

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To permanently authorize and improve the EB-5 Visa Program.

**IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.**

**S. 744**

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. LEAHY

Viz:

- 1           On page 372, strike lines 13 through 17.
- 2           On page 867, after line 15, add the following:
- 3   **SEC. 4804. PERMANENT AUTHORIZATION OF EB-5 RE-**  
4                   **GIONAL CENTER PROGRAM.**
- 5           (a) REPEAL.—Section 610 of the Departments of  
6 Commerce, Justice, and State, the Judiciary, and Related  
7 Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note)  
8 is repealed.
- 9           (b) AUTHORIZATION.—Section 203(b)(5) (8 U.S.C.  
10 1153(b)(5)) is amended by adding at the end the fol-  
11 lowing:

1 “(E) REGIONAL CENTER PROGRAM.—

2 “(i) IN GENERAL.—Visas under this  
3 paragraph shall be made available to quali-  
4 fied immigrants participating in a program  
5 implementing this paragraph that involves  
6 a regional center in the United States,  
7 which has been designated by the Sec-  
8 retary of Homeland Security, in consulta-  
9 tion with the Secretary of Commerce, on  
10 the basis of a general proposal for the pro-  
11 motion of economic growth, including—

12 “(I) increased export sales;

13 “(II) improved regional produc-  
14 tivity;

15 “(III) job creation; or

16 “(IV) increased domestic capital  
17 investment.

18 “(ii) ESTABLISHMENT OF A REGIONAL  
19 CENTER.—A regional center shall have ju-  
20 risdiction over a defined geographic area,  
21 which shall be described in the proposal  
22 and consistent with the purpose of concen-  
23 trating pooled investment in defined eco-  
24 nomic zones. The establishment of a re-  
25 gional center may be based on general pre-

1 ditions, contained in the proposal, con-  
2 cerning—

3 “(I) the kinds of commercial en-  
4 terprises that will receive investments  
5 from aliens;

6 “(II) the jobs that will be created  
7 directly or indirectly as a result of  
8 such investments; and

9 “(III) other positive economic ef-  
10 fects such investments will have.

11 “(iii) COMPLIANCE.—In determining  
12 compliance with subparagraph (A)(ii), the  
13 Secretary of Homeland Security shall per-  
14 mit aliens admitted under the program de-  
15 scribed in this subparagraph to establish  
16 reasonable methodologies for determining  
17 the number of jobs created by the pro-  
18 gram, including jobs estimated to have  
19 been created indirectly through—

20 “(I) revenues generated from in-  
21 creased exports, improved regional  
22 productivity, job creation; or

23 “(II) increased domestic capital  
24 investment resulting from the pro-  
25 gram, including jobs created outside

1 of the geographic boundary of the re-  
2 gional center as a result of the immi-  
3 grant's investment in regional center-  
4 affiliated commercial enterprises.

5 “(iv) INDIRECT JOB CREATION.—The  
6 Secretary shall permit immigrants admit-  
7 ted under this paragraph to satisfy the re-  
8 quirements under subparagraph (A)(ii)  
9 with jobs that are estimated to be created  
10 indirectly through investment under this  
11 paragraph in accordance with this sub-  
12 paragraph.

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

15 “(i) PETITION.—Before filing a peti-  
16 tion under this subparagraph by an alien  
17 investor, a commercial enterprise affiliated  
18 with a regional center may file a petition  
19 with the Secretary of Homeland Security  
20 to preapprove a particular investment in  
21 the commercial enterprise, as provided  
22 in—

23 “(I) a business plan for a specific  
24 capital investment project;

1 “(II) investment documents, such  
2 as subscription, investment, partner-  
3 ship, and operating agreements; and

4 “(III) a credible economic anal-  
5 ysis regarding estimated job creation  
6 that is based upon reasonable meth-  
7 odologies.

8 “(ii) PREAPPROVAL PROCEDURE.—

9 The Secretary shall establish a process to  
10 facilitate the preapproval of business plans  
11 under this subparagraph related to invest-  
12 ment in a regional center commercial en-  
13 terprise, which shall include an opportunity  
14 for the applicant to address and cure any  
15 deficiencies identified by the Secretary in  
16 the applicant’s business plan, investment  
17 documents, or statement regarding job cre-  
18 ation prior to a final determination. The  
19 Secretary shall impose a fee for the use of  
20 the process described in this clause suffi-  
21 cient to recover the costs of its administra-  
22 tion.

23 “(iii) EFFECT OF PREAPPROVAL OF  
24 BUSINESS PLAN FOR INVESTMENT IN RE-  
25 GIONAL CENTER COMMERCIAL ENTER-

1           PRISE.—The preapproval of a petition  
2           under this subparagraph shall be binding  
3           for purposes of the adjudication of peti-  
4           tions filed under this subparagraph by im-  
5           migrants investing in the commercial en-  
6           terprise unless the Secretary determines  
7           that there is evidence of fraud, misrepre-  
8           sentation, criminal misuse, a threat to na-  
9           tional security, or other evidence affecting  
10          program eligibility that was not disclosed  
11          by the petitioner during the preapproval  
12          process.

13               “(iv) EXPEDITED PROCESSING OPTION  
14           FOR ALIEN INVESTOR PETITIONS AFFILI-  
15           ATED WITH PREAPPROVED BUSINESS  
16           PLANS.—The Secretary may establish a  
17           premium processing option for alien inves-  
18           tors who are investing in a commercial en-  
19           terprise that has received preapproval  
20           under this subparagraph and may impose  
21           a fee for the use of that option sufficient  
22           to recover all costs of the option.

23               “(v) CONSIDERATION OF CRIMINAL  
24           ACTIVITY IN ESTABLISHING ELIGIBILITY  
25           CRITERIA.—The Secretary shall consider

1 the potential for fraud, misrepresentation,  
2 criminal misuse, and threats to national  
3 security in establishing eligibility criteria  
4 for any program the Secretary may estab-  
5 lish under this subparagraph.

6 “(G) REGIONAL CENTER FINANCIAL  
7 STATEMENTS.—

8 “(i) IN GENERAL.—Each regional cen-  
9 ter designated under subparagraph (E)  
10 shall annually submit, to the Director of  
11 U.S. Citizenship and Immigration Services  
12 (referred to in this subparagraph as the  
13 ‘Director’), in a manner prescribed by the  
14 Secretary of Homeland Security, financial  
15 statements, including—

16 “(I) an accounting of all foreign  
17 investor money invested through the  
18 regional center; and

19 “(II) for each capital investment  
20 project—

21 “(aa) an accounting of the  
22 aggregate capital invested  
23 through the regional center or af-  
24 filiated commercial enterprises by

1 immigrants under this para-  
2 graph;

3 “(bb) a description of how  
4 such funds are being used to exe-  
5 cute the approved business plan;

6 “(cc) evidence that 100 per-  
7 cent of such investor funds have  
8 been dedicated to the project;

9 “(dd) detailed evidence of  
10 the progress made toward the  
11 completion of the project;

12 “(ee) an accounting of the  
13 aggregate direct and indirect jobs  
14 created or preserved; and

15 “(ff) a certification by the  
16 regional center that such state-  
17 ments are accurate.

18 “(ii) AMENDMENT OF FINANCIAL  
19 STATEMENTS.—If the Director determines  
20 that a financial statement required under  
21 clause (i) is deficient, the Director may re-  
22 quire the regional center to amend or sup-  
23 plement such financial statement.

24 “(iii) SANCTIONS.—



1                   “(I) EFFECT OF VIOLATION.—If  
2                   the Director determines, after review-  
3                   ing the financial statements submitted  
4                   under clause (i), that a regional cen-  
5                   ter, director, or other individual in-  
6                   volved with a regional center (other  
7                   than an alien investor) has violated  
8                   any requirement under clause (i) or  
9                   that the regional center is conducting  
10                  itself in a manner inconsistent with its  
11                  designation, the Director may sanc-  
12                  tion the violating entity or individual  
13                  under subclause (II).

14                  “(II) AUTHORIZED SANCTIONS.—  
15                  The Director shall establish a grad-  
16                  uated set of sanctions for violations  
17                  referred to in subclause (I), includ-  
18                  ing—

19                         “(aa) fines equal to not  
20                         more than 5 percent of the total  
21                         capital invested by immigrant in-  
22                         vestors in the commercial enter-  
23                         prise’s approved business plan;  
24                         and

1                   “(bb) temporary suspension  
2                   from participation in the pro-  
3                   gram described in subparagraph  
4                   (E), which may be lifted by the  
5                   Director if the individual or enti-  
6                   ty cures the alleged violation  
7                   after provided such an oppor-  
8                   tunity by the Director;

9                   “(cc) permanent bar from  
10                  program participation for 1 or  
11                  more individuals affiliated with  
12                  the regional center; and

13                  “(dd) termination of re-  
14                  gional center status.

15                  “(H) BONA FIDES OF PERSONS INVOLVED  
16                  IN REGIONAL CENTERS.—

17                  “(i) IN GENERAL.—No person shall be  
18                  permitted by any regional center to be in-  
19                  volved with the regional center as its prin-  
20                  cipal, representative, administrator, owner,  
21                  officer, board member, manager, executive,  
22                  general partner, fiduciary, marketer, pro-  
23                  moter, or other similar position of sub-  
24                  stantive authority for the operations, man-  
25                  agement or promotion of the regional cen-

1                   ter if the Secretary of Homeland Secu-  
2                   rity—

3                   “(I) determines such person has  
4                   been found liable within the previous  
5                   5 years for any criminal or civil viola-  
6                   tion of any law relating to fraud or  
7                   deceit, or at any time if such violation  
8                   involved a criminal conviction with a  
9                   term of imprisonment of at least 1  
10                  year or a criminal or civil violation of  
11                  any law or agency regulation in con-  
12                  nection with the purchase or sale of a  
13                  security; or

14                  “(II) knows or has reasonable  
15                  cause to believe that the person is en-  
16                  gaged in, has ever been engaged in, or  
17                  seeks to engage in any—

18                         “(aa) illicit trafficking in  
19                         any controlled substance;

20                         “(bb) activity relating to es-  
21                         pionage or sabotage;

22                         “(cc) activity related to  
23                         money laundering (as described  
24                         in section 1956 or 1957 of title  
25                         18, United States Code);

1 “(dd) terrorist activity (as  
2 defined in clauses (iii) and (iv) of  
3 section 212(a)(3)(B));

4 “(ee) human trafficking or  
5 human rights offense; or

6 “(ff) violation of any stat-  
7 ute, regulation, or Executive  
8 Order regarding foreign financial  
9 transactions or foreign asset con-  
10 trol.

11 “(ii) INFORMATION REQUIRED.—The  
12 Secretary shall require such attestations  
13 and information, including, the submission  
14 of fingerprints to the Federal Bureau of  
15 Investigation, and shall perform such  
16 criminal record checks and other back-  
17 ground checks with respect to a regional  
18 center, and persons involved in a regional  
19 center as described in clause (i), as the  
20 Secretary considers appropriate to deter-  
21 mine whether the regional center is in com-  
22 pliance with clause (i). The Secretary may  
23 require the information and attestations  
24 described in this clause from such regional  
25 center, and any person involved in the re-

1 regional center, at any time on or after the  
2 date of the enactment of the Border Secu-  
3 rity, Economic Opportunity, and Immigra-  
4 tion Modernization Act.

5 “(iii) TERMINATION.—The Secretary  
6 is authorized, in his or her unreviewable  
7 discretion, to terminate any regional center  
8 from the program under this paragraph if  
9 he or she determines that—

10 “(I) the regional center is in vio-  
11 lation of clause (i);

12 “(II) the regional center or any  
13 person involved with the regional cen-  
14 ter has provided any false attestation  
15 or information under clause (ii);

16 “(III) the regional center or any  
17 person involved with the regional cen-  
18 ter fails to provide an attestation or  
19 information requested by the Sec-  
20 retary under clause (ii); or

21 “(IV) the regional center or any  
22 person involved with the regional cen-  
23 ter is engaged in fraud, misrepresen-  
24 tation, criminal misuse, or threats to  
25 national security.

1                   “(I)   REGIONAL   CENTER   COMPLIANCE  
2                   WITH SECURITIES LAWS.—

3                   “(i) CERTIFICATION REQUIRED.—The  
4                   Secretary of Homeland Security shall not  
5                   approve an application for regional center  
6                   designation or regional center amendment  
7                   that does not certify that the regional cen-  
8                   ter and, to the best knowledge of the appli-  
9                   cant, all parties to the regional center are  
10                  in, and will maintain, compliance with the  
11                  securities laws of the United States.

12                  “(ii)   TERMINATION   OR   SUSPEN-  
13                  SION.—The Secretary shall terminate the  
14                  designation of any regional center that  
15                  does not provide the certification described  
16                  in subclause (i) on an annual basis. In ad-  
17                  dition to any other authority provided to  
18                  the Secretary regarding the regional center  
19                  program described in subparagraph (E),  
20                  the Secretary may, in his or her  
21                  unreviewable discretion, suspend or termi-  
22                  nate the designation of any regional center  
23                  if he or she determines that the regional  
24                  center or any party to the regional cen-  
25                  ter—

1           “(I) is permanently or tempo-  
2           rarily enjoined by order, judgment, or  
3           decree of any court of competent ju-  
4           risdiction in connection with the pur-  
5           chase or sale of a security;

6           “(II) is subject to any final order  
7           of the Securities and Exchange Com-  
8           mission that—

9                   “(aa) bars such person from  
10                  association with an entity regu-  
11                  lated by the Securities and Ex-  
12                  change Commission; or

13                   “(bb) constitutes a final  
14                  order based on violations in con-  
15                  nection with the purchase or sale  
16                  of a security; or

17           “(III) knowingly submitted or  
18           caused to be submitted a certification  
19           described in clause (i) that contained  
20           an untrue statement of a material fact  
21           or omitted to state a material fact  
22           necessary in order to make the state-  
23           ments made, in the light of the cir-  
24           cumstances under which they were  
25           made, not misleading.

1                   “(iii) SAVINGS PROVISION.—Nothing  
2                   in this subparagraph may be construed to  
3                   impair or limit the authority of the Securi-  
4                   ties and Exchange Commission under the  
5                   Federal securities laws.

6                   “(iv) DEFINED TERM.—For the pur-  
7                   pose of this subparagraph, the term ‘party  
8                   to the regional center’ shall include the re-  
9                   gional center, its agents, employees, and  
10                  attorneys, and any persons in active con-  
11                  cert or participation with the regional cen-  
12                  ter.

13                  “(J) DENIAL OR REVOCATION.—If the Sec-  
14                  retary of Homeland Security determines, in his  
15                  or her unreviewable discretion, that the ap-  
16                  proval of a petition, application, or benefit de-  
17                  scribed in this subparagraph is contrary to the  
18                  national interest of the United States for rea-  
19                  sons relating to fraud, misrepresentation, crimi-  
20                  nal misuse, or threats to national security, the  
21                  Secretary may deny or revoke the approval of—

22                         “(i) a petition seeking classification of  
23                         an alien as an alien investor under this  
24                         paragraph;



1                   “(ii) a petition to remove conditions  
2                   under section 216A before granting lawful  
3                   permanent resident status or any other pe-  
4                   tition, application, or benefit based upon  
5                   the previous or concurrent filing or ap-  
6                   proval of a petition for classification of an  
7                   alien under this paragraph; or  
8                   “(iii) an application for designation as  
9                   a regional center.”.

10       (c) ASSISTANCE BY SECRETARY OF COMMERCE.—

11               (1) IN GENERAL.—The Secretary of Commerce,  
12       upon the request of the Secretary, shall provide con-  
13       sultation assistance for determining whether—

14               (A) a proposed regional center should be  
15       designated, terminated, or subject to other ad-  
16       judicative action; and

17               (B) whether a petitioner or applicant for a  
18       benefit under section 203(b)(5) of the Immigra-  
19       tion and Nationality Act, as amended by sub-  
20       section (b), has met the requirements under  
21       such paragraph with respect to job creation.

22               (2) RULEMAKING.—The Secretary and the Sec-  
23       retary of Commerce may each adopt such rules and  
24       regulations as are necessary to carry out the con-  
25       sultation process provided for in paragraph (1).

1           (3) SAVINGS PROVISION.—Nothing in this sub-  
2           section shall be construed to require consultation  
3           with the Secretary of Commerce to continue the des-  
4           ignation of a regional center approved before the  
5           date of the enactment of this Act.

6           (d) EFFECTIVE DATE.—The amendments made by  
7           this section—

8                 (1) shall be effective upon enactment of this  
9           Act; and

10                (2) shall apply to—

11                    (A) any application to designate a regional  
12                   center, and any person involved with the re-  
13                   gional center, that is pending or approved on or  
14                   after the date of the enactment of this Act; and

15                    (B) any regional center approved before  
16                   the date of enactment of this Act, on or after  
17                   a delayed effective date that is 1 year after  
18                   such date of enactment with respect to any per-  
19                   son involved in the regional center on or after  
20                   such delayed effective date.

21 **SEC. 4805. CONDITIONAL PERMANENT RESIDENT STATUS**  
22 **FOR EMPLOYMENT-BASED IMMIGRANTS,**  
23 **SPOUSES, AND CHILDREN.**

24           (a) IN GENERAL.—Section 216A (8 U.S.C. 1186b)  
25           is amended—

1           (1) in the section heading, by striking “ALIEN  
2       ENTREPRENEURS” and inserting “EMPLOYMENT-  
3       BASED IMMIGRANTS”;

4           (2) by striking “alien entrepreneur” each place  
5       such term appears and inserting “employment-based  
6       immigrant”;

7           (3) by striking “such an entrepreneur” each  
8       place such term appears and inserting “such an im-  
9       migrant”;

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

13          (5) in subsection (b)(1), by amending subpara-  
14       graph (C) to read as follows:

15               “(C) subject to the exception in subsection  
16       (d)(4), the alien was otherwise not conforming  
17       to the requirements under section 203(b)(5)”.

18          (6) in subsection (c)(1)—

19               (A) by redesignating subparagraphs (A)  
20       and (B) as clauses (i) and (ii), respectively;

21               (B) by striking “In order” and inserting  
22       the following:

23               “(A) PETITION AND INTERVIEW.—Except  
24       as provided in paragraph (3)(D), in order”;

1 (C) in subparagraph (A)(ii), as redesign-  
2 nated, by striking “Service” and inserting “De-  
3 partment of Homeland Security”; and

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

5 “(B) SEPARATE PETITION NOT RE-  
6 QUIRED.—An alien spouse or alien child shall  
7 not be required to file separate petitions under  
8 subparagraph (A)(i) if the employment-based  
9 immigrant’s petition includes such alien spouse  
10 or alien child.

11 “(C) EFFECT ON SPOUSE OR CHILD.—If  
12 the alien spouse or alien child obtains perma-  
13 nent residence on a conditional basis after the  
14 employment-based immigrant files a petition  
15 under subparagraph (A)(i)—

16 “(i) the conditional basis of the per-  
17 manent residence of the alien spouse or  
18 alien child shall be removed upon approval  
19 of the employment-based immigrant’s peti-  
20 tion under this subsection;

21 “(ii) the permanent residence of the  
22 alien spouse or alien child shall be uncon-  
23 ditional if—

24 “(I) the employment-based immi-  
25 grant’s petition is approved before the

1 date on which the spouse or child ob-  
2 tains permanent residence; or

3 “(II) the employment-based im-  
4 migrant dies after the approval of a  
5 petition under section 203(b)(5); and

6 “(iii) the alien child shall not be  
7 deemed ineligible for approval under sec-  
8 tion 203(b)(5) or removal of conditions  
9 under this section if the alien child reaches  
10 21 years of age during—

11 “(I) the pendency of the employ-  
12 ment-based immigrant’s petition  
13 under section 203(b)(5); or

14 “(II) conditional residency under  
15 such section.

16 “(D) ADDITIONAL FEE.—Notwithstanding  
17 any other provision under this section, the Sec-  
18 retary may require the employment-based immi-  
19 grant to pay an additional fee for a petition  
20 filed under subparagraph (A)(i) that includes  
21 the alien’s spouse and child or children.”;

22 (7) in subsection (c)(3)(A), striking “the” be-  
23 fore “such filing”;

24 (8) in subsection (d)—

1 (A) in paragraph (1), by amending sub-  
2 paragraph (B) to read as follows:

3 “(B) except as provided in paragraph (4),  
4 is otherwise conforming to the requirements  
5 under section 203(b)(5).”;

6 (B) in paragraph (3), by striking “Service”  
7 and inserting “Department of Homeland Secu-  
8 rity”; and

9 (C) by adding at the end the following:

10 “(4) SPECIAL RULE FOR ALIEN INVESTORS IN  
11 A REGIONAL CENTER.—Each petition under sub-  
12 section (c)(1)(A) filed by an alien investor who in-  
13 vests in accordance with section 203(b)(5)(E) shall  
14 contain facts and information demonstrating that  
15 the alien is complying with the requirements under  
16 section 203(b)(5), except—

17 “(A) the alien shall not be subject to the  
18 requirements under section 203(b)(5)(A)(ii);  
19 and

20 “(B) the petition shall contain the most re-  
21 cent financial statement filed by the regional  
22 center in which the alien has invested in accord-  
23 ance with section 203(b)(5)(G)”;

24 (9) by redesignating subsection (f) as sub-  
25 section (g); and

(10) by inserting after subsection (e) the following:

3           “(f) FRAUD, MISREPRESENTATION, CRIMINAL MIS-  
4 USE, OR THREATS TO THE PUBLIC SAFETY OR NATIONAL  
5 SECURITY.—If the Secretary of Homeland Security deter-  
6 mines, in his or her sole and unreviewable discretion, that  
7 the conditional permanent resident status granted to an  
8 employment-based immigrant under subsection (a) is con-  
9 trary to the national interest of the United States for rea-  
10 sons relating to fraud, misrepresentation, criminal misuse,  
11 or threats to national security, the Secretary shall—

12                   “(1) notify the immigrant involved of such de-  
13           termination; and

14 “(2) terminate the permanent resident status of  
15 the immigrant involved as of the date of such deter-  
16 mination.”.

(b) CLERICAL AMENDMENT.—The table of contents is amended by striking the item relating to section 216A and inserting the following:

“Sec. 216A. Conditional permanent resident status for certain employment-based immigrants, spouses, and children.”.

## 20 SEC. 4806. EB-5 VISA REFORMS.

(a) ALIENS NOT SUBJECT TO DIRECT NUMERICAL  
LIMITATION.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)),  
as amended by sections 2103(c)(2), 2212(d)(2), 2307(b),

1 and 2402, is further amended by adding at the end the  
2 following:

3 “(P) Aliens who are the spouse or a child of an  
4 alien admitted as an employment-based immigrant  
5 under section 203(b)(5).”.

6 (b) TECHNICAL AMENDMENT.—Section 203(b)(5), as  
7 amended by this Act, is further amended by striking “At-  
8 torney General” each place it appears and inserting “Sec-  
9 retary of Homeland Security”.

10 (c) TARGETED EMPLOYMENT AREAS.—

11 (1) IN GENERAL.—Section 203(b)(5)(B) (8  
12 U.S.C. 1153(b)(5)(B)) is amended to read as fol-  
13 lows:

14 “(B) SET-ASIDE FOR TARGETED EMPLOY-  
15 MENT AREAS.—

16 “(i) IN GENERAL.—Not fewer than  
17 5,000 of the visas made available under  
18 this paragraph in each fiscal year shall be  
19 reserved for qualified immigrants who in-  
20 vest in a new commercial enterprise de-  
21 scribed in subparagraph (A), which—

22 “(I) is investing such capital in a  
23 targeted employment area; and

24 “(II) will create employment in  
25 such targeted employment area.



1                   “(ii) DURATION OF HIGH UNEMPLOY-  
2                   MENT AND POVERTY AREA DESIGNA-  
3                   TION.—A designation of a high unemploy-  
4                   ment or poverty area as a targeted employ-  
5                   ment area shall be valid for 5 years and  
6                   may be renewed for additional 5-year peri-  
7                   ods if the area continues to meet the defi-  
8                   nition of a high unemployment or poverty  
9                   area. An investor who has made the re-  
10                  quired amount of investment in such a tar-  
11                  geted employment area during its period of  
12                  designation shall not be required to in-  
13                  crease the amount of investment based  
14                  upon expiration of the designation.”.

15           (d) ADJUSTMENT OF MINIMUM EB–5 INVESTMENT  
16 AMOUNT.—Section 203(b)(5)(C)(i) (8 U.S.C.  
17 1153(b)(5)(C)(i)) is amended—

18                   (1) by striking “The Attorney General” and in-  
19                   serting “The Secretary of Commerce”;

20                   (2) by striking “Secretary of State” and insert-  
21                   ing “Secretary of Homeland Security”; and

22                   (3) by adding at the end the following: “Unless  
23                   adjusted by the Secretary of Commerce, the amount  
24                   specified in this clause shall automatically adjust, on  
25                   January 1, 2016, by the percentage change in the

1       Consumer Price Index (CPI-U) during fiscal year  
2       2015, and on every fifth subsequent January 1 by  
3       the cumulative percentage change in the CPI-U dur-  
4       ing the previous five fiscal years, for any petition  
5       filed to classify an alien under this paragraph on or  
6       after the date of each automatic adjustment.”.

7       (e) DEFINITIONS.—

8               (1) IN GENERAL.—Section 203(b)(5) (8 U.S.C.  
9       1153(b)(5)), as amended by subsections (b) and (c)  
10      and section 4804, is further amended—

11               (A) by striking subparagraph (D) and in-  
12      serting following:

13               “(D) CALCULATION OF FULL-TIME EM-  
14      PLOYMENT.—Job creation under this paragraph  
15      may consist of employment measured in full-  
16      time equivalents, such as intermittent or sea-  
17      sonal employment opportunities and construc-  
18      tion jobs. A full-time employment position is  
19      not a requirement for indirect job creation.”;  
20      and

21               (B) by adding at the end the following:

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

23               “(i) The term ‘capital’ means all real,  
24      personal, or mixed assets, whether tangible  
25      or intangible, owned or controlled by the

1 investor, or held in trust for the benefit of  
2 the investor, to which the investor has un-  
3 restricted access, which shall be valued at  
4 fair market value in United States dollars,  
5 in accordance with Generally Accepted Ac-  
6 counting Principles, at the time it is in-  
7 vested under this paragraph.

8 “(ii) The term ‘full-time employment’  
9 means employment in a position that re-  
10 quires at least 35 hours of service per  
11 week, regardless of how many employees  
12 fill the position.

13 “(iii) The term ‘high unemployment  
14 and poverty area’ means—

15 “(I) an area consisting of a cen-  
16 sus tract or contiguous census tracts  
17 that has an unemployment rate that  
18 is at least 150 percent of the national  
19 average unemployment rate and in-  
20 cludes at least one census tract with  
21 20 percent of its residents living below  
22 the poverty level as determined by the  
23 Bureau of the Census; or

24 “(II) an area that is within the  
25 boundaries established for purposes of

1 a Federal or State economic develop-  
2 ment incentive program, including  
3 areas defined as Enterprise Zones,  
4 Renewal Communities, Promise  
5 Zones, and Empowerment Zones.

6 “(iv) The term ‘rural area’ means—

7 “(I) any area other than an area  
8 within a metropolitan statistical area  
9 or within the outer boundary of any  
10 city or town having a population of  
11 20,000 or more (based on the most  
12 recent decennial census of the United  
13 States); or

14 “(II) any city or town having a  
15 population of fewer than 20,000  
16 (based on the most recent decennial  
17 census of the United States) that is  
18 located within a State having a popu-  
19 lation of fewer than 1,500,000 (based  
20 on the most recent decennial census of  
21 the United States).

22 “(v) The term ‘targeted employment  
23 area’ means a rural area or a high unem-  
24 ployment and poverty area.”.

1           (2) EFFECTIVE DATE.—The amendment made  
2       by paragraph (1) shall apply to any application for  
3       a visa under section 203(b)(5) of the Immigration  
4       and Nationality Act that is filed on or after the date  
5       that is 1 year after the date of the enactment of this  
6       Act.

7       (f) AGE DETERMINATION FOR CHILDREN OF ALIEN  
8       INVESTORS.—Section 203(h) (8 U.S.C. 1153(h)) is  
9       amended by adding at the end the following:

10           “(5) AGE DETERMINATION FOR CHILDREN OF  
11       ALIEN INVESTORS.—An alien admitted under sub-  
12       section (d) as a lawful permanent resident on a con-  
13       ditional basis as the child of an alien lawfully admit-  
14       ted for permanent residence under subsection (b)(5),  
15       whose lawful permanent resident status on a condi-  
16       tional basis is terminated under section 216A, shall  
17       continue to be considered a child of the principal  
18       alien for the purpose of a subsequent immigrant pe-  
19       tition by such alien under subsection (b)(5) if the  
20       alien remains unmarried and the subsequent petition  
21       is filed by the principal alien not later than 1 year  
22       after the termination of conditional lawful perma-  
23       nent resident status. No alien shall be considered a  
24       child under this paragraph with respect to more

1       than 1 petition filed after the alien's 21st birth-  
2       day.''.  
3

4       (g) ENHANCED PAY SCALE FOR CERTAIN FEDERAL  
5       EMPLOYEES ADMINISTERING THE EB-5 PROGRAM.—The  
6       Secretary may establish, fix the compensation of, and ap-  
7       point individuals to, designated critical administrative,  
8       technical, and professional positions needed to administer  
9       sections 203(b)(5) and 216A of the Immigration and Na-  
10      tionality Act (8 U.S.C. 1153(b)(5) and 1186b).

11      (h) DELEGATION OF CERTAIN EB-5 AUTHORITY.—

12          (1) IN GENERAL.—The Secretary of Homeland  
13      Security may delegate to the Secretary of Commerce  
14      authority and responsibility for determinations  
15      under sections 203(b)(5) and 216A (with respect to  
16      alien entrepreneurs) of the Immigration and Nation-  
17      ality Act (8 U.S.C. 1153(b)(5) and 1186a), includ-  
18      ing determining whether an alien has met employ-  
19      ment creation requirements.

20          (2) REGULATIONS.—The Secretary of Home-  
21      land Security and the Secretary of Commerce may  
22      each adopt such rules and regulations as are nec-  
23      essary to carry out the delegation authorized under  
24      paragraph (1), including regulations governing the  
25      eligibility criteria for obtaining benefits pursuant to  
26      the amendments made by this section.

1           (3) USE OF FEES.—Adjudication fees described  
2           in section 286(m) of the Immigration and Nation-  
3           ality Act (8 U.S.C. 1356(m)) shall remain available  
4           until expended to reimburse the Secretary of Com-  
5           merce for the costs of any determinations made by  
6           the Secretary of Commerce under paragraph (1).

7           (i) CONCURRENT FILING OF EB-5 PETITIONS AND  
8           APPLICATIONS FOR ADJUSTMENT OF STATUS.—Section  
9           245 (8 U.S.C. 1255) is amended—

10           (1) in subsection (k), in the matter preceding  
11           paragraph (1), by striking “or (3)” and inserting  
12           “(3), (5), or (7)”; and

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

14           “(n) At the time a petition is filed for classification  
15           under section 203(b)(5), if the approval of such petition  
16           would make a visa immediately available to the alien bene-  
17           ficiary, the alien beneficiary’s application for adjustment  
18           of status under this section shall be considered to be prop-  
19           erly filed whether the application is submitted concur-  
20           rently with, or subsequent to, the visa petition.”.