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United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

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March 13, 2017

Mr. Thomas J. Donohue
President and CEO
Chamber of Commerce of the United States of America
1615 H Street, NW
Washington, DC 20062-2000

Mr. Jeffrey D. DeBoer
President and CEO
The Real Estate Roundtable
801 Pennsylvania Ave, NW
Suite 720
Washington, DC 20004

Dear Mr. Donohue and Mr. DeBoer:

We write today in regards to the upcoming expiration of the EB-5 Regional Center program. As the Chairman and former Ranking Member of the Senate Judiciary Committee, it is well known that we have serious and longstanding concerns with the EB-5 Regional Center Program. This program is riddled with fraud and has serious vulnerabilities that present real national security concerns. The program is often used to simply lower the cost of financing on projects that would be completed regardless, raising questions of whether it creates any jobs at all. Moreover, one of Congress's core purposes in creating this program—to direct investment to rural and high unemployment areas that struggle to obtain capital and create jobs—has been eroded due to the abusive gerrymandering of economic development incentives.

As you both know, over the last two years we, along with our colleagues in the House of Representatives, have worked together in a bipartisan fashion to produce long-overdue EB-5 reform. Our offices engaged in painstaking negotiations with many of you. We negotiated in good-faith and made numerous and painful concessions to ensure a careful balance between critical reforms and industry concerns.

The proposals we made would have, if enacted, made it possible for rural and distressed urban areas, the very communities this program was originally intended to benefit, to compete for investment dollars with the affluent districts of metropolitan areas that currently dominate the program. Critically, these proposals attempted to reach common ground on national security and fraud concerns by instituting numerous compliance measures, background checks, and transparency provisions.

Unfortunately, in December 2015, certain industry groups rejected these very generous compromises and made demands that would have made reform illusory and thus made consensus impossible, all to promote their very narrow interests. This all too common theme of endless discussion with no apparent goal of reaching a resolution has resulted in Congressional leadership simply pushing short term reauthorizations of the program. The latest reauthorization extended the status quo until April 28, and did nothing to promote the interests of the American people.

Fortunately, in January 2017, the outgoing Obama Administration proposed new rules to address some of the worst abuses in the EB-5 program. These rules would adjust the minimum investment levels—which have not been raised since the program’s inception—to account for the inflation that has occurred over a quarter-century. In addition, these rules would bring much needed reforms to the designation of Targeted Employment Areas, and would end the most abusive gerrymandering practices. In short, these rules are a step in the right direction, but they do not address all of the Regional Center program’s many flaws, especially as they relate to national security and fraud prevention. More must be done legislatively.

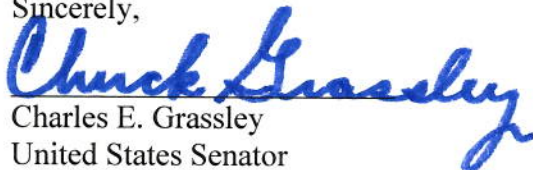
We are disappointed to learn that your organizations may have recently agreed to a secretive, backroom ‘deal’ that undercuts the many good-faith efforts we have made during the past two years. From what we have been told, this so-called ‘deal’ does not advance Congress’s goals for this program and instead is merely aimed at pre-empting the new rules. It should go without saying that Congress is not bound by any deal that industry officials may have made. Our interests are preserving the integrity of our immigration system and the well-being of the American people. We will reject out of hand any window-dressing reforms that attempt to preserve the status quo.

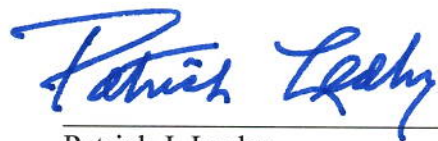
We have repeatedly shown a willingness to work with you in good faith to produce a reform package. We remain willing to do so, but our patience is wearing thin and is not endless.

We have pledged to seek the end to the entire program if common sense reform cannot be achieved. The more that other Senators and Representatives learn about this program, the more they become concerned, and many have already shared their concerns with us. Congress will not continue to endlessly kick the EB-5 reform can down the road.

We are willing to listen, and are willing to work with you, but we will make it clear to our Leadership that any ‘deal’ that does not include strong integrity and national security reforms—without loopholes—as well as meaningful investment differentials, adjustment of the investment amounts to appropriately account for inflation, adequate set asides for distressed areas, and changes to abusive gerrymandering practices, is dead on arrival. Unfortunately, the Regional Center program no longer serves the American people’s interests and may even present a potential threat to our country’s security. And it certainly does not serve to brighten the prospects for rural and urban poor communities as Congress intended. The American people deserve better.

Sincerely,


Charles E. Grassley
United States Senator


Patrick J. Leahy
United States Senator