

**Prepared Statement by Senator Chuck Grassley of Iowa
Chairman, Senate Judiciary Committee
Hearing on the Failures and Future of the EB-5
Regional Center Program: Can it be Fixed?
February 2, 2016**

In 1990, Congress created an employment preference category known as EB-5 which was “intended to create new employment for U.S. workers and to infuse new capital into the country, not to provide immigrant visas to wealthy individuals.”¹ Two years later, Congress revised the EB-5 category by establishing a pilot program allowing investors to use regional centers to pool their investments. This “pilot” program still exists, nearly 25 years later, but it’s deeply flawed, lacks adequate oversight, and has veered far away from congressional intent. The program is in need of a major overhaul if it is going to be reauthorized at the end of this fiscal year.

Yet despite the need for reform, the fiscal year 2016 omnibus appropriations bill included a straight and clean extension of the program. This was a disappointment given the alarm bells and [whistleblower allegations](#). It was a missed opportunity. So, we will have to make a decision --- should the program be fixed or should it be nixed?

It is widely acknowledged that the EB-5 program is riddled with flaws and corruption. Maybe it is only here on Capitol Hill—on this island surrounded by reality—that we can choose to plug our ears and refuse to listen to commonly accepted facts. The Government Accountability Office, the media, industry experts, members of congress, and federal agency officials, have concurred that the program is a serious problem with serious vulnerabilities. Allow me to mention a few of the flaws.

- *Investments can be spent before business plans are approved.*
- *Regional Center operators can charge exorbitant fees of foreign nationals in addition to their required investments.*
- *Jobs created are not “direct” or verifiable jobs but rather are “indirect” and based on estimates and economic modeling.*
- *Jobs created by U.S. investors are counted by the foreign national when obtaining a green card, even if EB-5 money is only a fraction of the total invested.*
- *Investment funds are not adequately vetted.*
- *Gifts and loans are acceptable sources of funds from foreign nationals.*
- *The investment level has been stagnant for nearly 25 years.*
- *There’s no prohibition against foreign governments owning or operating regional centers or projects.*
- *Regional centers can be rented or sold without government oversight or approval.*
- *Regional centers don’t have to certify that they comply with securities laws.*
- *There’s no oversight of promoters who work overseas for the regional centers.*
- *There’s no set of sanctions for violations, no recourse for bad actors.*
- *There are no required background checks on anyone associated with a regional center.*

¹ Report to accompany S. 358, the Immigration Act of 1989, page21 (Report 101-55).

- *Regional centers draw Targeted Employment Area boundaries around poor areas in order to come in at a lower investment level, yet the jobs created are not actually created in those areas.*
- *Every Targeted Employment Area designation is rubberstamped by the agency.*
- *Adjudicators are pressured to get to a yes, especially for those politically connected.*
- *Visas are not properly scrutinized.*
- *Visas are pushed through despite security warnings.*
- *Files and applications lack basic and necessary information to monitor compliance.*
- *The agency does not do site visits for each and every project.*
- *There's no transparency on how funds are spent, who is paid, and what investors are told about the projects they invest in.*

There are also classified reports that detail the national security, fraud and abuse. Our committee has received numerous briefings and classified documents to show this side of the story.

The enforcement arm of the Department of Homeland Security wrote an internal memo that raises significant concerns about the program. One section of the memo outlines concerns that it could be used by Iranian operatives to infiltrate the United States. The memo identifies seven main areas of program vulnerability, including the export of sensitive technology, economic espionage, use by foreign government agents and terrorists, investment fraud, illicit finance and money laundering.

An interagency working group was organized by the National Security Staff because of the serious concerns. This group's draft memo said, "The capital raising activities inherent in the regional center model raise concerns about investor fraud and other conduct that may violate US securities laws."

The Securities and Exchange Commission has brought at least 10 suits against regional centers and operators. U.S. investors and foreign nationals are being duped and left high and dry. We'll hear from the head of the Commission's enforcement branch about what they are seeing in the market.

Then there's the fact that most of the visas are going to urban and affluent areas at a discounted rate when Congress specifically intended to steer some visas to rural and high unemployment areas. Census tracts are stitched together to incorporate remote public housing developments so that high rises, hotels, casinos and resorts can attract investors for less than the statutory \$1 million requirement.

How many more intelligence reports are needed to understand the problems? How many more whistleblowers are going to be demoted for speaking the truth? How many more projects in mid-town Manhattan at the expense of rural America need to be highlighted? How many more headlines are needed before the program is fixed?

Some say we should do away with the program. Some say it needs to be reformed. Some like the status quo. But, it's time for things to change.

Today, we'll hear from the Department of Homeland Security about the enhancements they have made and the improvements that are being considered. Nearly four years ago, I sent a letter to Director of U.S. Citizenship and Immigration Services Mayorkas about the problems in the program. Mayorkas, who is now number 2 at the Department, said he was considering regulatory changes to address concerns. Yet, the department has not done anything to resolve the problems. I am hopeful that the agency will take immediate and appropriate steps within their authority to turn this program around.

Grassley and Ranking Member Patrick Leahy authored [a bipartisan reform-minded EB-5 reauthorization](#) in 2015, which would have improved accountability, addressed fraud and national security vulnerabilities, and returned the program to its original intent. Unfortunately, Congress opted to ignore the well-documented concerns and [reauthorize the current program](#) without any reforms.