

114TH CONGRESS  
1ST SESSION

S. \_\_\_\_\_

To reauthorize the EB-5 Regional Center Program in order to promote and reform foreign capital investment and job creation in American communities.

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IN THE SENATE OF THE UNITED STATES

Mr. LEAHY (for himself and Mr. GRASSLEY) introduced the following bill;  
which was read twice and referred to the Committee on

\_\_\_\_\_

**A BILL**

To reauthorize the EB-5 Regional Center Program in order to promote and reform foreign capital investment and job creation in American communities.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “American Job Creation  
5 and Investment Promotion Reform Act of 2015”.

6 **SEC. 2. REAUTHORIZATION AND REFORM OF THE RE-**  
7 **GIONAL CENTER PROGRAM.**

8 (a) REPEAL.—Section 610 of the Departments of  
9 Commerce, Justice, and State, the Judiciary, and Related

1 Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note)  
2 is repealed.

3 (b) AUTHORIZATION.—Section 203(b)(5) of the Im-  
4 migration and Nationality Act (8 U.S.C. 1153(b)(5)) is  
5 amended by adding at the end the following:

6 “(E) REGIONAL CENTER PROGRAM.—

7 “(i) IN GENERAL.—Visas under this  
8 paragraph shall be made available through  
9 September 30, 2019, to qualified immi-  
10 grants (and the eligible spouses and chil-  
11 dren of such immigrants) participating in  
12 a program implementing this paragraph  
13 that involves a regional center in the  
14 United States, which has been designated  
15 by the Secretary of Homeland Security on  
16 the basis of a proposal for the promotion  
17 of economic growth, including prospective  
18 job creation and increased domestic capital  
19 investment.

20 “(ii) PROCESSING.—In processing pe-  
21 titions under section 204(a)(1)(H) for clas-  
22 sification under this paragraph, the Sec-  
23 retary of Homeland Security—

1 “(I) may process petitions in a  
2 manner and order established by the  
3 Secretary; and

4 “(II) shall deem such petitions to  
5 include records previously filed with  
6 the Secretary regarding the regional  
7 center’s application for approval of  
8 the particular commercial enterprise  
9 investment offering if the alien peti-  
10 tioner certifies that such records are  
11 incorporated by reference into the  
12 alien’s petition.

13 “(iii) ESTABLISHMENT OF A RE-  
14 GIONAL CENTER.—A regional center shall  
15 operate within a defined and limited geo-  
16 graphic area, which shall be described in  
17 the proposal and be consistent with the  
18 purpose of concentrating pooled investment  
19 within the defined and limited geographic  
20 area. The proposal to establish a regional  
21 center shall demonstrate that the pooled  
22 investment will have a significant economic  
23 impact on such geographic area, and shall  
24 include—

1                   “(I) reasonable predictions, sup-  
2                   ported by economically and statis-  
3                   tically valid forecasting tools, con-  
4                   cerning the amount of investment that  
5                   will be pooled, the kinds of commer-  
6                   cial enterprises that will receive such  
7                   investments, details of the jobs that  
8                   will be created directly or indirectly as  
9                   a result of such investments, and  
10                  other positive economic effects such  
11                  investments will have; and

12                  “(II) a description of the policies  
13                  and procedures in place reasonably  
14                  designed to monitor new commercial  
15                  enterprises and job-creating entities to  
16                  ensure compliance with—

17                         “(aa) all applicable laws,  
18                         regulations, and executive orders  
19                         of the United States, including  
20                         immigration laws (as defined in  
21                         section 101(a)(17)) and securi-  
22                         ties laws; and

23                         “(bb) all securities laws of  
24                         each State in which the regional  
25                         center operates.

1 “(iv) INDIRECT JOB CREATION.—The  
2 Secretary of Homeland Security shall per-  
3 mit aliens seeking admission under this  
4 subparagraph to satisfy only up to 90 per-  
5 cent of the requirement under subpara-  
6 graph (A)(ii) with jobs that are estimated  
7 to be created indirectly through investment  
8 under this paragraph in accordance with  
9 this subparagraph. An employee of the new  
10 commercial enterprise or job-creating enti-  
11 ty may be considered to hold a job that  
12 has been directly created.

13 “(v) COMPLIANCE.—

14 “(I) IN GENERAL.—In deter-  
15 mining compliance with subparagraph  
16 (A)(ii), the Secretary of Homeland Se-  
17 curity shall permit aliens seeking ad-  
18 mission under this subparagraph to  
19 rely on economically and statistically  
20 valid methodologies for determining  
21 the number of jobs created by the pro-  
22 gram, including—

23 “(aa) jobs estimated to have  
24 been created directly, provided  
25 that the Secretary may request

1 additional evidence to verify that  
2 the directly-created jobs satisfy  
3 the requirements under subpara-  
4 graph (A)(ii); and

5 “(bb) consistent with this  
6 subparagraph, jobs estimated to  
7 have been created indirectly  
8 through revenues generated from  
9 increased exports, improved re-  
10 gional productivity, job creation,  
11 and increased domestic capital  
12 investment resulting from the  
13 program.

14 “(II) JOB AND INVESTMENT RE-  
15 QUIREMENTS.—

16 “(aa) RELOCATED JOBS.—  
17 In determining compliance with  
18 the job creation requirement  
19 under subparagraph (A)(ii), the  
20 Secretary may include jobs esti-  
21 mated to be created under a  
22 methodology whereby jobs are at-  
23 tributable to prospective tenants  
24 occupying commercial real estate  
25 created or improved by capital in-

1 vestments, but only if the num-  
2 ber of such jobs estimated to be  
3 created has been determined by  
4 an economically and statistically  
5 valid methodology and such jobs  
6 are not existing jobs that have  
7 been relocated.

8 “(bb) PUBLICLY AVAILABLE  
9 BONDS.—Alien investor capital  
10 may not be utilized, by a new  
11 commercial enterprise or other-  
12 wise, to purchase municipal  
13 bonds or any other bonds, if such  
14 bonds are available to the general  
15 public, either as part of a pri-  
16 mary offering or from a sec-  
17 ondary market.

18 “(cc) CONSTRUCTION ACTIV-  
19 ITY JOBS.—The length of full-  
20 time construction activity jobs  
21 that last shorter than 24 months  
22 may be aggregated to satisfy the  
23 employment creation requirement  
24 under subparagraph (A)(ii) for  
25 alien investors participating in

1 the program described in this  
2 subparagraph.

3 “(vi) AMENDMENTS.—The Secretary  
4 of Homeland Security shall—

5 “(I) require regional centers to  
6 give advance notice to, and obtain ap-  
7 proval from, the Secretary of signifi-  
8 cant proposed changes to their organi-  
9 zational structure, ownership, or ad-  
10 ministration, including the sale of  
11 such centers or other arrangements in  
12 which individuals not previously sub-  
13 ject to the requirements under sub-  
14 paragraph (H) become involved with  
15 the regional center, before any such  
16 proposed changes may take effect;

17 “(II) approve the changes re-  
18 ferred to in subclause (I) only after—

19 “(aa) notice of any such  
20 proposed changes are made pub-  
21 licly available through a publicly  
22 accessible website of U.S. Citi-  
23 zenship and Immigration Services  
24 for a period of not fewer than 30  
25 days; and



1 “(bb) the Secretary deter-  
2 mines that the regional center  
3 would remain compliant with this  
4 subparagraph and with subpara-  
5 graph (H); and

6 “(III) notwithstanding the pend-  
7 ency of a request for approval of any  
8 amendment that has been filed pursu-  
9 ant to subclause (I), adjudicate busi-  
10 ness plans under subparagraph (F)  
11 and petitions under section  
12 204(a)(1)(H).

13 “(F) BUSINESS PLANS FOR REGIONAL  
14 CENTER INVESTMENTS.—

15 “(i) APPLICATION FOR APPROVAL OF  
16 AN INVESTMENT IN A COMMERCIAL EN-  
17 TERPRISE.—A regional center shall file an  
18 application with the Secretary of Home-  
19 land Security for each particular invest-  
20 ment offering through an associated com-  
21 mercial enterprise before any alien files a  
22 petition for classification under this para-  
23 graph by reason of investment in that of-  
24 fering, which shall include—

1 “(I) a comprehensive business  
2 plan for a specific capital investment  
3 project;

4 “(II) a credible economic analysis  
5 regarding estimated job creation that  
6 is based upon economically and statis-  
7 tically valid methodologies;

8 “(III) any documents filed with  
9 the Securities and Exchange Commis-  
10 sion under the Securities Act of 1933  
11 (15 U.S.C. 77a et seq.) or with the  
12 securities regulator of any State, as  
13 required by law;

14 “(IV) any investment and offer-  
15 ing documents, including subscription,  
16 investment, partnership, and oper-  
17 ating agreements, private placement  
18 memoranda, term sheets, biographies  
19 for management, officers, directors,  
20 and any person with similar respon-  
21 sibilities, the description of the busi-  
22 ness plan to be provided to potential  
23 alien investors, and marketing mate-  
24 rials used or drafts prepared for use  
25 in connection with the offering, which

1 shall contain references, as appro-  
2 priate, to any—

3 “(aa) investment risks asso-  
4 ciated with the new commercial  
5 enterprise and the job-creating  
6 entity;

7 “(bb) conflicts of interest  
8 that currently exist or may arise  
9 among the regional center, new  
10 commercial enterprise, job-cre-  
11 ating entity, or the principals or  
12 attorneys of the aforementioned  
13 entities;

14 “(cc) pending material liti-  
15 gation or bankruptcy, or adverse  
16 judgments or bankruptcy orders  
17 issued during the most recent 10-  
18 year period, in the United States  
19 or abroad, affecting the regional  
20 center, new commercial enter-  
21 prise, job-creating entity, or any  
22 other enterprise in which any  
23 principal of the aforementioned  
24 entities held majority ownership  
25 at the time; and

1 “(dd)(AA) fees, ongoing in-  
2 terest, or other compensation  
3 paid to any person that the re-  
4 gional center or new commercial  
5 enterprise knows has received, or  
6 will receive, in connection with  
7 the investment, including to  
8 agents, finders, or broker dealers  
9 involved in the offering;

10 “(BB) a description of the  
11 services performed, or which will  
12 be performed, by such person to  
13 entitle the person to such fees,  
14 interest, or compensation; and

15 “(CC) the name and contact  
16 information of any such person;

17 “(V) a description of the policies  
18 and procedures, such as those related  
19 to internal and external due diligence,  
20 reasonably designed to ensure that the  
21 regional center, new commercial enter-  
22 prise, job-creating entity, their agents,  
23 employees, advisors, and attorneys,  
24 and any persons in active concert or  
25 participation with the regional center,

1 new commercial enterprise or job-cre-  
2 ating entity comply, as applicable,  
3 with the securities laws of the United  
4 States and the laws of the applicable  
5 States in connection with the offer,  
6 purchase, or sale of their securities;

7 “(VI) a certification from the re-  
8 gional center and any issuer of securi-  
9 ties affiliated with the regional center  
10 that their agents, employees, advisors,  
11 and attorneys, and any parties associ-  
12 ated with the regional center and the  
13 issuer of securities affiliated with the  
14 regional center are in compliance with  
15 the securities laws of the United  
16 States and the laws of the applicable  
17 States in connection with the offer,  
18 purchase, or sale of its securities, to  
19 the best of the certifier’s knowledge,  
20 after a due diligence investigation;  
21 and

22 “(VII) documentation dem-  
23 onstrating that the regional center  
24 consulted with a local economic devel-  
25 opment agency or municipality re-

1                    regarding the capital investment project,

2                    which shall address—

3 “(aa) the number and type  
4 of jobs anticipated to be created;  
5 and

6 “(bb) whether the project is  
7 consistent with the agency or  
8 municipality’s plan for economic  
9 development in the region.

“(ii) EFFECT OF APPROVAL OF A BUSINESS PLAN FOR AN INVESTMENT IN A REGIONAL CENTER’S COMMERCIAL ENTERPRISE.—The approval of an application under this subparagraph shall be binding for purposes of the adjudication of subsequent petitions seeking classification under this paragraph by immigrants investing in the same capital investment project through a new commercial enterprise, and of petitions by the same immigrants filed under section 216A, except in the case of fraud, misrepresentation, criminal misuse, a threat to public safety or national security, a material change that affects the program eligibility of the approved eco-

1           nomic model, other evidence affecting pro-  
2           gram eligibility that was not disclosed by  
3           the applicant during the adjudication proc-  
4           ess, or a material mistake of law or fact in  
5           the prior adjudication.

6           “(iii) SITE VISITS.—United States  
7           Citizenship and Immigration Services  
8           shall—

9                   “(I) perform site visits to re-  
10                  gional centers; and

11                  “(II) perform at least 1 site visit  
12                  to each new commercial enterprise  
13                  and job-creating entity, which—

14                   “(aa) shall include a review  
15                   for evidence of direct job creation  
16                   in accordance with subparagraph  
17                   (E)(v)(I); and

18                   “(bb) may occur at any time  
19                   during the period between the fil-  
20                   ing of an application for approval  
21                   of an investment in a commercial  
22                   enterprise under this subpara-  
23                   graph and the adjudication of the  
24                   first petition for removal of con-  
25                   ditions on lawful permanent resi-

1 dent status under section  
2 216A(c) filed by an alien invest-  
3 ing in such investment.

4 “(G) REGIONAL CENTER ANNUAL STATE-  
5 MENTS.—

6 “(i) IN GENERAL.—Each regional cen-  
7 ter designated under subparagraph (E)  
8 shall annually submit a statement to the  
9 Director of United States Citizenship and  
10 Immigration Services (referred to in this  
11 subparagraph as the ‘Director’), in a man-  
12 ner prescribed by the Secretary of Home-  
13 land Security, which shall include—

14 “(I) a certification stating that,  
15 to the best of the certifier’s knowl-  
16 edge, after a due diligence investiga-  
17 tion, the regional center is in compli-  
18 ance with clauses (i) and (ii) of sub-  
19 paragraph (H);

20 “(II) a certification described in  
21 subparagraph (I)(ii)(II); and

22 “(III) a certification stating that,  
23 to the best of the certifier’s knowl-  
24 edge, after a due diligence investiga-



1           tion, the regional center is in compli-  
2           ance with subparagraph (K)(iii);

3                   “(IV) a description of any pend-  
4           ing material litigation or bankruptcy  
5           proceedings, or litigation or bank-  
6           ruptcy proceedings resolved during the  
7           preceding fiscal year, involving the re-  
8           gional center, new commercial enter-  
9           prise, or job-creating entity;

10                   “(V) an accounting of all foreign  
11           investor capital invested in the re-  
12           gional center, new commercial enter-  
13           prise, or job-creating entity;

14                   “(VI) for each new commercial  
15           enterprise associated with the regional  
16           center—

17                           “(aa) an accounting of the  
18                           aggregate capital invested in the  
19                           new commercial enterprise and  
20                           job-creating entity by alien inves-  
21                           tors under this paragraph for  
22                           each capital investment project  
23                           being undertaken by the new  
24                           commercial enterprise;

1                   “(bb) a description of how  
2 such capital is being used to exe-  
3 cute each capital investment  
4 project in the filed business plan  
5 or plans;

6                   “(cc) evidence that 100 per-  
7 cent of such capital has actually  
8 been committed to each capital  
9 investment project;

10                  “(dd) detailed evidence of  
11 the progress made toward the  
12 completion of each capital invest-  
13 ment project;

14                  “(ee) an accounting of the  
15 aggregate direct jobs created or  
16 preserved;

17                  “(ff) to the best of the re-  
18 gional center’s knowledge, for all  
19 fees collected from alien investors  
20 by any party in connection with  
21 the regional center, new commer-  
22 cial enterprise, or job-creating  
23 entity, including administrative,  
24 loan monitoring, or loan manage-  
25 ment fees—

1 “(AA) a description of  
2 all fees collected;

3 “(BB) an accounting of  
4 the entities that received  
5 such fees, including any fees  
6 paid to a promoter, finder,  
7 broker-dealer, or other enti-  
8 ty used to locate individual  
9 investors; and

10 “(CC) the purpose for  
11 which such fees were col-  
12 lected;

13 “(gg) any documentation re-  
14 ferred to in subparagraph  
15 (F)(i)(IV) if there has been a  
16 material change during the pre-  
17 ceding fiscal year; and

18 “(hh) a certification by the  
19 regional center that such state-  
20 ments are accurate, to the best of  
21 the certifier’s knowledge, after a  
22 due diligence investigation; and

23 “(VII) a certification that the re-  
24 gional center has policies and proce-  
25 dures in place that are reasonably de-

1 signed to ensure that the regional cen-  
2 ter and any associated new commer-  
3 cial enterprises and job-creating enti-  
4 ties comply with Federal labor laws.

5 “(ii) AMENDMENT OF ANNUAL STATE-  
6 MENTS.—The Director—

7 “(I) shall require the regional  
8 center to amend or supplement an an-  
9 nual statement required under clause  
10 (i) if the Director determines that  
11 such statement is deficient; and

12 “(II) may require the regional  
13 center to amend or supplement such  
14 annual statement if the Director de-  
15 termines that such an amendment or  
16 supplement is appropriate.

17 “(iii) SANCTIONS.—

18 “(I) EFFECT OF VIOLATION.—  
19 The Director shall sanction any re-  
20 gional center entity in accordance  
21 with subclause (II) if the regional cen-  
22 ter fails to submit an annual state-  
23 ment or if the Director determines  
24 that the regional center—

1                   “(aa) knowingly submitted  
2                   or caused to be submitted a  
3                   statement, certification, or any  
4                   information submitted pursuant  
5                   to this subparagraph that con-  
6                   tained an untrue statement of  
7                   material fact; or

8                   “(bb) is conducting itself in  
9                   a manner inconsistent with its  
10                  designation, including any willful,  
11                  undisclosed, and material devi-  
12                  ation by new commercial enter-  
13                  prises from any filed business  
14                  plan for such commercial enter-  
15                  prises.

16                  “(II) AUTHORIZED SANCTIONS.—  
17                  The Director shall establish a grad-  
18                  uated set of sanctions based on the  
19                  severity of the violations referred to in  
20                  subclause (I), including—

21                         “(aa) fines equal to not  
22                         more than 10 percent of the total  
23                         capital invested by alien investors  
24                         in the regional center’s new com-  
25                         mercial enterprises or job-cre-

1           ating entities, the payment of  
2           which shall not in any cir-  
3           cumstance utilize any of such  
4           alien investors' capital invest-  
5           ments, and which shall be depos-  
6           ited into the EB-5 Integrity  
7           Fund established under subpara-  
8           graph (J);

9                   “(bb) temporary suspension  
10           from participation in the pro-  
11           gram described in subparagraph  
12           (E), which may be lifted by the  
13           Director if the individual or enti-  
14           ty cures the alleged violation  
15           after being provided such an op-  
16           portunity by the Director;

17                   “(cc) permanent bar from  
18           program participation for 1 or  
19           more individuals associated with  
20           the regional center or new com-  
21           mercial enterprise or job-creating  
22           entity; and

23                   “(dd) termination of re-  
24           gional center designation.

1 “(H) BONA FIDES OF PERSONS INVOLVED  
2 WITH REGIONAL CENTER PROGRAM.—

3 “(i) IN GENERAL.—No person shall be  
4 permitted to be involved with any regional  
5 center, new commercial enterprise, or job-  
6 creating entity if—

7 “(I) the person has been found to  
8 have committed—

9 “(aa) a criminal or civil vio-  
10 lation involving fraud or deceit  
11 within the previous 10 years;

12 “(bb) a civil violation result-  
13 ing in a liability in excess of  
14 \$1,000,000 involving fraud or de-  
15 ceit; or

16 “(cc) a crime resulting in a  
17 conviction with a term of impris-  
18 onment of more than 1 year;

19 “(II) the person is subject to a  
20 final order, for the duration of any  
21 penalty imposed by such order, of a  
22 State securities commission (or an  
23 agency or officer of a State who per-  
24 forms similar functions), a State au-  
25 thority that supervises or examines

1 banks, savings associations, or credit  
2 unions, a State insurance commission  
3 (or an agency or officer of a State  
4 who performs similar functions), an  
5 appropriate Federal banking agency,  
6 the Commodity Futures Trading  
7 Commission, the Securities and Ex-  
8 change Commission, a financial self-  
9 regulatory organization recognized by  
10 the Securities and Exchange Commis-  
11 sion, or the National Credit Union  
12 Administration, which is based on a  
13 violation of any law or regulation  
14 that—

15 “(aa) prohibits fraudulent,  
16 manipulative, or deceptive con-  
17 duct; or

18 “(bb) bars the person  
19 from—

20 “(AA) association with  
21 an entity regulated by such  
22 commission, authority, agen-  
23 cy, or officer;



1 “(BB) engaging in the  
2 business of securities, insur-  
3 ance, or banking; or

4 “(CC) engaging in sav-  
5 ings association or credit  
6 union activities;

7 “(III) the person is engaged in,  
8 has ever been engaged in, or seeks to  
9 engage in—

10 “(aa) any illicit trafficking  
11 in any controlled substance or in  
12 any listed chemical (as defined in  
13 section 102 of the Controlled  
14 Substances Act);

15 “(bb) any activity relating to  
16 espionage, sabotage, or theft of  
17 intellectual property;

18 “(cc) any activity related to  
19 money laundering (as described  
20 in 1956 or 1957 of title 18,  
21 United States Code);

22 “(dd) any terrorist activity  
23 (as defined in section  
24 212(a)(3)(B));

1                   “(ee) any activity consti-  
2                   tuting or facilitating human traf-  
3                   ficking or a human rights of-  
4                   fense;

5                   “(ff) any activity described  
6                   in section 212(a)(3)(E); or

7                   “(gg) the violation of any  
8                   statute, regulation, or Executive  
9                   Order regarding foreign financial  
10                  transactions or foreign asset con-  
11                  trol; or

12                  “(IV) the person—

13                  “(aa) is, or during the pre-  
14                  ceding 10 years has been, in-  
15                  cluded on the Department of  
16                  Justice’s List of Currently Dis-  
17                  ciplined Practitioners; or

18                  “(bb) during the preceding  
19                  10 years has received a rep-  
20                  rimand or otherwise been publicly  
21                  disciplined for conduct related to  
22                  fraud or deceit by a State bar as-  
23                  sociation of which the person is  
24                  or was a member.

1 “(ii) FOREIGN INVOLVEMENT IN RE-  
2 GIONAL CENTER PROGRAM.—

3 “(I) LAWFUL STATUS RE-  
4 QUIRED.—No person may be involved  
5 with a regional center unless the per-  
6 son is a national of the United States  
7 or an individual who has been lawfully  
8 admitted for permanent residence (as  
9 defined in paragraphs (20) and (22)  
10 of section 101(a).

11 “(II) FOREIGN GOVERNMENTS.—  
12 No foreign government entity may  
13 provide capital to, or be directly or in-  
14 directly involved with the ownership or  
15 administration of, a regional center, a  
16 new commercial enterprise, or a job-  
17 creating entity.

18 “(iii) INFORMATION REQUIRED.—The  
19 Secretary shall require such attestations  
20 and information, including the submission  
21 of fingerprints or other biometrics to the  
22 Federal Bureau of Investigation, and shall  
23 perform such criminal record checks and  
24 other background and database checks  
25 with respect to a regional center, new com-

1 commercial enterprise, and job-creating entity,  
2 and persons involved with such entities (as  
3 described in clause (v)), in order to deter-  
4 mine whether such entities are in compli-  
5 ance with clauses (i), (ii), and (iii). The  
6 Secretary may require the information and  
7 attestations described in this clause from  
8 such entities, and any person involved with  
9 such entities, at any time on or after the  
10 date of the enactment of the American Job  
11 Creation and Investment Promotion Re-  
12 form Act of 2015.

13 “(iv) TERMINATION.—

14 “(I) IN GENERAL.—The Sec-  
15 retary shall suspend or terminate the  
16 designation of any regional center,  
17 new commercial enterprise, or job-cre-  
18 ating entity from the program under  
19 this paragraph if the Secretary deter-  
20 mines that such entity—

21 “(aa) knowingly involved a  
22 person with such entity in viola-  
23 tion of clause (i) or (ii);

1 “(bb) failed to provide an  
2 attestation or information re-  
3 quested by the Secretary; or

4 “(cc) knowingly provided  
5 any false attestation or informa-  
6 tion under clause (iii).

7 “(II) INFORMATION.—The Sec-  
8 retary, after the performance of the  
9 criminal record and other background  
10 checks described in clause (iii), shall  
11 notify a regional center, new commer-  
12 cial enterprise, or job-creating entity  
13 whether any person involved with such  
14 entities is not in compliance with  
15 clause (i) or (ii). If, 30 days after re-  
16 ceiving such notification, the regional  
17 center, new commercial enterprise, or  
18 job-creating entity fails to discontinue  
19 the prohibited person’s involvement  
20 with the regional center, new commer-  
21 cial enterprise, or job-creating entity,  
22 the regional center, new commercial  
23 enterprise, or job-creating entity shall  
24 be deemed to have knowledge under

1 subclause (I)(aa) that such person is  
2 in violation of clause (i) or (ii).

3 “(v) PERSONS INVOLVED WITH A RE-  
4 GIONAL CENTER, NEW COMMERCIAL EN-  
5 TERPRISE, OR JOB-CREATING ENTITY.—  
6 For the purposes of this paragraph, a per-  
7 son is considered to be ‘involved’ with a re-  
8 gional center, a new commercial enterprise,  
9 or a job-creating entity if he or she is the  
10 principal, representative, administrator,  
11 owner, officer, board member, manager,  
12 executive, general partner, fiduciary, or in  
13 a similar position of substantive authority  
14 for the operations or management of the  
15 regional center, new commercial enterprise,  
16 or job-creating entity, respectively.

17 “(I) COMPLIANCE WITH SECURITIES  
18 LAWS.—

19 “(i) JURISDICTION.—

20 “(I) IN GENERAL.—The United  
21 States has jurisdiction over the pur-  
22 chase or sale of any security offered  
23 or sold by any regional center or any  
24 party associated with a regional cen-  
25 ter for purposes of the securities laws.

1 Subject matter jurisdiction shall also  
2 lie within the United States.

3 “(II) COMPLIANCE WITH REGU-  
4 LATION S.—Solely for purposes of sec-  
5 tion 5 of the Securities Act of 1933  
6 (15 U.S.C. 77e), a regional center or  
7 any party associated with a regional  
8 center is not precluded from offering  
9 or selling a security pursuant to Reg-  
10 ulation S under the Securities Act of  
11 1933 (15 U.S.C. 77a et seq.) to the  
12 extent that such offering or selling  
13 otherwise complies with that regula-  
14 tion.

15 “(ii) REGIONAL CENTER CERTIFI-  
16 CATIONS REQUIRED.—

17 “(I) INITIAL CERTIFICATION.—  
18 The Secretary of Homeland Security  
19 may not approve an application for re-  
20 gional center designation or regional  
21 center amendment unless the regional  
22 center certifies that, to the best of the  
23 certifier’s knowledge, after a due dili-  
24 gence investigation, the regional cen-  
25 ter is in compliance with and has poli-

1                   cies and procedures, such as those re-  
2                   lated to internal and external due dili-  
3                   gence, reasonably designed to ensure,  
4                   as applicable, that all parties associ-  
5                   ated with the regional center remain  
6                   in compliance with the securities laws  
7                   of the United States and of any State  
8                   in which the regional center operates  
9                   in connection with the offer, purchase,  
10                  or sale of securities or the provision of  
11                  investment advice by the regional cen-  
12                  ter or parties associated with the re-  
13                  gional center.

“(II) REISSUE.—A regional center shall annually reissue a certification described in subclause (I) in accordance with subparagraph (G). Annual certifications under this subclause shall also certify compliance with clause (iii) by stating that—

21 “(aa) the certifier is in a po-  
22 sition to have knowledge of the  
23 offers, purchases, and sales of se-  
24 curities or the provision of invest-



1                   ment advice by parties associated  
2                   with the regional center;

3                   “(bb) to the best of the cer-  
4                   tifier’s knowledge, after a due  
5                   diligence investigation, all such  
6                   offers, purchases, and sales of se-  
7                   curities or the provision of invest-  
8                   ment advice complied with the se-  
9                   curities laws of the United States  
10                  and the securities laws of any  
11                  State in which the regional cen-  
12                  ter operates; and

13                  “(cc) records, data, and in-  
14                  formation related to such offers,  
15                  purchases, and sales have been  
16                  maintained.

17                  “(III) EFFECT OF NONCOMPLI-  
18                  ANCE.—If a regional center, through  
19                  its due diligence, discovered during  
20                  the previous fiscal year that the re-  
21                  gional center or any party associated  
22                  with the regional center was not in  
23                  compliance with the securities laws of  
24                  the United States or the securities  
25                  laws of any State in which the re-

1 regional center operates, the certifier  
2 shall—

3 “(aa) describe the activities  
4 that led to noncompliance;

5 “(bb) describe the actions  
6 taken to remedy the noncompli-  
7 ance; and

8 “(cc) certify that the re-  
9 gional center and all parties asso-  
10 ciated with the regional center  
11 are currently in compliance, to  
12 the best of the certifier’s knowl-  
13 edge, after a due diligence inves-  
14 tigation.

15 “(iii) OVERSIGHT REQUIRED.—Each  
16 regional center shall monitor and supervise  
17 all offers, purchases, and sales of, and non-  
18 privileged advice relating to securities  
19 made by parties associated with the re-  
20 gional center to ensure compliance with the  
21 securities laws of the United States, and  
22 maintain records, data, and information  
23 relating to all such offers, purchases, sales,  
24 and nonprivileged advice during the 5-year  
25 period beginning on the date of their cre-

1           ation. Such records, data, and information  
2           shall be made available to the Securities  
3           and Exchange Commission and to the Sec-  
4           retary upon request.

5                   “(iv)    SUSPENSION       OR    TERMI-  
6           NATION.—In addition to any other author-  
7           ity provided to the Secretary under this  
8           paragraph, the Secretary, in the Sec-  
9           retary’s discretion, may suspend or termi-  
10          nate the designation of any regional center  
11          or impose other sanctions against the re-  
12          gional center if the regional center, or any  
13          parties associated with the regional center  
14          that the regional center knew or reason-  
15          ably should have known—

16                   “(I) are permanently or tempo-  
17                  rarily enjoined by order, judgment, or  
18                  decree of any court of competent ju-  
19                  risdiction in connection with the offer,  
20                  purchase, or sale of a security or the  
21                  provision of investment advice;

22                   “(II) are subject to any final  
23                  order of the Securities and Exchange  
24                  Commission or a State securities reg-  
25                  ulator that—

1                   “(aa) bars such person from  
2                   association with an entity regu-  
3                   lated by the Securities and Ex-  
4                   change Commission; or

5                   “(bb) constitutes a final  
6                   order based on a finding of an in-  
7                   tentional violation or a violation  
8                   related to fraud or deceit in con-  
9                   nection with the offer, purchase,  
10                  or sale of, or nonprivileged advice  
11                  relating to, a security; or

12                  “(III) submitted or caused to be  
13                  submitted a certification described in  
14                  clause (ii) that contained an untrue  
15                  statement of a material fact or omit-  
16                  ted to state a material fact necessary  
17                  in order to make the statements  
18                  made, in light of the circumstances  
19                  under which they were made, not mis-  
20                  leading.

21                  “(v) SAVINGS PROVISION.—Nothing in  
22                  this subparagraph may be construed to im-  
23                  pair or limit the authority of the Securities  
24                  and Exchange Commission under the Fed-

1 eral securities laws or any State securities  
2 regulator under State securities laws.

3 “(vi) DEFINED TERM.—In this sub-  
4 paragraph, the term ‘parties associated  
5 with a regional center’ means—

6 “(I) the regional center;

7 “(II) the new commercial enter-  
8 prise or job-creating entity associated  
9 with the regional center;

10 “(III) the regional center’s and  
11 new commercial enterprise’s owners,  
12 officers, directors, managers, partners,  
13 agents, employees, promoters and at-  
14 torneys; and

15 “(IV) any person in active con-  
16 cert or participation with the regional  
17 center or directly or indirectly control-  
18 ling, controlled by, or under common  
19 control with the regional center.

20 “(J) EB–5 INTEGRITY FUND.—

21 “(i) ESTABLISHMENT.—There is es-  
22 tablished in the United States Treasury a  
23 special fund, which shall be known as the  
24 EB–5 Integrity Fund (referred to in this  
25 subparagraph as the ‘Fund’). Amounts de-

1           posited into the Fund shall be available to  
2           the Secretary of Homeland Security until  
3           expended for the purposes set forth in  
4           clause (iii).

5           “(ii) FEES.—

6                   “(I) ANNUAL FEE.—The Sec-  
7                   retary of Homeland Security shall col-  
8                   lect an annual fee of \$25,000 for the  
9                   Fund from each regional center des-  
10                  ignated under subparagraph (E). The  
11                  fee shall be \$10,000 if a regional cen-  
12                  ter has 20 or fewer total investors in  
13                  the preceding fiscal year in its new  
14                  commercial enterprises.

15                  “(II) DUE DATES.—The first fee  
16                  under this clause shall be due not  
17                  later than January 1, 2016, and sub-  
18                  sequent fees due not later than Janu-  
19                  ary 1 of each year thereafter.

20                  “(III) PETITION FEE.—The Sec-  
21                  retary shall collect a fee of \$1,000 for  
22                  the Fund with each petition filed  
23                  under section 204(a)(1)(H) for classi-  
24                  fication under subparagraph (E).

1 “(IV) INCREASES.—The Sec-  
2 retary may prescribe regulations, as  
3 necessary, to increase the dollar  
4 amounts under this clause to ensure  
5 the Secretary’s continued ability to  
6 carry out the activities specified in  
7 clause (iii).

8 “(iii) PERMISSIBLE USES OF FUND.—  
9 The Secretary shall—

10 “(I) use not less than  $\frac{1}{3}$  of the  
11 amounts deposited into the Fund to  
12 conduct audits and site visits (with or  
13 without notice);

14 “(II) use not less than  $\frac{1}{3}$  of the  
15 amounts deposited into the Fund for  
16 investigations based outside of the  
17 United States, including—

18 “(aa) monitoring and inves-  
19 tigating program-related events  
20 and promotional activities; and

21 “(bb) ensuring an alien in-  
22 vestor’s compliance with subpara-  
23 graph (L);

24 “(III) use amounts deposited into  
25 the Fund—

1 “(aa) to detect and inves-  
2 tigate fraud or other crimes; and

3 “(bb) to determine whether  
4 regional centers, new commercial  
5 enterprises, job-creating entities,  
6 and alien investors (and their  
7 alien spouses and alien children,  
8 if any) comply with applicable  
9 immigration laws;

10 “(IV) use amounts deposited into  
11 the Fund to conduct interviews of the  
12 owners, officers, directors, managers,  
13 partners, agents, employees, pro-  
14 moters, and attorneys of regional cen-  
15 ters, new commercial enterprises, and  
16 job-creating entities; and

17 “(V) otherwise use amounts de-  
18 posited into the Fund as the Sec-  
19 retary determines to be necessary, in-  
20 cluding monitoring compliance with  
21 the requirements under section 7 of  
22 the American Job Creation and In-  
23 vestment Promotion Reform Act of  
24 2015.



1 “(iv) FAILURE TO PAY FEE.—The  
2 Secretary of Homeland Security shall—

3 “(I) impose a reasonable penalty,  
4 which shall be deposited into the  
5 Fund, if a regional center does not  
6 pay the fee required under clause (ii)  
7 within 30 days of the date on which  
8 such fee is due under clause (ii); and

9 “(II) terminate the designation  
10 of any regional center that does not  
11 pay the fee required under clause (ii)  
12 before 90 days after the date on  
13 which such fee is due under clause  
14 (ii).

15 “(v) REPORT.—The Secretary shall  
16 submit an annual report to the Committee  
17 on the Judiciary of the Senate and the  
18 Committee on the Judiciary of the House  
19 of Representatives that describes how  
20 amounts in the Fund were expended dur-  
21 ing the previous fiscal year.

22 “(K) DIRECT AND THIRD-PARTY PRO-  
23 MOTERS.—

24 “(i) RULES AND STANDARDS.—Direct  
25 and third party promoters of regional cen-

1           ters, new commercial enterprises, and job-  
2           creating entities shall comply with the  
3           rules and standards prescribed by the Sec-  
4           retary of Homeland Security, in consulta-  
5           tion with the Securities and Exchange  
6           Commission, to oversee regional center  
7           promotion, including—

8                   “(I) registration with U.S. Citi-  
9                   zenship and Immigration Services,  
10                  which the Secretary may make pub-  
11                  licly available;

12                  “(II) minimum qualifications;

13                  “(III) guidelines for offering in-  
14                  vestment opportunities and rep-  
15                  resenting the visa process to foreign  
16                  investors; and

17                  “(IV) permissible fee arrange-  
18                  ments.

19                  “(ii) EFFECT OF VIOLATION.—If the  
20                  Secretary determines that a direct or  
21                  third-party promoter has violated clause  
22                  (i), the Secretary shall suspend or perma-  
23                  nently bar such individual from participa-  
24                  tion in the program described in subpara-  
25                  graph (E).

1           “(iii) COMPLIANCE.—Each regional  
2 center shall maintain a written agreement  
3 between the regional center, new commer-  
4 cial enterprise, or job-creating entity and  
5 each direct or third-party promoter oper-  
6 ating on behalf of such regional center,  
7 new commercial enterprise, or job-creating  
8 entity that outlines the rules and stand-  
9 ards prescribed under clause (i).

10           “(L) SOURCE OF FUNDS.—

11           “(i) IN GENERAL.—An alien investor  
12 shall demonstrate that the capital required  
13 under subparagraph (A) and any funds  
14 used to pay administrative costs and fees  
15 associated with the alien’s investment were  
16 obtained from a lawful source and through  
17 lawful means.

18           “(ii) REQUIRED INFORMATION.—The  
19 Secretary of Homeland Security shall re-  
20 quire, as applicable, that an alien inves-  
21 tor’s petition under this paragraph con-  
22 tain—

23           “(I) business and tax records, in-  
24 cluding—

1                   “(aa) foreign business reg-  
2                   istration records;

3                   “(bb) corporate or partner-  
4                   ship tax returns (or tax returns  
5                   of any other entity in any form  
6                   filed in any country or subdivi-  
7                   sion of such country), and per-  
8                   sonal tax returns including in-  
9                   come, franchise, property (wheth-  
10                  er real, personal, or intangible),  
11                  or any other tax returns of any  
12                  kind, filed within 7 years, with  
13                  any taxing jurisdiction in or out-  
14                  side the United States by or on  
15                  behalf of the alien investor; and

16                  “(cc) evidence identifying  
17                  any other source of capital or ad-  
18                  ministrative fees;

19                  “(II) evidence related to mone-  
20                  tary judgments against the alien in-  
21                  vestor, including certified copies of  
22                  any judgments, and evidence of all  
23                  pending governmental civil or criminal  
24                  actions, governmental administrative  
25                  proceedings, and any private civil ac-

1           tions (pending or otherwise) involving  
2           possible monetary judgments against  
3           the alien investor from any court in or  
4           outside the United States; and

5                   “(III) the identity of all persons  
6           who transfer into the United States,  
7           on behalf of the investor—

8                           “(aa) any funds that are  
9                           used to meet the capital require-  
10                          ment under subparagraph (A);  
11                          and

12                           “(bb) any funds that are  
13                          used to pay administrative costs  
14                          and fees associated with the  
15                          alien’s investment.

16                          “(iii) GIFT RESTRICTIONS.—Gifted  
17           funds may be counted toward the min-  
18           imum capital investment requirement  
19           under subparagraph (C) only if such funds  
20           were gifted to the alien investor by the  
21           alien investor’s spouse, parent, son, or  
22           daughter (but not children (as defined in  
23           section 101(b)(1)), sibling, or grandparent  
24           and such funds were gifted in good faith  
25           and not to circumvent any limitations im-

posed on permissible sources of capital under this subparagraph. If a significant portion of the capital invested under subparagraph (A) was gifted to the alien investor, the Secretary shall require the alien investor's petition under this paragraph to include records described in subclauses (I) and (II) of clause (ii) from the donor.

“(iv) LOAN RESTRICTIONS.—Capital derived from indebtedness may be counted toward the minimum capital investment requirement under subparagraph (C) only if such capital is—

“(I) secured by assets owned by the alien investor; and

“(II) issued by a banking or lending institution that is properly chartered or licensed under the laws of any State, territory, country, or applicable jurisdiction, and that is not sanctioned or restricted, which the Secretary shall determine after consulting with relevant commercial or government databases, such as those of the Department of Treasury's Of-

1            fice of Foreign Assets Control, Office  
2            of Terrorist Financing and Financial  
3            Crimes, and Financial Crimes En-  
4            forcement Network.

5            “(M) TREATMENT OF INVESTORS IF A RE-  
6            GIONAL CENTER HAS BEEN TERMINATED.—

7            “(i) IN GENERAL.—Upon the termi-  
8            nation from the program under this para-  
9            graph of a regional center, new commercial  
10          enterprise, or job-creating entity under this  
11          paragraph—

12           “(I) except as provided in sub-  
13           clause (II), the conditional permanent  
14           residence of an alien who has been ad-  
15           mitted to the United States pursuant  
16           to section 216A(a)(1) based on an in-  
17           vestment in a terminated regional cen-  
18           ter, new commercial enterprise, or  
19           job-creating entity shall continue to be  
20           authorized, consistent with this sub-  
21           paragraph; and

22           “(II) if the Secretary has reason  
23           to believe the alien was a knowing  
24           participant in the conduct that led to  
25           the termination of such regional cen-

1           ter, new commercial enterprise, or  
2           job-creating entity, the Secretary shall  
3           notify the alien of such belief and,  
4           subject to section 216A(b)(2), shall  
5           terminate the permanent resident sta-  
6           tus of the alien (and the alien's  
7           spouse and child) as of the date of  
8           such determination.

9           “(ii) NEW REGIONAL CENTER OR IN-  
10          VESTMENT.—The conditional permanent  
11          resident status of an alien described in  
12          clause (i)(I) shall be terminated 180 days  
13          after the termination from the program  
14          under this paragraph of a regional center,  
15          a new commercial enterprise, or a job cre-  
16          ating entity unless—

17               “(I) in the case of the termi-  
18          nation of a regional center—

19                   “(aa) the new commercial  
20                  enterprise associates with an ap-  
21                  proved regional center;

22                   “(bb) such alien makes a  
23                  qualifying investment in another  
24                  commercial enterprise associated



1 with an approved regional center;

2 or

3 “(cc) such alien makes a  
4 qualifying investment in another  
5 commercial enterprise under this  
6 paragraph not associated with a  
7 regional center; or

8 “(II) in the case of the termi-  
9 nation of a new commercial enterprise  
10 or job-creating entity, such alien in-  
11 vests in another commercial enterprise  
12 associated with an approved regional  
13 center.

14 “(iii) REMOVAL OF CONDITIONS.—  
15 Aliens described in subclauses (I)(bb),  
16 (I)(cc), and (II) of clause (ii) shall be eligi-  
17 ble to have their conditions removed pursu-  
18 ant to section 216A beginning on the date  
19 that is 2 years after the date of the subse-  
20 quent investment.

21 “(N) THREATS TO THE NATIONAL INTER-  
22 EST.—

23 “(i) DENIAL OR REVOCATION.—The  
24 Secretary of Homeland Security shall deny  
25 or revoke the approval of a petition, appli-

1 cation, or benefit described in this para-  
2 graph, including the documents described  
3 in clause (ii), if the Secretary determines  
4 that the approval of such petition, applica-  
5 tion, or benefit is contrary to the national  
6 interest of the United States for reasons  
7 relating to threats to public safety or na-  
8 tional security.

9 “(ii) DOCUMENTS.—The documents  
10 described in this clause are—

11 “(I) a certification, designation,  
12 or amendment to the designation of a  
13 regional center;

14 “(II) a petition seeking classifica-  
15 tion of an alien as an alien investor  
16 under this paragraph;

17 “(III) a petition to remove condi-  
18 tions under section 216A; or

19 “(IV) an application for approval  
20 of a business plan in a commercial en-  
21 terprise under subparagraph (F).

22 “(iii) DEBARMENT.—If a regional  
23 center, new commercial enterprise, or job-  
24 creating entity has its designation or par-  
25 ticipation in the program under this para-

graph terminated for reasons relating to public safety or national security, any person associated with such regional center, new commercial enterprise, or job-creating entity, including an alien investor, shall be permanently barred from future participation in the program under this paragraph if the Secretary of Homeland Security, in the Secretary's discretion, determines, by a preponderance of the evidence, that such person was a knowing participant in the conduct that led to the termination.

“(iv) NOTICE.—If the Secretary of Homeland Security determines that the approval of a petition, application, or benefit described in this paragraph should be denied or revoked pursuant to clause (i), the Secretary shall—

“(I) notify the relevant individual, regional center, or commercial entity of such determination; and

“(II) deny or revoke such petition, application, or benefit or terminate the permanent resident status of the alien (and the alien spouse and

1 alien children of such immigrant), as  
2 provided in clause (i) as of the date of  
3 such determination.

4 “(v) JUDICIAL REVIEW.—Notwith-  
5 standing any other provision of law (statu-  
6 tory or nonstatutory), including section  
7 2241 of title 28, United States Code, or  
8 any other habeas corpus provision, and  
9 sections 1361 and 1651 of such title, no  
10 court shall have jurisdiction to review a de-  
11 nial or revocation under this subparagraph.  
12 Nothing in this clause may be construed as  
13 precluding review of constitutional claims  
14 or questions of law raised upon a petition  
15 for review filed with an appropriate court  
16 of appeals in accordance with section 242.

17 “(O) FRAUD, MISREPRESENTATION, AND  
18 CRIMINAL MISUSE.—

19 “(i) DENIAL OR REVOCATION.—The  
20 Secretary of Homeland Security shall deny  
21 or revoke the approval of a petition, appli-  
22 cation, or benefit described in this para-  
23 graph, including the documents described  
24 in subparagraph (N)(ii), if the Secretary  
25 determines that such petition, application,

1 or benefit was predicated on or involved  
2 fraud, deceit, intentional material mis-  
3 representation, or criminal misuse.

4 “(ii) DEBARMENT.—If a regional cen-  
5 ter, new commercial enterprise, or job-cre-  
6 ating entity has its designation or partici-  
7 pation in the program under this para-  
8 graph terminated for reasons relating to  
9 fraud, intentional material misrepresenta-  
10 tion, or criminal misuse, any person associ-  
11 ated with such regional center, new com-  
12 mercial enterprise, or job-creating entity,  
13 including an alien investor, shall be perma-  
14 nently barred from future participation in  
15 the program under this paragraph if the  
16 Secretary of Homeland Security deter-  
17 mines, by a preponderance of the evidence,  
18 that such person was a knowing partici-  
19 pant in the conduct that led to the termi-  
20 nation.

21 “(iii) NOTICE.—If the Secretary of  
22 Homeland Security determines that the ap-  
23 proval of a petition, application, or benefit  
24 described in this paragraph should be de-

1           nied or revoked pursuant to clause (i), the  
2           Secretary shall—

3                   “(I) notify the relevant indi-  
4                   vidual, regional center, or commercial  
5                   entity of such determination; and

6                   “(II) deny or revoke such peti-  
7                   tion, application, or benefit or termi-  
8                   nate the permanent resident status of  
9                   the alien (and the alien spouse and  
10                  alien children of such immigrant) as  
11                  provided in clause (i) as of the date of  
12                  such determination.

13                  “(P) ADMINISTRATIVE APPELLATE RE-  
14                  VIEW.—

15                  “(i) IN GENERAL.—The Director of  
16                  U.S. Citizenship and Immigration Services  
17                  shall provide an opportunity for an admin-  
18                  istrative appellate review by the Adminis-  
19                  trative Appeals Office of U.S. Citizenship  
20                  and Immigration Services of any deter-  
21                  mination made under this paragraph, in-  
22                  cluding—

23                   “(I) an application for regional  
24                   center designation or regional center  
25                   amendment;

1 “(II) an application for approval  
2 of a business plan under subpara-  
3 graph (F);

4 “(III) a petition by an alien in-  
5 vestor for status as an immigrant  
6 under this paragraph;

7 “(IV) the termination or suspen-  
8 sion of any benefit accorded under  
9 this paragraph; and

10 “(V) any sanction imposed by the  
11 Secretary of Homeland Security pur-  
12 suant to this paragraph.

13 “(ii) JUDICIAL REVIEW.—Subject to  
14 section 242(a)(2), and notwithstanding any  
15 other provision of law (statutory or non-  
16 statutory), including section 2241 of title  
17 28, United States Code, or any other ha-  
18 beas corpus provision, and sections 1361  
19 and 1651 of such title, no court shall have  
20 jurisdiction to review a determination  
21 under this paragraph until the regional  
22 center, its associated entities, or the alien  
23 investor has exhausted all administrative  
24 appeals.”.

25 (c) EFFECTIVE DATES.—

1           (1) IN GENERAL.—Except as otherwise pro-  
2       vided in this section, the amendments made by this  
3       section shall be effective at any time after the date  
4       of the enactment of this Act, as determined by the  
5       Secretary, and shall be effective not later than 90  
6       days after such date of enactment.

7           (2) EXCEPTIONS.—Clauses (iv) and (v) of sub-  
8       paragraph (E) and subparagraph (L) of section  
9       203(b)(5) of the Immigration and Nationality Act (8  
10      U.S.C. 1153(b)(5)) shall not apply to a petition  
11      that—

12                 (A) was filed under such section 203(b)(5)  
13      before the date of the enactment of this Act; or

14                 (B) is filed under section 216A of such Act  
15      (8 U.S.C. 1186b) if the underlying petition filed  
16      under section 203(b)(5) of such Act was filed  
17      before the date of the enactment of this Act.

18      (d) GAO REPORT.—Not later than December 31,  
19   2018, the Comptroller General of the United States shall  
20   submit a report to the Committee on the Judiciary of the  
21   Senate and the Committee on the Judiciary of the House  
22   of Representatives that describes—

23                 (1) the economic benefits of the regional center  
24      program established under section 203(b)(5) of the  
25      Immigration and Nationality Act (8 U.S.C.



1       1153(b)(5)), including the steps taken by United  
2       States Citizenship and Immigration Services to  
3       verify job creation;

4           (2) the extent to which United States Citizen-  
5       ship and Immigration Services ensures compliance  
6       by regional center participants with their obligations  
7       under the immigrant investor program;

8           (3) the extent to which United States Citizen-  
9       ship and Immigration Services has maintained  
10      records of regional centers and associated commer-  
11      cial enterprises, including annual statements and  
12      certifications;

13          (4) the steps taken by United States Citizen-  
14      ship and Immigration Services to verify the source  
15      of funds, as required under section 203(b)(5)(L) of  
16      the Immigration and Nationality Act, as added by  
17      subsection (b);

18          (5) the extent to which United States Citizen-  
19      ship and Immigration Services collaborates with  
20      other Federal and law enforcement agencies, par-  
21      ticularly to detect illegal activity and threats to na-  
22      tional security related to the regional center pro-  
23      gram;

24          (6) the extent to which United States Citizen-  
25      ship and Immigration Services has prevented fraud

1 and abuse in regional center activities, including the  
2 designation of targeted employment areas in areas  
3 that otherwise have high employment;

4 (7) the extent to which United States Citizen-  
5 ship and Immigration Services has used its authority  
6 to sanction, suspend, bar, or terminate regional cen-  
7 ters or individuals affiliated with regional centers;

8 (8) the steps that have been taken to oversee  
9 direct and third-party promoters under section  
10 203(b)(5)(K) of the Immigration and Nationality  
11 Act, as added by subsection (b);

12 (9) the extent to which employees of the De-  
13 partment of Homeland Security have complied with  
14 the ethical standards and transparency requirements  
15 under section 7; and

16 (10) an accounting of the expenditure of  
17 amounts from the EB-5 Integrity Fund established  
18 under section 203(b)(5)(J) of the Immigration and  
19 Nationality Act, as added by subsection (b).

20 (e) INSPECTOR GENERAL REPORT.—Not later than  
21 December 31, 2018, the Inspector General of the Intel-  
22 ligence Community, in coordination with the Inspector  
23 General of the Department of Homeland Security and  
24 after consultation with relevant Federal agencies, includ-  
25 ing United States Immigration and Customs Enforce-

1 ment, shall submit a report to the Committee on the Judi-  
2 ciary of the Senate and the Committee on the Judiciary  
3 of the House of Representatives concerning the immigrant  
4 visa program set forth in section 203(b)(5) of the Immi-  
5 gration and Nationality Act (8 U.S.C. 1153(b)(5)) that  
6 describes—

7 (1) the vulnerabilities within the program that  
8 may undermine the national security of the United  
9 States;

10 (2) the actual or potential use of the program  
11 to facilitate export of sensitive technology;

12 (3) the actual or potential use of the program  
13 to facilitate economic espionage;

14 (4) the actual or potential use of the program  
15 by foreign government agents; and

16 (5) the actual or potential use of the program  
17 to facilitate terrorist activity, including funding ter-  
18 rorist activity or laundering terrorist funds.

19 (f) REVIEW OF JOB CREATION METHODOLOGIES.—  
20 Not later than 12 months after the date of the enactment  
21 of this Act, the Secretary of Homeland Security, in con-  
22 sultation with the Bureau of Economic Analysis of the De-  
23 partment of Commerce, or another component within the  
24 Department of Commerce, as determined by the Secretary  
25 of Commerce, shall publish regulations to determine eco-

1 nomically and statistically valid general economic meth-  
2 odologies that are in compliance with section  
3 203(b)(5)(A)(ii) of the Immigration and Nationality Act  
4 (8 U.S.C. 1153(b)(5)(A)(ii)).

5 **SEC. 3. CONDITIONAL PERMANENT RESIDENT STATUS FOR**  
6 **ALIEN INVESTORS, SPOUSES, AND CHILDREN.**

7 (a) IN GENERAL.—Section 216A of the Immigration  
8 and Nationality Act (8 U.S.C. 1186b) is amended—

9 (1) by striking “Attorney General” each place  
10 such term appears (except in subsection (d)(2)(C))  
11 and inserting “Secretary of Homeland Security”;

12 (2) by striking “entrepreneur” each place such  
13 term appears and inserting “investor”;

14 (3) in subsection (a), by amending paragraph  
15 (1) to read as follows:

16 “(1) CONDITIONAL BASIS FOR STATUS.—

17 “(A) IN GENERAL.—Except as provided in  
18 subparagraph (B), an alien investor, alien  
19 spouse, and alien child shall be considered, at  
20 the time of obtaining status of an alien lawfully  
21 admitted for permanent residence, to have ob-  
22 tained such status on a conditional basis sub-  
23 ject to the provisions of this section.

24 “(B) EXCEPTION.—An alien investor (and  
25 his or her alien spouse or alien child) whose pe-

1           tition under subsection (f) is approved before  
2           the alien investor is lawfully admitted for per-  
3           manent residence shall be granted the status of  
4           an alien lawfully admitted for permanent resi-  
5           dence without conditions.”;

6           (4) in subsection (b)—

7                 (A) in the heading, by striking “ENTRE-  
8           PRENEURSHIP” and inserting “INVESTMENT”;  
9           and

10                (B) by amending paragraph (1)(B) to read  
11           as follows:

12                 “(B) the alien did not invest the requisite  
13           capital; or”;

14           (5) in subsection (c)—

15                 (A) in the heading, by striking “OF TIME-  
16           LY PETITION AND INTERVIEW”;

17                 (B) in paragraph (1)—

18                     (i) in the matter preceding subpara-  
19           graph (A), by striking “In order” and in-  
20           serting “Except as provided in paragraph  
21           (3)(D), in order”;

22                     (ii) in subparagraph (A)—

23                         (I) by striking “must” and in-  
24           serting “shall”; and

1 (II) by striking “, and” and in-  
2 serting a semicolon;

3 (iii) in subparagraph (B)—

4 (I) by striking “must” and in-  
5 serting “shall”;

6 (II) by striking “Service” and in-  
7 serting “Department of Homeland Se-  
8 curity”; and

9 (III) by striking the period at the  
10 end and inserting “; and”; and

11 (iv) by adding at the end the fol-  
12 lowing:

13 “(C) the Secretary shall have performed a  
14 site visit to the new commercial enterprise and  
15 job-creating entity in which the alien investor  
16 invested capital under subparagraph (A) of sec-  
17 tion 203(b)(5) pursuant to subparagraph  
18 (F)(iii) of such section.”; and

19 (C) in paragraph (3)—

20 (i) in subparagraph (A), in the undes-  
21 ignated matter following clause (ii), by  
22 striking “the” before “such filing”; and

23 (ii) by amending subparagraph (B) to  
24 read as follows:

1 “(B) REMOVAL OR EXTENSION OF CONDI-  
2 TIONAL BASIS.—

3 “(i) IN GENERAL.—Except as pro-  
4 vided in clause (ii), if the Secretary deter-  
5 mines that the facts and information con-  
6 tained in a petition submitted under para-  
7 graph (1)(A) are true, including dem-  
8 onstrating that the alien complied with sec-  
9 tion (d)(1)(B)(i), the Secretary shall—

10 “(I) notify the alien involved of  
11 such determination; and

12 “(II) remove the conditional  
13 basis of the alien’s status effective as  
14 of the second anniversary of the  
15 alien’s lawful admission for permanent  
16 residence.

17 “(ii) EXCEPTION.—If the petition  
18 demonstrates that the facts and informa-  
19 tion are true and that the alien is in com-  
20 pliance with section (d)(1)(B)(ii)—

21 “(I) the Secretary, in the Sec-  
22 retary’s discretion, may provide one 1-  
23 year extension of the alien’s condi-  
24 tional status; and

1 “(II)(aa) if the alien files a peti-  
2 tion not later than 30 days after the  
3 third anniversary of the alien’s lawful  
4 admission for permanent residence  
5 demonstrating that the alien complied  
6 with section (d)(1)(B)(i), the Sec-  
7 retary shall remove the conditional  
8 basis of the alien’s status effective as  
9 of such third anniversary; or

10 “(bb) if the alien does not file the  
11 petition described in item (aa), the  
12 conditional status shall terminate at  
13 the end of such additional year.”;

14 (6) in subsection (d)—

15 (A) in paragraph (1)—

16 (i) by amending subparagraph (A) to  
17 read as follows:

18 “(A) invested the requisite capital;”;

19 (ii) by redesignating subparagraph  
20 (B) as subparagraph (C); and

21 (iii) by inserting after subparagraph  
22 (A) the following:

23 “(B)(i) created the employment required  
24 under section 203(b)(5)(A)(ii); or



1 “(ii) is actively in the process of creating  
2 the employment required under section  
3 203(b)(5)(A)(ii) and will create such employ-  
4 ment before the third anniversary of the alien’s  
5 lawful admission for permanent residence;  
6 and”;

7 (B) in paragraph (2), by amending sub-  
8 paragraph (A) to read as follows:

9 “(A) 90-DAY PERIOD BEFORE SECOND AN-  
10 NIVERSARY.—

11 “(i) IN GENERAL.—Except as pro-  
12 vided in clause (ii) and subparagraph (B),  
13 a petition under subsection (c)(1)(A) shall  
14 be filed during the 90-day period before  
15 the second anniversary of the alien inves-  
16 tor’s lawful admission for permanent resi-  
17 dence.

18 “(ii) EXCEPTION.—Aliens described in  
19 subclauses (I)(bb) and (II) of section  
20 203(b)(5)(M)(ii) shall file a petition under  
21 subsection (c)(1)(A) during the 90-day pe-  
22 riod before the second anniversary of the  
23 subsequent investment.”; and

24 (C) in paragraph (3)—

1 (i) by striking “The interview” and  
2 inserting the following:

3 “(A) IN GENERAL.—The interview”;

4 (ii) by striking “Service” and insert-  
5 ing “Department of Homeland Security”;  
6 and

7 (iii) by striking the last sentence and  
8 inserting the following:

9 “(B) WAIVER.—The Secretary of Home-  
10 land Security, in the Secretary’s discretion, may  
11 waive the deadline for such an interview or the  
12 requirement for such an interview according to  
13 criteria developed by United States Citizenship  
14 and Immigration Services in consultation with  
15 its Fraud Detection and National Security Di-  
16 rectorate, and United States Immigration and  
17 Customs Enforcement, provided that such cri-  
18 teria shall not include reduction of case proc-  
19 essing times or the allocation of adjudicatory  
20 resources. A waiver may not be granted under  
21 this subparagraph if the alien to be inter-  
22 viewed—

23 “(i) invested in a regional center, new  
24 commercial enterprise, or job-creating enti-

1                   ty that was sanctioned under section  
2                   203(b)(5); or

3                   “(ii) is in a class of aliens determined  
4                   by the Secretary to be threats to public  
5                   safety or national security.”;

6                   (7) by redesignating subsection (f) as sub-  
7                   section (g);

8                   (8) by inserting after subsection (e) the fol-  
9                   lowing:

10                  “(f) PETITION FROM QUALIFIED ALIEN INVES-  
11                  TOR.—An alien investor who invested the requisite capital  
12                  and created the employment required under section  
13                  203(b)(5)(A)(ii) at least 24 months before admission, and  
14                  is otherwise conforming to the requirements under section  
15                  203(b)(5), may file a petition, before admission for perma-  
16                  nent residence, to be considered, at the time of obtaining  
17                  status of an alien lawfully admitted for permanent resi-  
18                  dence, to obtain such status without conditions.”; and

19                  (9) in subsection (g)(3), as redesignated, by  
20                  striking “a limited partnership” and inserting “any  
21                  entity formed for the purpose of doing for-profit  
22                  business”.

23                  (b) EFFECTIVE DATES.—

24                  (1) IN GENERAL.—Except as provided under  
25                  paragraph (2), the amendments made by subsection

1 (a) shall take effect on the date of the enactment of  
2 this Act.

3 (2) EXCEPTIONS.—

4 (A) SITE VISITS.—The amendment made  
5 by subsection (a)(5)(B)(iv) shall take effect not  
6 later than 2 years after the date of the enact-  
7 ment of this Act.

8 (B) PETITION BENEFICIARIES.—The  
9 amendments made by subsection (a) shall not  
10 apply to the beneficiary of a petition that is  
11 filed under section 216A of the Immigration  
12 and Nationality Act (8 U.S.C. 1186b) if the un-  
13 derlying petition filed under section 203(b)(5)  
14 of such Act (8 U.S.C. 1153(b)(5)) was ap-  
15 proved before the date of the enactment of this  
16 Act.

17 **SEC. 4. EB-5 VISA REFORMS.**

18 (a) TARGETED EMPLOYMENT AREAS.—Section  
19 203(b)(5)(B) of the Immigration and Nationality Act (8  
20 U.S.C. 1153(b)(5)(B)) is amended to read as follows:

21 “(B) VISA SET-ASIDES AND AREA DES-  
22 IGNATIONS.—

23 “(i) RESERVED VISAS.—Beginning on  
24 October 1, 2016, of the visas made avail-  
25 able under this paragraph in each fiscal

1 year, 2,000 shall be reserved for immi-  
2 grants who invest in rural areas and 2,000  
3 shall be reserved for immigrants who in-  
4 vest in priority urban investment areas. At  
5 the end of each fiscal year, any unused  
6 visa within either category shall remain  
7 available within the same category for the  
8 following fiscal year. If such visa remains  
9 available following the second fiscal year, it  
10 shall be made generally available to alien  
11 investors under this paragraph.

12 “(ii) ELIGIBILITY.—The Secretary of  
13 Homeland Security shall determine eligi-  
14 bility for designation as a targeted employ-  
15 ment area and shall not be bound by the  
16 determination of any other governmental  
17 or nongovernmental entity.

18 “(iii) DESIGNATION OF INFRASTRUC-  
19 TURE PROJECT, MANUFACTURING  
20 PROJECT, AND TARGETED EMPLOYMENT  
21 AREA.—

22 “(I) INFRASTRUCTURE PROJECT  
23 OR MANUFACTURING PROJECT.—The  
24 designation of an infrastructure  
25 project or manufacturing project shall

1 be made at the time of the invest-  
2 ment.

3 “(II) TARGETED EMPLOYMENT  
4 AREA.—The designation of a targeted  
5 employment area shall be made at the  
6 time of the investment and shall be  
7 valid for the 2-year period beginning  
8 on the date of the investment.

9 “(III) RENEWALS.—A designa-  
10 tion under subclause (II) may be re-  
11 newed for additional 2-year periods if  
12 the area continues to meet the defini-  
13 tion of a targeted employment area.  
14 An investor who has made the re-  
15 quired amount of investment in such  
16 an area during its period of designa-  
17 tion shall not be required to increase  
18 the amount of investment based upon  
19 expiration of the designation.”.

20 (b) ADJUSTMENT OF MINIMUM INVESTMENT  
21 AMOUNT.—Section 203(b)(5)(C) of such Act (8 U.S.C.  
22 1153(b)(5)(C)) is amended—

23 (1) by redesignating clause (iii) as clause (iv);  
24 (2) by striking clauses (i) and (ii) and inserting  
25 the following:

1 “(i) MINIMUM INVESTMENT  
2 AMOUNTS.—Except as otherwise provided  
3 in this subparagraph, the amount of cap-  
4 ital required under subparagraph (A) shall  
5 be—

6 “(I) \$1,000,000 (except as pro-  
7 vided in subclause (II)); or

8 “(II) \$800,000 in the case of an  
9 investment in an infrastructure  
10 project, a manufacturing project, or a  
11 project that is physically located in a  
12 targeted employment area.

13 “(ii) AUTHORITY TO INCREASE IN-  
14 VESTMENT AMOUNTS.—The Secretary may  
15 periodically prescribe regulations increas-  
16 ing the dollar amount specified under  
17 clause (i), provided that any such increase  
18 simultaneously affects each category of in-  
19 vestment under clause (i) by the same per-  
20 centage.

21 “(iii) AUTOMATIC ADJUSTMENT OF  
22 MINIMUM INVESTMENT AMOUNTS.—Begin-  
23 ning on January 1, 2021, and on every  
24 fifth subsequent January 1, the Secretary

1 shall adjust each of the minimum amounts  
2 specified in clause (i) as follows:

3 “(I) NO INCREASES IN PREVIOUS  
4 5 FISCAL YEARS.—If the Secretary did  
5 not increase the minimum amount  
6 during the 5 prior fiscal years con-  
7 cluding with the fiscal year ending on  
8 September 30 of the prior calendar  
9 year, the amounts specified in clause  
10 (i) shall automatically be adjusted by  
11 the amount of the cumulative percent-  
12 age change in the Consumer Price  
13 Index (CPI–U) for the previous 5 fis-  
14 cal years.

15 “(II) INCREASES BELOW CPI–U  
16 DURING PREVIOUS 5 FISCAL YEARS.—  
17 If the Secretary increased the min-  
18 imum amount during the previous 5  
19 fiscal years by an amount that is less  
20 than the cumulative percentage  
21 change in the CPI–U during the pre-  
22 vious 5 fiscal years, the amounts spec-  
23 ified in clause (i) shall automatically  
24 be adjusted by the amount of such cu-  
25 mulative percentage change for such



1 period minus any increase previously  
2 prescribed by the Secretary by regula-  
3 tions.

4 “(III) INCREASES ABOVE CPI–U  
5 DURING PREVIOUS 5 FISCAL YEARS.—  
6 If the Secretary increased the min-  
7 imum amount during the previous 5  
8 fiscal years by an amount that is  
9 greater than the cumulative percent-  
10 age change in the CPI–U during the  
11 previous 5 fiscal years, the amounts  
12 specified in clause (i) shall not be in-  
13 creased.”; and

14 (3) in clause (iv), as redesignated, by striking  
15 “Attorney General” and inserting “Secretary”.

16 (c) DEFINITIONS.—

17 (1) IN GENERAL.—Section 203(b)(5) of such  
18 Act (8 U.S.C. 1153(b)(5)), as amended by sub-  
19 sections (a) and (b) and by section 2, is further  
20 amended by striking subparagraph (D) and inserting  
21 the following:

22 “(D) DEFINITIONS.—In this paragraph:

23 “(i) CAPITAL.—The term ‘capital’—

24 “(I) means cash and all real, per-  
25 sonal, or mixed tangible assets owned

1 and controlled by the alien investor,  
2 or held in trust for the benefit of the  
3 alien and to which the alien has unre-  
4 stricted access;

5 “(II) shall be valued at fair mar-  
6 ket value in United States dollars, in  
7 accordance with Generally Accepted  
8 Accounting Principles or other stand-  
9 ard accounting practice adopted by  
10 the Securities and Exchange Commis-  
11 sion, at the time it is invested under  
12 this paragraph; and

13 “(III) shall not include assets ac-  
14 quired, directly or indirectly, by un-  
15 lawful means, including any cash pro-  
16 ceeds of indebtedness secured by such  
17 assets.

18 “(ii) CERTIFIER.—The term ‘certifier’  
19 means a person in a position of substantive  
20 authority for the management or oper-  
21 ations of a regional center, new commercial  
22 enterprise, or job-creating entity, such as a  
23 principal executive officer or principal fi-  
24 nancial officer, with knowledge of such en-  
25 tities’ policies and procedures related to

1 compliance with the requirements of this  
2 paragraph.

3 “(iii) FULL-TIME EMPLOYMENT.—The  
4 term ‘full-time employment’ means employ-  
5 ment in a position that requires at least 35  
6 hours of service per week for at least a 24-  
7 month period, regardless of who fills the  
8 position. A position or job that is filled by  
9 more than 1 employee may be considered  
10 full-time employment for purposes of sub-  
11 paragraph (A)(ii).

12 “(iv) INFRASTRUCTURE PROJECT.—  
13 The term ‘infrastructure project’ means a  
14 capital investment project in an approved  
15 business plan, which is administered by a  
16 governmental entity, such as a Federal,  
17 State, or local agency or authority, in  
18 which the entity contracts with a regional  
19 center, new commercial enterprise, or job-  
20 creating entity to receive capital invest-  
21 ment from investors or the new commercial  
22 enterprise as financing for maintaining,  
23 improving, or constructing a public works  
24 project.

1           “(v) JOB-CREATING ENTITY.—The  
2           term ‘job-creating entity’ means any orga-  
3           nization formed in the United States for  
4           the ongoing conduct of lawful business, in-  
5           cluding a partnership (whether limited or  
6           general), corporation, limited liability com-  
7           pany, or other entity that receives, or is es-  
8           tablished to receive, capital investment  
9           from alien investors or a new commercial  
10          enterprise under the regional center pro-  
11          gram described in subparagraph (E) and  
12          which is most closely responsible for the  
13          job creation.

14          “(vi) MANUFACTURING PROJECT.—  
15          The term ‘manufacturing project’ means a  
16          capital investment project in an approved  
17          business plan, the purpose of which is to  
18          improve, construct, or operate a plant, fac-  
19          tory, or mill, which primarily exists in  
20          order to produce or assemble a product in  
21          the United States.

22          “(vii) NEW COMMERCIAL ENTER-  
23          PRISE.—The term ‘new commercial enter-  
24          prise’ means any for-profit organization  
25          formed in the United States for the ongo-

1 ing conduct of lawful business, including a  
2 partnership (whether limited or general),  
3 corporation, limited liability company, or  
4 other entity that receives, or is established  
5 to receive, capital investment from inves-  
6 tors under this paragraph.

7 “(viii) PRIORITY URBAN INVESTMENT  
8 AREA.—The term ‘priority urban invest-  
9 ment area’ means an area consisting of a  
10 census tract or contiguous census tracts,  
11 each of which is in a metropolitan statis-  
12 tical area and, using the most recent cen-  
13 sus data available, has—

14 “(I) an unemployment rate that  
15 is at least 150 percent of the national  
16 average unemployment rate, which  
17 may also include any census tract or  
18 tracts contiguous to 1 or more of the  
19 tracts that have the requisite unem-  
20 ployment rate;

21 “(II) a poverty rate that is at  
22 least 20 percent; or

23 “(III) a median family income  
24 that is not more than 80 percent of  
25 the greater of the statewide median

1 family income or the metropolitan sta-  
2 tistical area median family income.

3 “(ix) RURAL AREA.—The term ‘rural  
4 area’ means an area that—

5 “(I) is outside of the outer  
6 boundary of any city or town having  
7 a population of 20,000 or more (based  
8 on the most recent decennial census of  
9 the United States); and

10 “(II)(aa) is outside of a metro-  
11 politan statistical area; or

12 “(bb) is within an outlying coun-  
13 ty of a metropolitan statistical area.

14 “(x) SPECIAL INVESTMENT ZONE.—  
15 The term ‘special investment zone’ means  
16 an area, consisting of a census tract or not  
17 more than 12 contiguous census tracts  
18 (which shall include each census tract con-  
19 tiguous to the census tract where the  
20 project is physically located other than cen-  
21 sus tracts described in subclause (II))  
22 that—

23 “(I) has an unemployment rate  
24 that is at least 150 percent of the na-  
25 tional average unemployment rate

1 using the most recent census data  
2 available; and

3 “(II) may not include any census  
4 tract or tracts that encompass special  
5 land use census tracts or cover bodies  
6 of water unless the project is phys-  
7 ically located in such census tract.

8 “(xi) TARGETED EMPLOYMENT  
9 AREA.—The term ‘targeted employment  
10 area’ means—

11 “(I) a priority urban investment  
12 area;

13 “(II) a rural area;

14 “(III) a special investment zone;

15 “(IV) any area within the geo-  
16 graphic boundaries of any military in-  
17 stallation that was closed, during the  
18 20-year period immediately preceding  
19 the filing of an application under sub-  
20 paragraph (F) based upon a rec-  
21 ommendation by the Defense Base  
22 Closure and Realignment Commission;  
23 or

24 “(V) an area consisting of a cen-  
25 sus tract or contiguous census tracts,

1 each of which, using the most recent  
2 census data available—

3 “(aa) is not located within a  
4 metropolitan statistical area; and  
5 “(bb) has a poverty rate  
6 that is at least 20 percent or a  
7 median family income that is not  
8 more than 80 percent of the  
9 statewide median family in-  
10 come.”.

11 (2) RULEMAKING.—The Secretary of Homeland  
12 Security, in consultation with the Secretary of De-  
13 fense, shall issue appropriate regulations to account  
14 for the modified definition of targeted employment  
15 area in section 203(b)(5)(D)(xi)(IV) of the Immigra-  
16 tion and Nationality Act, as added by paragraph (1).

17 (d) AGE DETERMINATION FOR CHILDREN OF ALIEN  
18 INVESTORS.—Section 203(h) of such Act (8 U.S.C.  
19 1153(h)) is amended by adding at the end the following:

20 “(5) AGE DETERMINATION FOR CHILDREN OF  
21 ALIEN INVESTORS.—An alien who has reached 21  
22 years of age and has been admitted under subsection  
23 (d) as a lawful permanent resident on a conditional  
24 basis as the child of an alien lawfully admitted for  
25 permanent residence under subsection (b)(5), whose



1 lawful permanent resident status on a conditional  
2 basis is terminated under section 216A or subpara-  
3 graph (M) of subsection (b)(5), shall continue to be  
4 considered a child of the principal alien for the pur-  
5 pose of a subsequent immigrant petition by such  
6 alien under subsection (b)(5) if the alien remains  
7 unmarried and the subsequent petition is filed by  
8 the principal alien not later than 1 year after the  
9 termination of conditional lawful permanent resident  
10 status. No alien shall be considered a child under  
11 this paragraph with respect to more than 1 petition  
12 filed after the alien reaches 21 years of age.”.

13 (e) ENHANCED PAY SCALE FOR CERTAIN FEDERAL  
14 EMPLOYEES ADMINISTERING THE EMPLOYMENT CRE-  
15 ATION PROGRAM.—The Secretary of Homeland Security  
16 may establish, fix the compensation of, and appoint indi-  
17 viduals to designated critical, technical, and professional  
18 positions needed to administer sections 203(b)(5) and  
19 216A of the Immigration and Nationality Act (8 U.S.C.  
20 1153(b)(5) and 1186b)).

21 (f) CONCURRENT FILING OF EB–5 PETITIONS AND  
22 APPLICATIONS FOR ADJUSTMENT OF STATUS.—Section  
23 245 of the Immigration and Nationality Act (8 U.S.C.  
24 1255) is amended—

1 (1) in subsection (k), in the matter preceding  
2 paragraph (1), by striking “or (3)” and inserting  
3 “(3), or (5)”; and

4 (2) by adding at the end the following:

5 “(n) If the approval of a petition for classification  
6 under section 203(b)(5) would make a visa immediately  
7 available to the alien beneficiary, the alien beneficiary’s  
8 application for adjustment of status under this section  
9 shall be considered to be properly filed whether the appli-  
10 cation is submitted concurrently with, or subsequent to,  
11 the visa petition.”.

12 (g) TYPE OF INVESTMENT.—Section 203(b)(5)(A) of  
13 the Immigration and Nationality Act (8 U.S.C.  
14 1153(b)(5)(A)), is amended—

15 (1) in the matter preceding clause (i), by strik-  
16 ing “(including a limited partnership)”;

17 (2) in clause (i), by inserting “and which is ex-  
18 pected to remain invested for not less than 2 years”  
19 after “(C),”; and

20 (3) in clause (ii)—

21 (A) by striking “and create” and inserting  
22 “by creating”; and

23 (B) by inserting “, United States nation-  
24 als,” after “citizens”.

1 (h) REQUIRED CHECKS.—Section 203(b)(5) of such  
2 Act, as amended by this section and section 2, is further  
3 amended by adding at the end the following:

4 “(Q) REQUIRED CHECKS.—An alien inves-  
5 tor, alien spouse, or alien child may not be  
6 granted status of an alien lawfully admitted for  
7 permanent residence under this paragraph un-  
8 less the Secretary of Homeland Security has de-  
9 termined that such alien is not on the Depart-  
10 ment of Treasury’s Office of Foreign Assets  
11 Control Specially Designated Nationals List.”.

12 (i) EFFECTIVE DATES.—

13 (1) IN GENERAL.—Except as provided under  
14 paragraph (2), the amendments made by this section  
15 shall be effective upon the date of the enactment of  
16 this Act.

17 (2) EXCEPTIONS.—The amendments made by  
18 subsections (b)(1) and (c)(1) shall not apply to a  
19 beneficiary of a petition that—

20 (A) was filed under section 203(b)(5) of  
21 the Immigration and Nationality Act (8 U.S.C.  
22 1153(b)(5)) before the date of the enactment of  
23 this Act; or

24 (B) is filed under section 216A of such Act  
25 (8 U.S.C. 1186b), if the underlying petition

1 filed under section 203(b)(5) of such Act was  
2 filed before the date of the enactment of this  
3 Act.

4 **SEC. 5. PROCEDURE FOR GRANTING IMMIGRANT STATUS.**

5 (a) FILING ORDER.—Section 204(a)(1)(H) of the  
6 Immigration and Nationality Act (8 U.S.C.  
7 1154(a)(1)(H)) is amended to read as follows:

8 “(H) An alien desiring to be classified under section  
9 203(b)(5) may file a petition with the Secretary of Home-  
10 land Security. An alien petitioning for classification pursu-  
11 ant to section 203(b)(5)(E) may file a petition with the  
12 Secretary after filing an application for approval of an in-  
13 vestment under section 203(b)(5)(F).”.

14 (b) EFFECTIVE DATE.—The amendment made by  
15 subsection (a)—

16 (1) shall take effect on the date of the enact-  
17 ment of this Act; and

18 (2) shall apply to any petition for classification  
19 pursuant to section 203(b)(5)(E) of the Immigration  
20 and Nationality Act (8 U.S.C. 1153(b)(5)(E)) that  
21 is filed with the Secretary of Homeland Security on  
22 or after the date of the enactment of this Act.

23 **SEC. 6. TIMELY PROCESSING.**

24 (a) FEE STUDY.—Not later than 30 days after the  
25 date of the enactment of this Act, the Director of United

1 States Citizenship and Immigration Service shall initiate  
2 a study of fees charged in the administration of the pro-  
3 gram described in sections 203(b)(5) and 216A of the Im-  
4 migration and Nationality Act (8 U.S.C. 1153(b)(5) and  
5 1186b).

6 (b) ADJUSTMENT OF FEES TO ACHIEVE EFFICIENT  
7 PROCESSING.—Notwithstanding section 286(m) of the  
8 Immigration and Nationality Act (8 U.S.C. 1356(m)), and  
9 except as provided under subsection (c), the Director shall  
10 set fees for services provided pursuant to section  
11 203(b)(5) and 216A of such Act at a level sufficient to  
12 ensure the full recovery only of the costs of providing such  
13 services, including the cost of attaining the goal of com-  
14 pleting adjudications, on average, not later than—

15 (1) 120 days after receiving a proposal for the  
16 establishment of a regional center described in sec-  
17 tion 203(b)(5)(E);

18 (2) 120 days after receiving an application for  
19 approval of investment in a commercial enterprise  
20 described in section 203(b)(5)(F);

21 (3) 150 days after receiving a petition from an  
22 alien desiring to be classified under section  
23 203(b)(5)(E); and

1           (4) 180 days after receiving a petition from an  
2       alien for removal of conditions described in section  
3       216A(c).

4       (c) ADDITIONAL FEES.—Additional fees in excess of  
5       the fee levels described in subsection (b) may be charged  
6       only to contribute—

7           (1) in an amount that is equal to the amount  
8       paid by all other classes of fee-paying applicants for  
9       immigration-related benefits, to the coverage or re-  
10      duction of the costs of processing or adjudicating  
11      classes of immigration benefit applications that Con-  
12      gress, or the Secretary in the case of asylum applica-  
13      tions, has authorized to be processed or adjudicated  
14      at no cost or at a reduced cost to the applicant; and

15          (2) in an amount that is not greater than 1  
16      percent of the fee for filing a petition under section  
17      203(b)(5) of the Immigration and Nationality Act (8  
18      U.S.C. 1153(b)(5)), to make improvements to the  
19      information technology systems used by the Sec-  
20      retary to process, adjudicate, and archive applica-  
21      tions and petitions under such section, including the  
22      conversion to electronic format of documents filed by  
23      petitioners and applicants for benefits under such  
24      section.

1 (d) PREMIUM PROCESSING OF EB-5 PETITIONS AND  
2 APPLICATIONS.—

3 (1) MODIFICATION OF EXISTING PREMIUM  
4 PROCESSING PROVISION.—Section 286(u) of the Im-  
5 migration and Nationality Act (8 U.S.C. 1356(u)) is  
6 amended to read as follows:

7 “(u) PREMIUM FEE FOR EMPLOYMENT-BASED PETI-  
8 TIONS AND APPLICATIONS.—

9 “(1) IN GENERAL.—The Secretary of Homeland  
10 Security is authorized to establish and collect a pre-  
11 mium fee for employment-based petitions and appli-  
12 cations. The fee under this paragraph shall be used  
13 to provide certain premium-processing services to  
14 business customers and to make infrastructure im-  
15 provements in the adjudications and customer-serv-  
16 ice processes. For approval of the benefit applied  
17 for, the petitioner or applicant shall meet the legal  
18 criteria for such benefit. Except as provided under  
19 paragraph (2), the fee under this paragraph shall be  
20 set at \$1,000, shall be paid in addition to any nor-  
21 mal petition or application fee that may be applica-  
22 ble, and shall be deposited as offsetting collections in  
23 the Immigration Examinations Fee Account. The  
24 Secretary may adjust the fee under this paragraph

1 in proportion to changes in the Consumer Price  
2 Index.

3 “(2) IMMIGRANT INVESTOR PETITIONS AND AP-  
4 PPLICATIONS.—The Secretary shall establish and col-  
5 lect a premium fee for expeditious processing of ap-  
6 plications for regional center designation or regional  
7 center amendment under section 203(b)(5)(E), peti-  
8 tions under section 203(b)(5), petitions for removal  
9 of conditions on lawful permanent residence under  
10 section 216A(c), and applications under section  
11 203(b)(5)(F) related to investment in a regional cen-  
12 ter commercial enterprise. A petitioner or applicant  
13 shall be permitted an opportunity to provide addi-  
14 tional evidence identified by the Secretary in any  
15 such petition or application prior to a final deter-  
16 mination. The premium fee for each such application  
17 or petition shall be set at an amount sufficient to  
18 adjudicate such application or petition within  $\frac{1}{2}$  of  
19 the relevant period set forth in section 6(b) of the  
20 American Job Creation and Investment Promotion  
21 Reform Act of 2015, and shall otherwise only be  
22 used to recover the costs of such processing, includ-  
23 ing the hiring of additional adjudicatory staff, shall  
24 be paid in addition to any normal petition or appli-  
25 cation fee that may be applicable, and shall be de-



1       posited as offsetting collections in the Immigration  
2       Examinations Fee Account.”.

3               (2) ESTABLISHMENT OF EB-5 PREMIUM PROC-  
4       ESSING.—Not later than 180 days after the date of  
5       the enactment of this Act, the Secretary of Home-  
6       land Security shall establish the premium processing  
7       of immigrant investor petitions and applications, as  
8       described in section 286(u) of the Immigration and  
9       Nationality Act (8 U.S.C. 1356(u)).

10       (e) RULE OF CONSTRUCTION.—Nothing in this sec-  
11      tion may be construed to require any modification of fees  
12      before the completion of—

13               (1) the fee study described in subsection (a);  
14      and

15               (2) regulations promulgated by the Secretary of  
16      Homeland Security, in accordance with subchapter  
17      II of chapter 5 and chapter 7 of title 5, United  
18      States Code (commonly known as the “Administra-  
19      tive Procedures Act”), to carry out subsections (b)  
20      and (c).

21      **SEC. 7. TRANSPARENCY.**

22       (a) IN GENERAL.—Employees of the Department of  
23      Homeland Security, including the Secretary of Homeland  
24      Security, the Secretary’s counselors, the Assistant Sec-  
25      retary for the Private Sector, the Director of United

1 States Citizenship and Immigration Services, counselors  
2 to such Director, and the Chief of Immigrant Investor  
3 Programs at United States Citizenship and Immigration  
4 Services, shall act impartially and may not give pref-  
5 erential treatment to any entity, organization, or indi-  
6 vidual in connection with any aspect of the immigrant visa  
7 program described in section 203(b)(5) of the Immigra-  
8 tion and Nationality Act (8 U.S.C. 1153(b)(5)).

9 (b) IMPROPER ACTIVITIES.—Activities that con-  
10 stitute preferential treatment under subsection (a) shall  
11 include—

12 (1) working on, or in any way attempting to ex-  
13 pedite or otherwise influence, in a manner not avail-  
14 able to or accorded to all other petitioners, appli-  
15 cants, and seekers of benefits under the immigrant  
16 visa program described in section 203(b)(5) of the  
17 Immigration and Nationality Act (8 U.S.C.  
18 1153(b)(5)), the standard processing of an applica-  
19 tion, petition, or benefit for—

20 (A) a regional center;

21 (B) a new commercial enterprise;

22 (C) a job-creating entity; or

23 (D) any person or entity associated with  
24 such regional center, new commercial enter-  
25 prise, or job-creating entity; and

1           (2) meeting or communicating with persons as-  
2           sociated with the entities described in paragraph (1),  
3           at the request of such persons, in a manner not  
4           available to or accorded to all other petitioners, ap-  
5           plicants, and seekers of benefits under such immi-  
6           grant visa program.

7           (c) REPORTING OF COMMUNICATIONS.—

8           (1) WRITTEN COMMUNICATION.—Employees of  
9           the Department of Homeland Security, including the  
10          officials listed in subsection (a), shall include, in the  
11          record of proceeding for a case under section  
12          203(b)(5) of the Immigration and Nationality Act,  
13          actual or electronic copies of all case-specific written  
14          communication, including e-mails from government  
15          and private accounts, with non-Department persons  
16          or entities advocating for regional center applica-  
17          tions or individual petitions under such section that  
18          are pending on or after the date of the enactment  
19          of this Act (other than routine communications with  
20          other agencies of the Federal Government regarding  
21          the case, including communications involving back-  
22          ground checks and litigation defense).

23          (2) ORAL COMMUNICATION.—If substantive oral  
24          communication, including telephonic communication,  
25          virtual communication, and in-person meetings,

1 takes place between officials of the Department of  
2 Homeland Security and non-Department persons or  
3 entities advocating for regional center applications  
4 or individual petitions under section 203(b)(5) of the  
5 Immigration and Nationality Act that are pending  
6 on or after the date of the enactment of this Act  
7 (other than routine communications with other agen-  
8 cies of the Federal Government regarding the case,  
9 including communications involving background  
10 checks and litigation defense)—

11 (A) the conversation shall be recorded; or

12 (B) detailed minutes of the session shall be  
13 taken and included in the record of proceeding.

14 (3) NOTIFICATION.—

15 (A) IN GENERAL.—If the Secretary, in the  
16 course of written or oral communication de-  
17 scribed in this subsection, receives evidence  
18 about a specific case from anyone other than an  
19 affected party or his or her representative (ex-  
20 cluding Federal Government or law enforcement  
21 sources), such information may not be made  
22 part of the record of proceeding and may not  
23 be considered in adjudicative proceedings un-  
24 less—

1 (i) the affected party has been given  
2 notice of such evidence; and

3 (ii) if such evidence is derogatory, the  
4 affected party has been given an oppor-  
5 tunity to respond to the evidence.

6 (B) INFORMATION FROM LAW ENFORCE-  
7 MENT, INTELLIGENCE AGENCIES, OR CON-  
8 FIDENTIAL SOURCES.—

9 (i) LAW ENFORCEMENT OR INTEL-  
10 LIGENCE AGENCIES.—Evidence received  
11 from law enforcement or intelligence agen-  
12 cies may not be made part of the record of  
13 proceeding without the consent of the rel-  
14 evant agency or law enforcement entity.

15 (ii) WHISTLEBLOWERS, CONFIDEN-  
16 TIAL SOURCES, OR INTELLIGENCE AGEN-  
17 CIES.—Evidence received from whistle-  
18 blowers, other confidential sources, or the  
19 intelligence community that is included in  
20 the record of proceeding and considered in  
21 adjudicative proceedings shall be handled  
22 in a manner that does not reveal the iden-  
23 tity of the whistleblower or confidential  
24 source, or reveal classified information.

25 (d) CONSIDERATION OF EVIDENCE.—

1           (1) IN GENERAL.—No case-specific communica-  
2           tion with persons or entities that are not part of the  
3           Department of Homeland Security may be consid-  
4           ered in the adjudication of an application or petition  
5           under section 203(b)(5) of the Immigration and Na-  
6           tionality Act (8 U.S.C. 1153(b)(5)) unless the com-  
7           munication is included in the record of proceeding of  
8           the case.

9           (2) WAIVER.—The Secretary of Homeland Se-  
10          curity may waive the requirement under paragraph  
11          (1) only in the interests of national security or for  
12          investigative or law enforcement purposes.

13          (e) CHANNELS OF COMMUNICATION.—

14               (1) E-MAIL ADDRESS OR EQUIVALENT.—The  
15          Director of United States Citizenship and Immigra-  
16          tion Services shall maintain an e-mail account (or  
17          equivalent means of communication) for persons or  
18          entities—

19                       (A) with inquiries regarding specific peti-  
20                       tions or applications under the immigrant visa  
21                       program described in section 203(b)(5) of the  
22                       Immigration and Nationality Act (8 U.S.C.  
23                       1153(b)(5)); or

1 (B) seeking non-case-specific information  
2 about the immigrant visa program described in  
3 such section 203(b)(5).

4 (2) COMMUNICATION ONLY THROUGH APPRO-  
5 PRIATE CHANNELS OR OFFICES.—

6 (A) ANNOUNCEMENT OF APPROPRIATE  
7 CHANNELS OF COMMUNICATION.—Not later  
8 than 40 days after the date of the enactment of  
9 this Act, the Director of United States Citizen-  
10 ship and Immigration Services shall announce  
11 that the only channels or offices by which in-  
12 dustry stakeholders, petitioners, applicants, and  
13 seekers of benefits under the immigrant visa  
14 program described in section 203(b)(5) of the  
15 Immigration and Nationality Act (8 U.S.C.  
16 1153(b)(5)) may communicate with the Depart-  
17 ment of Homeland Security regarding specific  
18 cases under such section (except for commu-  
19 nication made by applicants and petitioners  
20 pursuant to regular adjudicatory procedures),  
21 or non-case-specific information about the visa  
22 program applicable to certain cases under such  
23 section, are through—

24 (i) the e-mail address or equivalent  
25 channel described in paragraph (1);

1 (ii) the United States Citizenship and  
2 Immigration Services National Customer  
3 Service Center, or any successor to that  
4 Center; or

5 (iii) the United States Citizenship and  
6 Immigration Services Office of Public En-  
7 gagement, Immigrant Investor Program  
8 Office, Stakeholder Engagement Branch,  
9 or any successors to those Offices or  
10 Branch.

11 (B) DIRECTION OF INCOMING COMMUNICA-  
12 TIONS.—

13 (i) IN GENERAL.—Employees of the  
14 Department of Homeland Security shall di-  
15 rect communications described in subpara-  
16 graph (A) to the channels of communica-  
17 tion or offices listed in subparagraph (A).

18 (ii) RULE OF CONSTRUCTION.—Noth-  
19 ing in this subparagraph may be construed  
20 to prevent—

21 (I) any person from commu-  
22 nicating with the Ombudsman of  
23 United States Citizenship and Immi-  
24 gration Services regarding the immi-  
25 grant investor program under section



1 203(b)(5) of the Immigration and Na-  
2 tionality Act (8 U.S.C. 1153(b)(5));  
3 or

4 (II) the Ombudsman from resolv-  
5 ing problems regarding such immi-  
6 grant investor program pursuant to  
7 the authority granted under section  
8 452 of the Homeland Security Act of  
9 2002 (6 U.S.C. 272).

10 (C) LOG.—

11 (i) IN GENERAL.—The Director of  
12 United States Citizenship and Immigration  
13 Services shall maintain a written or elec-  
14 tronic log of—

15 (I) all communications described  
16 in subparagraph (A) and communica-  
17 tions from members of Congress,  
18 which shall reference the date, time,  
19 and subject of the communication,  
20 and the identity of the Department of-  
21 ficial, if any, to whom the inquiry was  
22 forwarded;

23 (II) with respect to written com-  
24 munications described in subsection  
25 (c)(1), the date the communication

1 was received, the identities of the  
2 sender and addressee, and the subject  
3 of the communication; and

4 (III) with respect to oral commu-  
5 nications described in subsection  
6 (c)(2), the date on which the commu-  
7 nication occurred, the participants in  
8 the conversation or meeting, and the  
9 subject of the communication.

10 (ii) TRANSPARENCY.—The log of com-  
11 munications described in clause (i) shall be  
12 made publicly available in accordance with  
13 section 552 of title 5, United States Code  
14 (commonly known as the “Freedom of In-  
15 formation Act”).

16 (3) PUBLICATION OF INFORMATION.—If, as a  
17 result of a communication with an official of the De-  
18 partment of Homeland Security, a person or entity  
19 inquiring about a specific case or generally about the  
20 immigrant visa program described in section  
21 203(b)(5) of the Immigration and Nationality Act (8  
22 U.S.C. 1153(b)(5)) received generally applicable and  
23 non-case specific information about program require-  
24 ments or administration that has not been made  
25 publicly available by the Department, the Director of

1 United States Citizenship and Immigration Services,  
2 not later than 30 days after the communication of  
3 such information to such person or entity, shall pub-  
4 lish such information on the United States Citizen-  
5 ship and Immigration Services website as an update  
6 to the relevant Frequently Asked Questions page or  
7 by some other comparable mechanism.

8 (f) PENALTY.—

9 (1) IN GENERAL.—Any person who inten-  
10 tionally violates the prohibition on preferential treat-  
11 ment under this section or intentionally violates the  
12 reporting requirements under subsection (c) shall be  
13 disciplined in accordance with paragraph (2).

14 (2) SANCTIONS.—Not later than 90 days after  
15 the date of the enactment of this Act, the Secretary  
16 of Homeland Security shall establish a graduated set  
17 of sanctions based on the severity of the violation re-  
18 ferred to in paragraph (1), which may include, in  
19 addition to any criminal or civil penalties that may  
20 be imposed, written reprimand, suspension, demo-  
21 tion, or removal.

22 (g) RULE OF CONSTRUCTION.—Nothing in this sec-  
23 tion may be construed to modify any law, regulation, or  
24 policy regarding the handling or disclosure of classified in-  
25 formation.

- 1       (h) NO CREATION OF PRIVATE RIGHT OF ACTION.—  
2   Nothing in this section may be construed to create or au-  
3   thorize a private right of action to challenge a decision  
4   of an employee of the Department of Homeland Security.
- 5       (i) EFFECTIVE DATE.—The amendments made by  
6   this section shall take effect on the date of the enactment  
7   of this Act.