

**House Judiciary Committee  
Member Day Hearing  
October 22, 2021  
Testimony by Congressman Tom Rice (R-SC)**

Chairman Nadler and Ranking Member Jordan,

Thank you for providing me the opportunity to testify.

On June 17, 2015, in my birthplace of Charleston, South Carolina, a man walked into a routine Bible study at Emanuel African Methodist Episcopal Church and opened fire with a handgun, killing nine people. I cannot imagine a more horrific crime. Following these vile murders, the families of the victims sued the federal government for allowing this monster to buy a gun. In this case, Charleston Federal District Court Judge Richard Gergel wrote a lengthy opinion in which he exposed the federal background check process and its failures in this circumstance.

As many of you know, when conducting a background check prior to purchasing a firearm, the National Instant Criminal Background Check System (NICS) queries four national data systems for records that could disqualify the applicant from receiving and possessing a firearm. Those are the Interstate Identification Index (III), the National Crime Information Center (NCIC), the NICS Indices, and immigration-related databases maintained by Immigration and Customs Enforcement (ICE). The first three of these systems are maintained by the FBI, but the FBI also maintains a fourth database, the National Data Exchange (N-DEx) system that as they say on their website “complements other well-known FBI systems.” While NICS was activated in 1998, N-DEx was not launched until 2008 and has not been utilized during NICS background checks.

According to Judge Gergel, if the NICS background checker had had the ability to utilize N-DEx, they would have been able to determine that the applicant was not permitted to obtain a firearm. The FBI already had the information that they were faxing local departments to receive. That information was in the N-DEx database, but they were not able to use it.

My bill, the 21<sup>st</sup> Century NICS Act, H.R. 1518, would close the Charleston Loophole. It would allow the NICS background checker to utilize N-DEx. When an applicant is flagged, the NICS background checker should have access to all four databases. This would not only prevent applicants who are not eligible to obtain firearms from owning them but would also allow those who are eligible to receive them quicker should they be wrongfully flagged. My bipartisan bill has 34 cosponsors, four of which are Democrats. Mr. Cohen, a member of this committee, is one of them. I hope this committee can support bipartisan gun reform.

The second bill I would like to discuss is the Relief for Seasonal Businesses Act, H.R. 4578. This would increase the yearly cap on seasonal H-2B workers to 350,000. Every year, I hear from constituents who need help getting H-2B workers. Every year, the cap is quickly hit and must be raised. This bill would provide a more permanent solution to this problem. We have raised the cap to the number of applicants that are received on a yearly basis so that the necessary

workforce is substantially filled. The second aspect of this bill is that returning workers would not be counted against the cap. H-2B workers are not immigrants – they come to the United States to fill much needed positions and then return to their homes. Businesses in my district are substantially hurt by the uncertainty they face every year applying for H-2B workers. As the hospitality in my district recovers from the pandemic, I urge you to take up this bill to provide them with a stable workforce for the future.

I would also like to mention Rep. Cuellar's H-2B Returning Workers Exception Act, H.R. 3897. I am a cosponsor of this excellent bill that would ensure returning H-2B workers are not counted against the cap.

I hope the ideas I have outlined are among those your Committee and the House will consider as we move forward. Thank you for your time and attention to this matter. I look forward to our next steps.