STATE OF MINNESOTA

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September 23, 2019

Rep. Zoe Lofgren
Chair, Subcommittee on Immigration
  and Citizenship
House Judiciary Committee
1401 Longworth House Office Building
Washington, DC 20515

Rep. Ami Bera
Chair, Subcommittee on Oversight
  and Investigations
House Foreign Affairs Committee
1727 Longworth House Office Building
Washington, DC 20515

Rep. Pramila Jayapal
Vice Chair, Subcommittee on Immigration
  and Citizenship
House Judiciary Committee
1510 Longworth House Office Building
Washington, DC 20515

Rep. Lee Zeldin
Ranking Member, Subcommittee on
  Oversight and Investigations
House Foreign Affairs Committee
2441 Rayburn House Office Building
Washington, DC 20515

Re: NO BAN Act, H.R. 2214/S. 1123

Dear Chair Lofgren, Chair Bera, Vice Chair Jayapal, and Ranking Member Zeldin:

We are a group of state attorneys general who value the contributions of Muslim immigrants and families to our states and value the non-discriminatory ideals upon which this country was founded. As a result, we urge you to endorse the NO BAN Act, H.R. 2214/S. 1123.

When Congress enacted the Immigration and Nationality Act in 1965, it defined clearly that our immigration laws cannot discriminate on the basis of race, sex, nationality, places of birth, or places of residence. For more than half a century, Congress has conferred authority on each president to create immigration policies that are reasonable and limited to the standards enacted by Congress. Congress never intended for this delegation of authority to be limitless and unbounded.

Nevertheless, the U.S. Supreme Court found last year that President Trump acted within his authority under the Immigration and Nationality Act when he issued his third travel ban (Proclamation No. 9645). *Trump v. Hawaii*, 138 S. Ct. 2392 (2018). The Court observed that the Act "exudes deference to the President," and its anti-discrimination language did not prohibit the ban because the language applied only to visa applications. The Court also found the ban did

not violate the Establishment Clause of the First Amendment — largely because the Court applied the lowest amount of scrutiny due to the absence of blatantly discriminatory text in the ban.

This decision, however, does not make the ban good policy. The ban is in both its intended effect and practical application a Muslim travel ban, as five of the seven nations it targets — Iran, Libya, Somalia, Syria, and Yemen — are majority Muslim. President Trump's Muslim Ban exceeds the authority Congress granted any president and dangerously undermines congressional intent. The Muslim Ban resurfaces the discriminatory practices and anti-immigrant sentiments of immigration laws from the early 1900s that targeted Italian, Jewish, Japanese, Chinese, Irish, and Mexican immigrants, among others, which Congress barred with the Immigration and Nationality Act over 50 years ago.

Congress now has the opportunity to right this wrong by restoring the balance of powers, limiting overly broad executive authority to issue future discriminatory travel bans, and reasserting the rule of law and decency.

The NO BAN Act fixes the gaps in the Immigration and Nationality Act that the President exploited to order the Muslim Ban. The NO BAN Act broadens Section 202(a) of the Immigration and Nationality Act to prohibit discrimination on the basis of religion. It applies that anti-discrimination language to non-immigrant visas, entry into the United States, and the approval or revocation of any immigration benefit. This will preclude the executive branch from finding any future pretextual bases to exclude members of a particular religion or ethnic group. It also requires future presidents and secretaries of state to provide specific evidence in support of any proposed suspension of a class of immigrants, consult with Congress before doing so, and use the least restrictive means necessary. Finally, it also repeals the Muslim Ban.

The NO BAN Act will benefit all Americans. Our states' economies benefit from immigration, tourism, and international travel by students, academics, skilled professionals, and businesspeople. Our communities are strengthened by intact, reunified families and the many contributions they make. Our international relations and national security are improved when we can hold up our ideals of religious freedom and tolerance without hypocrisy. The health, safety, and welfare of all our people is improved when we put an end to discrimination based on religion and ethnicity.

The harmful impacts of the Muslim Ban on families, our safety, and our economy have become even more clear in the year since the U.S. Supreme Court's decision. In 2018, the State Department rejected roughly 37,000 visa applications from the five majority-Muslim countries targeted in the Muslim Ban, which among other harms has meant that more than 3,700 fiancées and spouses of U.S. citizens and more than 5,500 adopted children of U.S. citizens have been barred from entering the country. The ban has also made our communities less safe by fomenting dangerous myths about Muslims that have contributed to a rise in hate crimes. Finally, the ban has harmed our economy by leading to an overall decline in international students at universities and research institutions, especially in science and engineering. More than 160 companies have opposed the Muslim Ban because it stifles their ability to recruit highly skilled international talent.

The NO BAN Act is a rational and pragmatic solution to the grave harms caused by the President's Muslim Ban, which a bipartisan group of former national security and intelligence officials has concluded is overly broad and unsupported by intelligence. It restores the balance of powers and congressional oversight. It restores Congress's intent in the Immigration and Naturalization Act, as well as the highest ideals of our nation. That's why we support it along with 50 immigration law professors and more than 400 civil rights, faith and community groups. We urge you to endorse it.

Respectfully,

KEITH ELLISON
Minnesota Attorney General

XAVIER BECERRA
California Attorney General

PHILIP WEISER
Colorado Attorney General

WILLIAM TONG
Connecticut Attorney General

KATHLEEN JENNINGS
Delaware Attorney General

KARL A. RACINE
District of Columbia Attorney General

CLARE E. CONNORS
Hawaii Attorney General

KWAME RAOUL
Illinois Attorney General

TOM MILLER
Iowa Attorney General

BRIAN E. FROSH
Maryland Attorney General

MAURA HEALEY
Massachusetts Attorney General

AARON D. FORD
Nevada Attorney General

HECTOR BALDERAS
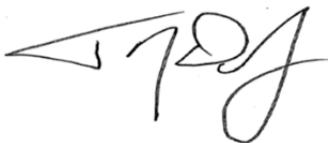New Mexico Attorney General

LETITIA JAMES
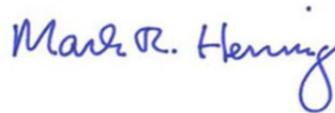New York Attorney General

ELLEN ROSENBLUM
Oregon Attorney General

PETER NERONHA
Rhode Island Attorney General

THOMAS J. DONOVAN, JR.
Vermont Attorney General

MARK HERRING
Virginia Attorney General

BOB FERGUSON
Washington State Attorney General