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(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R. ____

To transfer and limit Executive Branch authority to suspend or restrict the entry of a class of aliens.

IN THE HOUSE OF REPRESENTATIVES

Ms. JUDY CHU of California introduced the following bill; which was referred to the Committee on

A BILL

To transfer and limit Executive Branch authority to suspend or restrict the entry of a class of aliens.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

SEC. 2. EXPANSION OF NONDISCRIMINATION PROVISION.

Section 202(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1152(a)(1)(A)) is amended—

(1) by inserting “or a nonimmigrant visa, admission or other entry into the United States, or the approval or revocation of any immigration benefit” after “immigrant visa”;

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

(3) by inserting “, except if expressly required by statute, or if a statutorily authorized benefit takes into consideration such factors” before the period at the end.

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

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

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

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

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

“(B) impose any restrictions on the entry of such aliens that the President deems appropriate.

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

“(A) only issue a suspension or restriction when required to address specific acts implicating a compelling government interest in a factor identified in paragraph (1);

“(B) narrowly tailor the suspension or restriction, using the least restrictive means, to achieve such compelling government interest;

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

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

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

“(3) CONGRESSIONAL NOTIFICATION.—

“(A) IN GENERAL.—Prior to the President exercising the authority under paragraph (1), the Secretary of State and the Secretary of Homeland Security shall consult Congress and provide Congress with specific evidence supporting the need for the suspension or restriction and its proposed duration.

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

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

“(ii) the estimated number of individuals who will be impacted by such action;

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

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

“(C) TERMINATION.—If the briefing and report described in subparagraph (B) are not provided to Congress during the 48 hours

that begin when the President exercises the authority under paragraph (1), the suspension or restriction shall immediately terminate absent intervening congressional action.

“(D) CONGRESSIONAL COMMITTEES.—The term ‘Congress’, as used in this paragraph, refers to the Select Committee on Intelligence of the Senate, the Committee on Foreign Relations of the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, the Committee on the Judiciary of the House of Representatives, and the Committee on Homeland Security of the House of Representatives.

“(4) PUBLICATION.—The Secretary of State and the Secretary of Homeland Security shall publicly announce and publish an unclassified version of the report described in paragraph (3)(B) in the Federal Register.

“(5) JUDICIAL REVIEW.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, an individual or entity who is present in the United States and has been harmed by a violation of this subsection may file an action in an appropriate district court of the United States to seek declaratory or injunctive relief.

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

“(6) TREATMENT OF COMMERCIAL AIRLINES.—Whenever the Secretary of Homeland Security finds that a commercial airline has failed to comply with regulations of the Secretary of Homeland Security relating to requirements of airlines for the detection of fraudulent documents used by passengers traveling to the United States (including the training of personnel in such detection), the Secretary of

Homeland Security may suspend the entry of some or all aliens transported to the United States by such airline.

“(7) **RULE OF CONSTRUCTION.**—Nothing in this section may be construed as authorizing the President, the Secretary of State, or the Secretary of Homeland Security to act in a manner inconsistent with the policy decisions expressed in the immigration laws.”.

SEC. 4. VISA APPLICANTS REPORT.

(a) INITIAL REPORTS.—

(1) **IN GENERAL.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, in coordination with the Secretary of Homeland Security and the heads of other relevant Federal agencies, shall submit a report to the congressional committees referred to in section 212(f)(3)(D) of the Immigration and Nationality Act, as amended by section 3 of this Act, that describes the implementation of Presidential Proclamations 9645, 9822, and 9983 and Executive Orders 13769, 13780, and 13815, during the effective period of each such proclamation and order.

(2) **PRESIDENTIAL PROCLAMATION 9645 AND 9983.**—In addition to the content described in paragraph (1), the report submitted with respect to Presidential Proclamation 9645, issued on September 24, 2017, and Presidential Proclamation 9983, issued on January 31, 2020, shall include, for each country listed in such proclamation—

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

(B) the total number of visa applicants described in subparagraph (A) who were approved, disaggregated by country and visa category;

(C) the total number of visa applicants described in subparagraph (A) who were refused, disaggregated by country and visa category, and the reasons they were refused;

(D) the total number of visa applicants described in subparagraph (A) whose applications remain pending, disaggregated by country and visa category;

(E) the total number of visa applicants described in subparagraph (A) who were granted a waiver, disaggregated by country and visa category;

(F) the total number of visa applicants described in subparagraph (A) who were denied a waiver, disaggregated by country and visa category, and the reasons such waiver requests were denied;

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

(H) the complete reports that were submitted to the President every 180 days in accordance with section 4 of Presidential Proclamation 9645 in its original form, and as amended by Presidential Proclamation 9983.

(b) **ADDITIONAL REPORTS.**—Not later than 30 days after the date on which the President exercises the authority under section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)), as amended by section 3 of this Act, and every 30 days thereafter, the Secretary of State, in coordination with the Secretary of Homeland Security and heads of other relevant Federal agencies, shall submit a report to the congressional committees referred to in paragraph (3)(D) of such section 212(f) that identifies, with respect to countries affected by a suspension or restriction, the information described in subparagraphs (A) through (H) of subsection (a)(2) of this section and specific evidence supporting the need for the continued exercise of presidential authority under such section 212(f), including the information described in paragraph (3)(B) of such section 212(f). If the report described in this subsection is not provided to Congress in the time specified, the suspension or restriction shall immediately terminate absent intervening congressional action. A final report with such information shall be prepared and submitted to such congressional committees not later than 30 days after the suspension or restriction is lifted.

(c) **FORM; AVAILABILITY.**—The reports required under subsections (a) and (b) shall be made publicly available online in unclassified form.