W. Hampton, Jr., & Co.*, 276 U.S. at 408. The only intelligible principle the court below identified was that employment be reasonably related to the H-4 visa class. Pet. App. 14a. On this point, the court below erroneously asserted that this is a statutory requirement. *Ibid.* In reality, the reasonable relation standard is entirely an invention by the D.C. Circuit in *Washtech* and does not appear anywhere in the Immigration and Nationality Act. 50 F.4th 164 at 169.

The addition of terms to a visa is the salient difference between the H-4 Rule and the student visa employment at issue in *Washtech*. In the latter (but for

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[1] https://www.merriam-webster.com/dictionary/implement

the D.C. Circuit's reinterpreting the nonimmigrant visa terms as mere entry requirements so that they did not apply), the allowance of post-graduation employment directly contradicts the statutory terms limiting student visas to those solely pursuing a course of study at a school. *Washtech*, 50 F.4th at 202–04 (Henderson, J. dissenting); see also *Sanchez* v. *Mayorkas*, 141 S. Ct. 1809, 1813 (2021).

DHS's treatment of silence in the H-4 visa definition as a license to regulate on its own terms, not those of Congress, is alone sufficient to justify the attention of this Court.

II. The decision below flouts the major questions doctrine.

An alternative reason for reviewing, and reversing, the decision below is that it flouts this Court's recent guidance in *West Virginia* v. *Env't Prot. Agency* on the major questions doctrine. 142 S. Ct. 2587 (2022). In fact, the decision below did not even address this doctrine. In the H-4 Rule, DHS created a massive alien employment program without a clear grant of authority by Congress. DHS estimated that the H-4 Rule would allow 179,600 aliens to enter the workforce the first year and 55,000 each subsequent year. Pet. App. 80a. That large a displacement of Americans in the market for new jobs from a program that lacks clear statutory authorization, and that Congress has declined to enact itself, *prima facie* makes the H-4 Rule fall under the major questions doctrine. See *West Virginia*, 142 S. Ct. at 2610. Such "'extraordinary grants of regulatory authority' require not 'a merely plausible

textual basis for the agency action' but 'clear congressional authorization.'" *Wash. All. of Tech. Workers* v. *U.S. Dep't of Homeland Sec.*, 58 F.4th 506, 510 (D.C. Cir. 2023) (Rao, J. dissenting from denial of reh'g) (quoting *West Virginia*, 142 S. Ct. at 2609). Following in the footsteps of the *Washtech* decision, the decision below dealt with the *prima facie* conflict between creating a massive alien employment program under a claim of sweeping regulatory authority and the major questions doctrine simply by ignoring it. Only this Court can correct such blatant sidestepping of its decisions.

III. The issues in this case are of extraordinary practical importance.

The H-4 Rule was the very first alien work program created under the claim that the definition of the term *unauthorized alien* in section 1324a(h)(3) confers on DHS the authority to allow any class of aliens to work in the United States through regulation. Pet. App. 119a. Since the H-4 Rule, DHS has created four additional alien employment programs under its newfound claim of unlimited authority to permit alien employment in section 1324a(h)(3). 82 Fed. Reg. 5,238 (Jan 17, 2017), 81 Fed. Reg. 2,068 (Jan 15, 2016), 81 Fed. Reg. 82,398 (Nov 18, 2016), 87 Fed. Reg. 53,152 (Aug 30, 2022). This Court already had before it *Wash. All. of Tech. Workers* v. *U.S. Dep't of Homeland Sec.*, pet. for cert. pending, No. 22-1071 (filed May 1, 2023) challenging this claim of authority. Now it has this petition, as well, addressing the same issues. More cases involving the employment question are coming down the pipeline. *E.g.*, *Texas* v. *U.S. Dep't of Homeland*

Sec., No. 23-CV-7 (S.D. Tex. 2023). It would be less painful to resolve the questions presented sooner, rather than later. When the litigation over the program at issue in *Washtech* began in 2008, there were about 80,000 workers entering the U.S. workforce each year under that program. Neil G. Ruiz & Abby Budiman, *Number of foreign college graduates staying in U.S. to work climbed again in 2017, but growth has slowed*, Pew Research Center, July 28, 2018. By 2017, the number had grown to 276,000. *Ibid.*

Indeed, the programs at issue in *Washtech* and this case, as large as they are, are just the tip of a regulatory-work-authorization iceberg that now threatens shipwreck to the hopes of many Americans, including long-term unemployed Americans, without jobs. For example, one of DHS's previous work-authorization regulations has recently exploded into an even larger program than the H-4 Rule. Specifically, DHS has authorized work by aliens paroled for "urgent humanitarian reasons" or "significant public benefit." 8 C.F.R. § 274a.12(c)(11). The regulation in which it did so is not a parsing or application of these (or apparently any) statutory terms, but merely repeats them. Thus, the regulation adds work authorization to the parole statute apparently without implementing either that statute or any principle laid down by Congress anywhere else. And, at present, DHS is operating under a regulation paroling a staggering 360,000 aliens per year purportedly on these same grounds of urgent humanitarian reasons or significant public benefit. See *Implementation of Changes to the Parole Process for*

Venezuelans, 88 Fed. Reg. 1279, 1280 (Jan. 9, 2023).[3] To put this number in context, the U.S. economy created 1.946 million new jobs per year from 2013 through 2022, on average.[4] Thus, each year, this one parolee work authorization program will allow aliens to hold 18 percent of the jobs created in an average year. When the roughly 380,000 other grants of section 1182(d)(5) parole in 2022,[5] and the number of new work authorizations under both the program at issue in this case—an estimated 55,000 each year[6]—and the program at issue in *Washtech*—171,635 in 2022[7]—are added in, the share of average U.S. job creation allowed per year to aliens by new, extra-statutory work authorizations climbs to 49.7 percent. In short, each year, without implementing any statute, DHS will allow aliens to hold nearly *half* (and likely more) of the new jobs created by the U.S. economy in an average year. To say the least, such massive increases in the competition for new jobs faced by American workers must be authorized by Congress, not merely unelected bureaucrats.

This Court has never taken up the issue of the executive branch's statutory authority, on its own, to allow

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[3] This regulation is currently under challenge by twenty state plaintiffs in *Texas* v. *U.S. Dep't of Homeland Sec.*, No. 6:23-cv-7 (S.D. Tex.).

[4] https://data.bls.gov/timeseries/ces0000000001?output_view=net_1mth

[5] https://www.cbp.gov/newsroom/stats/custody-and-transfer-statistics-fy22

[6] Pet. App. 80a

[7] https://www.ice.gov/doclib/sevis/pdf/2007-22_OPT-Growth.pdf

aliens to compete with American workers for jobs. This case gives the Court a clear and comprehensive opportunity to do so at a time when that issue, vitally important in itself, is extraordinarily pressing. This Court should grant certiorari before judgment. Furthermore, this Court should consolidate this case with *Washtech* because the questions presented are identical.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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