

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1333
OFFERED BY M . _____**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “National Origin-Based
3 Antidiscrimination for Nonimmigrants Act” or the “NO
4 BAN Act”.

5 SEC. 2. EXPANSION OF NONDISCRIMINATION PROVISION.

6 Section 202(a)(1)(A) of the Immigration and Nation-
7 ality Act (8 U.S.C. 1152(a)(1)(A)) is amended—

8 (1) by striking “Except as specifically provided
9 in paragraph (2) and in sections 101(a)(27),
10 201(b)(2)(A)(i), and 203, no” and inserting “No”;

11 (2) by inserting “or a nonimmigrant visa, ad-
12 mission or other entry into the United States, or the
13 approval or revocation of any immigration benefit”
14 after “immigrant visa”;

15 (3) by inserting “religion,” after “sex,”; and

16 (4) by inserting before the period at the end the
17 following: “, except as specifically provided in para-
18 graph (2), in sections 101(a)(27), 201(b)(2)(A)(i),

1 and 203, if otherwise expressly required by statute,
2 or if a statutorily authorized benefit takes into con-
3 sideration such factors”.

4 **SEC. 3. TRANSFER AND LIMITATIONS ON AUTHORITY TO**
5 **SUSPEND OR RESTRICT THE ENTRY OF A**
6 **CLASS OF ALIENS.**

7 Section 212(f) of the Immigration and Nationality
8 Act (8 U.S.C. 1182(f)) is amended to read as follows:

9 “(f) **AUTHORITY TO SUSPEND OR RESTRICT THE**
10 **ENTRY OF A CLASS OF ALIENS.—**

11 “(1) **IN GENERAL.—**Subject to paragraph (2),
12 if the Secretary of State, in consultation with the
13 Secretary of Homeland Security, determines, based
14 on specific and credible facts, that the entry of any
15 aliens or any class of aliens into the United States
16 would undermine the security or public safety of the
17 United States or the preservation of human rights,
18 democratic processes or institutions, or international
19 stability, the President may temporarily—

20 “(A) suspend the entry of such aliens or
21 class of aliens as immigrants or nonimmigrants;
22 or

23 “(B) impose any restrictions on the entry
24 of such aliens that the President deems appro-
25 priate.

1 “(2) LIMITATIONS.—In carrying out paragraph
2 (1), the President, the Secretary of State, and the
3 Secretary of Homeland Security shall—

4 “(A) only issue a suspension or restriction
5 when required to address specific acts impli-
6 cating a compelling government interest in a
7 factor identified in paragraph (1);

8 “(B) narrowly tailor the suspension or re-
9 striction, using the least restrictive means, to
10 achieve such compelling government interest;

11 “(C) specify the duration of the suspension
12 or restriction;

13 “(D) consider waivers to any class-based
14 restriction or suspension and apply a rebuttable
15 presumption in favor of granting family-based
16 and humanitarian waivers; and

17 “(E) comply with all provisions of this Act.

18 “(3) CONGRESSIONAL NOTIFICATION.—

19 “(A) IN GENERAL.—Prior to the President
20 exercising the authority under paragraph (1),
21 the Secretary of State and the Secretary of
22 Homeland Security shall consult Congress and
23 provide Congress with specific evidence sup-
24 porting the need for the suspension or restric-
25 tion and its proposed duration.

1 “(B) BRIEFING AND REPORT.—Not later
2 than 48 hours after the President exercises the
3 authority under paragraph (1), the Secretary of
4 State and the Secretary of Homeland Security
5 shall provide a briefing and submit a written re-
6 port to Congress that describes—

7 “(i) the action taken pursuant to
8 paragraph (1) and the specified objective
9 of such action;

10 “(ii) the estimated number of individ-
11 uals who will be impacted by such action;

12 “(iii) the constitutional and legislative
13 authority under which such action took
14 place; and

15 “(iv) the circumstances necessitating
16 such action, including how such action
17 complies with paragraph (2), as well as
18 any intelligence informing such actions.

19 “(C) TERMINATION.—If the briefing and
20 report described in subparagraph (B) are not
21 provided to Congress during the 48 hours that
22 begin when the President exercises the author-
23 ity under paragraph (1), the suspension or re-
24 striction shall immediately terminate absent in-
25 tervening congressional action.

1 “(D) CONGRESSIONAL COMMITTEES.—The
2 term ‘Congress’, as used in this paragraph, re-
3 fers to the Select Committee on Intelligence of
4 the Senate, the Committee on Foreign Rela-
5 tions of the Senate, the Committee on the Judi-
6 ciary of the Senate, the Committee on Home-
7 land Security and Governmental Affairs of the
8 Senate, the Permanent Select Committee on In-
9 telligence of the House of Representatives, the
10 Committee on Foreign Affairs of the House of
11 Representatives, the Committee on the Judici-
12 ary of the House of Representatives, and the
13 Committee on Homeland Security of the House
14 of Representatives.

15 “(4) PUBLICATION.—The Secretary of State
16 and the Secretary of Homeland Security shall pub-
17 licly announce and publish an unclassified version of
18 the report described in paragraph (3)(B) in the Fed-
19 eral Register.

20 “(5) JUDICIAL REVIEW.—

21 “(A) IN GENERAL.—Notwithstanding any
22 other provision of law, an individual or entity
23 who is present in the United States and has
24 been harmed by a violation of this subsection
25 may file an action in an appropriate district

1 court of the United States to seek declaratory
2 or injunctive relief.

3 “(B) CLASS ACTION.—Nothing in this Act
4 may be construed to preclude an action filed
5 pursuant to subparagraph (A) from proceeding
6 as a class action.

7 “(6) TREATMENT OF COMMERCIAL AIRLINES.—
8 Whenever the Secretary of Homeland Security finds
9 that a commercial airline has failed to comply with
10 regulations of the Secretary of Homeland Security
11 relating to requirements of airlines for the detection
12 of fraudulent documents used by passengers trav-
13 eling to the United States (including the training of
14 personnel in such detection), the Secretary of Home-
15 land Security may suspend the entry of some or all
16 aliens transported to the United States by such air-
17 line.

18 “(7) RULE OF CONSTRUCTION.—Nothing in
19 this section may be construed as authorizing the
20 President, the Secretary of State, or the Secretary
21 of Homeland Security to act in a manner incon-
22 sistent with the policy decisions expressed in the im-
23 migration laws.”.

24 **SEC. 4. VISA APPLICANTS REPORT.**

25 (a) INITIAL REPORTS.—

1 (1) IN GENERAL.—Not later than 90 days after
2 the date of the enactment of this Act, the Secretary
3 of State, in coordination with the Secretary of
4 Homeland Security and the heads of other relevant
5 Federal agencies, shall submit a report to the con-
6 gressional committees referred to in section
7 212(f)(3)(D) of the Immigration and Nationality
8 Act, as amended by section 3 of this Act, that de-
9 scribes the implementation of Presidential Proclama-
10 tions 9645, 9822, and 9983 and Executive Orders
11 13769, 13780, and 13815, during the effective pe-
12 riod of each such proclamation and order.

13 (2) PRESIDENTIAL PROCLAMATION 9645 AND
14 9983.—In addition to the content described in para-
15 graph (1), the report submitted with respect to Pres-
16 idential Proclamation 9645, issued on September 24,
17 2017, and Presidential Proclamation 9983, issued
18 on January 31, 2020, shall include, for each country
19 listed in such proclamation—

20 (A) the total number of individuals who
21 applied for a visa during the time period the
22 proclamation was in effect, disaggregated by
23 country and visa category;

24 (B) the total number of visa applicants de-
25 scribed in subparagraph (A) who were ap-

1 proved, disaggregated by country and visa cat-
2 egory;

3 (C) the total number of visa applicants de-
4 scribed in subparagraph (A) who were refused,
5 disaggregated by country and visa category,
6 and the reasons they were refused;

7 (D) the total number of visa applicants de-
8 scribed in subparagraph (A) whose applications
9 remain pending, disaggregated by country and
10 visa category;

11 (E) the total number of visa applicants de-
12 scribed in subparagraph (A) who were granted
13 a waiver, disaggregated by country and visa
14 category;

15 (F) the total number of visa applicants de-
16 scribed in subparagraph (A) who were denied a
17 waiver, disaggregated by country and visa cat-
18 egory, and the reasons such waiver requests
19 were denied;

20 (G) the total number of refugees admitted,
21 disaggregated by country; and

22 (H) the complete reports that were sub-
23 mitted to the President every 180 days in ac-
24 cordance with section 4 of Presidential Procla-

1 mation 9645 in its original form, and as
2 amended by Presidential Proclamation 9983.

3 (b) ADDITIONAL REPORTS.—Not later than 30 days
4 after the date on which the President exercises the author-
5 ity under section 212(f) of the Immigration and Nation-
6 ality Act (8 U.S.C. 1182(f)), as amended by section 3 of
7 this Act, and every 30 days thereafter, the Secretary of
8 State, in coordination with the Secretary of Homeland Se-
9 curity and heads of other relevant Federal agencies, shall
10 submit a report to the congressional committees referred
11 to in paragraph (3)(D) of such section 212(f) that identi-
12 fies, with respect to countries affected by a suspension or
13 restriction, the information described in subparagraphs
14 (A) through (G) of subsection (a)(2) of this section and
15 the specific evidence supporting the need for the continued
16 exercise of presidential authority under such section
17 212(f), including the information described in paragraph
18 (3)(B) of such section 212(f). If the report described in
19 this subsection is not provided to such congressional com-
20 mittees in the time specified, the suspension or restriction
21 shall immediately terminate absent intervening congres-
22 sional action. A final report with such information shall
23 be prepared and submitted to such congressional commit-
24 tees not later than 30 days after the suspension or restric-
25 tion is lifted.

1 (c) FORM; AVAILABILITY.—The reports required
2 under subsections (a) and (b) shall be made publicly avail-
3 able online in unclassified form.

