

114TH CONGRESS  
1ST SESSION

# S. 1501

To promote and reform foreign capital investment and job creation in  
American communities.

---

IN THE SENATE OF THE UNITED STATES

JUNE 3, 2015

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

---

## A BILL

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 OF EB-5 REGIONAL CENTER**  
7 **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2 is repealed.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, 2020, to qualified immi-  
10 grants (and the eligible spouse 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) PRIORITY.—In processing peti-  
21 tions under section 204(a)(1)(H) for clas-  
22 sification under this paragraph, the Sec-  
23 retary of Homeland Security may give pri-  
24 ority to petitions filed by aliens seeking ad-  
25 mission under this subparagraph. Notwith-

1 standing subsection (e), immigrant visas  
2 made available under this paragraph may  
3 be issued to such aliens in an order that  
4 takes into account any priority accorded  
5 under this clause.

6 “(iii) ESTABLISHMENT OF A RE-  
7 GIONAL CENTER.—A regional center shall  
8 operate within a defined geographic area,  
9 which shall be described in the proposal  
10 and be consistent with the purpose of con-  
11 centrating pooled investment within the de-  
12 fined and limited geographic area. The  
13 proposal to establish a regional center shall  
14 demonstrate that the pooled investment  
15 will have a significant economic impact on  
16 such geographic area, and shall include—

17 “(I) reasonable predictions, sup-  
18 ported by economically and statis-  
19 tically valid forecasting tools, con-  
20 cerning the amount of investment that  
21 will be pooled, the kinds of commer-  
22 cial enterprises that will receive such  
23 investments, verifiable details of the  
24 jobs that will be created directly or in-  
25 directly as a result of such invest-

1                   ments, and other positive economic ef-  
2                   fects such investments will have; and

3                   “(II) a description of the policies  
4                   and procedures in place reasonably  
5                   designed to monitor associated com-  
6                   mercial enterprises to ensure compli-  
7                   ance with all laws, regulations, and  
8                   Executive orders of the United States.

9                   “(iv) INDIRECT JOB CREATION.—The  
10                  Secretary of Homeland Security shall per-  
11                  mit aliens seeking admission under this  
12                  paragraph to satisfy up to 90 percent of  
13                  the requirements under subparagraph  
14                  (A)(ii) with jobs that are estimated to be  
15                  created indirectly through investment  
16                  under this paragraph in accordance with  
17                  this subparagraph.

18                  “(v) COMPLIANCE.—

19                  “(I) IN GENERAL.—In deter-  
20                  mining compliance with subparagraph  
21                  (A)(ii), the Secretary of Homeland Se-  
22                  curity shall—

23                          “(aa) permit aliens seeking  
24                          admission under this paragraph  
25                          to rely on economically and sta-

1 tistically valid methodologies for  
2 determining the number of jobs  
3 created by the program, includ-  
4 ing, consistent with this subpara-  
5 graph, jobs estimated to have  
6 been created indirectly through  
7 revenues generated from in-  
8 creased exports, improved re-  
9 gional productivity, job creation,  
10 and increased domestic capital  
11 investment resulting from the  
12 program; and

13 “(bb) verify that the jobs de-  
14 scribed in item (aa) meet the re-  
15 quirements under this subpara-  
16 graph by using a methodology  
17 that has been accepted by the  
18 Bureau of Economic Analysis of  
19 the Department of Commerce to  
20 be economically and statistically  
21 valid for such purposes.

22 “(II) PROJECTS INVOLVING CAP-  
23 ITAL CONTRIBUTION FROM NON-ALIEN  
24 ENTREPRENEURS.—

1           “(aa) CREDIT FOR JOB CRE-  
2            ATION.—Alien entrepreneurs may  
3            accrue credit for job creation  
4            based on capital investment pro-  
5            vided by non-alien entrepreneurs  
6            only for the percentage of total  
7            jobs created that is equal to the  
8            percentage of total capital invest-  
9            ment provided by such non-alien  
10           entrepreneurs in the commercial  
11           enterprise.

12           “(bb)     LIMITATION.—The  
13           percentage of jobs created for  
14           which alien entrepreneurs may  
15           accrue credit under item (aa)  
16           based on such non-alien entre-  
17           preneur capital contribution may  
18           not exceed 30 percent of all jobs  
19           created even if such contribution  
20           exceeds 30 percent.

21           “(III) INELIGIBLE JOBS.—In de-  
22           termining compliance with the job cre-  
23           ation requirements under subpara-  
24           graph (A)(ii), the Secretary may not  
25           include jobs estimated to be created

1 under a tenant-occupancy method-  
2 ology.

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

5 “(I) require approved regional  
6 centers to give advance notice to the  
7 Secretary of significant proposed  
8 changes to their organizational struc-  
9 ture, ownership, or administration, in-  
10 cluding the sale or rental of such cen-  
11 ters;

12 “(II) approve or disapprove the  
13 changes referred to in subclause (I)  
14 before any such proposed changes  
15 take effect; and

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

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

6                   “(F) BUSINESS PLANS FOR REGIONAL  
7                   CENTER INVESTMENTS.—

8                   “(i) APPLICATION FOR APPROVAL OF  
9                   INVESTMENT IN COMMERCIAL ENTER-  
10                  PRISE.—A commercial enterprise associ-  
11                  ated with a regional center shall file an ap-  
12                  plication with, and obtain approval from,  
13                  the Secretary of Homeland Security for  
14                  each particular investment offering  
15                  through the commercial enterprise to  
16                  aliens seeking classification under this  
17                  paragraph, which shall include—

18                   “(I) a comprehensive business  
19                   plan for a specific capital investment  
20                   project;

21                   “(II) a credible economic analysis  
22                   regarding estimated job creation that  
23                   is based upon economically and statis-  
24                   tically valid methodologies;



1           “(III) documents filed with the  
2           Securities and Exchange Commission  
3           under the Securities Act of 1933 (15  
4           U.S.C. 77a et seq.);

5           “(IV) investment and offering  
6           documents, including subscription, in-  
7           vestment, partnership, and operating  
8           agreements, private placement memo-  
9           randa, term sheets, management biog-  
10          raphies, the description of the busi-  
11          ness plan to be provided to potential  
12          alien entrepreneurs, and any mar-  
13          keting materials used or prepared for  
14          use in connection with the offering by  
15          the regional center or any associated  
16          commercial enterprise, which shall  
17          contain references, as appropriate, to  
18          any—

19                 “(aa) investment risks asso-  
20                 ciated with the new commercial  
21                 enterprise and any other business  
22                 subsequently receiving investment  
23                 capital from the new commercial  
24                 enterprise;

1           “(bb) conflicts of interest  
2 that currently exist or may arise  
3 among the regional center, new  
4 commercial enterprise, other  
5 business subsequently receiving  
6 investment capital from the new  
7 commercial enterprise, or the  
8 principals of the aforementioned  
9 entities;

10           “(cc) the name and contact  
11 information of any person that  
12 has received or the commercial  
13 enterprise knows will receive any  
14 fees or transaction-based com-  
15 pensation in connection with the  
16 investment, and a description of  
17 the services performed or to be  
18 performed by such person which  
19 entitle them to the fees or trans-  
20 action-based compensation; and

21           “(dd) any pending litigation  
22 or bankruptcy or adverse judg-  
23 ments during the most recent 10-  
24 year period affecting the regional  
25 center, new commercial enter-

1           prise, any other business subse-  
2           quently receiving investment cap-  
3           ital from the new commercial en-  
4           terprise, or any other enterprise  
5           in which any principal of the  
6           aforementioned entities held ma-  
7           jority ownership at the time;

8           “(V) a description of the policies  
9           and procedures reasonably designed to  
10          ensure that the commercial enterprise,  
11          its agents, employees, and attorneys,  
12          and any persons in active concert or  
13          participation with the commercial en-  
14          terprise, comply with the securities  
15          laws of the United States in connec-  
16          tion with the offer, purchase, or sale  
17          of its securities;

18          “(VI) a certification that the  
19          commercial enterprise and its agents,  
20          employees, and attorneys, and any  
21          persons in active concert or participa-  
22          tion with the commercial enterprise,  
23          are in compliance with the securities  
24          laws of the United States in connec-

1 tion with the offer, purchase, or sale  
2 of its securities; and

3 “(VII) for a capital investment in  
4 a targeted employment area, a cred-  
5 ible economic analysis regarding esti-  
6 mated job creation that is likely to  
7 occur—

8 “(aa) if the targeted employ-  
9 ment area is located within a  
10 combined statistical area or a  
11 metropolitan statistical area, in  
12 the combined statistical area or  
13 metropolitan statistical area; or

14 “(bb) if the targeted employ-  
15 ment area is located outside of  
16 an area described in item (aa), in  
17 any county that is included in the  
18 targeted employment area and  
19 counties adjacent to the targeted  
20 employment area.

21 “(ii) EFFECT OF APPROVAL OF BUSI-  
22 NESS PLAN FOR INVESTMENT IN REGIONAL  
23 CENTER COMMERCIAL ENTERPRISE.—The  
24 approval of an application under this sub-  
25 paragraph shall be binding for purposes of

1 the adjudication of subsequent petitions  
2 seeking classification under this paragraph  
3 by immigrants investing in the same com-  
4 mercial enterprise concerning the same  
5 economic activity, and of petitions filed  
6 under section 216A, unless the Secretary  
7 of Homeland Security determines that  
8 there is evidence of fraud, misrepresenta-  
9 tion, criminal misuse, a threat to public  
10 safety or national security, a material  
11 change that affects the approved economic  
12 model, other evidence affecting program  
13 eligibility that was not disclosed by the pe-  
14 titioner during the approval process, or a  
15 material mistake of law or fact in the prior  
16 adjudication.

17 “(iii) CONSIDERATION OF FRAUDU-  
18 LENT OR OTHER CRIMINAL ACTIVITY IN  
19 ESTABLISHING ELIGIBILITY CRITERIA.—

20 “(I) IN GENERAL.—The Sec-  
21 retary of Homeland Security shall  
22 consider the potential for fraud, mis-  
23 representation, criminal misuse, and  
24 threats to public safety or national se-

1           curity in establishing eligibility cri-  
2           teria under this subparagraph.

3           “(II) GROUNDS FOR DENIAL OR  
4           REVOCAION.—The Secretary shall  
5           deny or revoke the approval of any  
6           business plan application under this  
7           subparagraph with any particular in-  
8           vestment or business arrangement  
9           that, in the Secretary’s unreviewable  
10          discretion—

11                   “(aa) presents a threat to  
12                   public safety or national security;  
13                   or

14                   “(bb) presents a significant  
15                   risk of criminal misuse, fraud, or  
16                   abuse, including arrangements  
17                   that involve self-dealing or any  
18                   other inherent conflict of interest  
19                   between potential alien entre-  
20                   preneurs and the principals of a  
21                   regional center or a regional cen-  
22                   ter associated commercial enter-  
23                   prise.

24           “(iv) SITE VISITS.—The Secretary  
25          shall perform at least 1 site visit to each

1 regional center associated commercial en-  
2 terprise in accordance with section  
3 216A(c)(1)(C).

4 “(v) PREMIUM PROCESSING OP-  
5 TION.—The Secretary shall establish a  
6 process for premium processing of business  
7 plan applications under this subparagraph  
8 related to investment in a regional center  
9 commercial enterprise, including making  
10 available the expeditious execution of a site  
11 visit described in clause (iv), which may in-  
12 clude an opportunity for the applicant to  
13 address and cure any deficiencies identified  
14 by the Secretary in the applicant’s busi-  
15 ness plan, investment documents, or state-  
16 ment regarding job creation prior to a final  
17 determination. The Secretary shall impose  
18 a fee for the use of the process described  
19 in this clause sufficient to recover the costs  
20 of its administration.

21 “(vi) APPROVAL OF BUSINESS PLAN  
22 IN A TARGETED EMPLOYMENT AREA.—For  
23 a capital investment in a designated tar-  
24 geted employment area, at least 50 percent  
25 of the estimated job creation intended to

1 form the basis of the job creation require-  
2 ment under subparagraph (A)(ii) shall be  
3 expected to occur within an area specified  
4 in subparagraph (F)(i)(VII). If the esti-  
5 mated job creation in such area is below  
6 50 percent, the total number of jobs cre-  
7 ated by the capital investment for which  
8 alien entrepreneurs may receive credit shall  
9 be limited to the number at which 50 per-  
10 cent of the job creation requirement occurs  
11 within an area described in clause (i)(VII).

12 “(G) REGIONAL CENTER ANNUAL STATE-  
13 MENTS.—

14 “(i) IN GENERAL.—Each regional cen-  
15 ter designated under subparagraph (E)  
16 shall annually submit, to the Director of  
17 U.S. Citizenship and Immigration Services  
18 (referred to in this subparagraph as the  
19 ‘Director’), in a manner prescribed by the  
20 Secretary of Homeland Security, a state-  
21 ment, including—

22 “(I) a certification by the re-  
23 gional center that it remains in com-  
24 pliance with clauses (i) and (ii) of  
25 subparagraph (H);



1           “(II) a certification by the re-  
2           gional center described in subpara-  
3           graph (I)(ii)(II);

4           “(III) a certification by the re-  
5           gional center that it is in compliance  
6           with subparagraph (K)(iii);

7           “(IV) a description of any pend-  
8           ing litigation or bankruptcy pro-  
9           ceedings, or litigation or bankruptcy  
10          proceedings resolved during the pre-  
11          ceding fiscal year, involving the re-  
12          gional center or an associated com-  
13          mercial enterprise;

14          “(V) an accounting of all foreign  
15          investor money invested in the re-  
16          gional center and its associated com-  
17          mercial enterprises; and

18          “(VI) for each new commercial  
19          enterprise associated with the regional  
20          center—

21                 “(aa) an accounting of the  
22                 aggregate capital invested in the  
23                 new commercial enterprise by  
24                 alien entrepreneurs under this  
25                 paragraph for each capital invest-

1                   ment project being undertaken by  
2                   the new commercial enterprise;

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

8                   “(cc) evidence that 100 per-  
9                   cent of such capital has been ir-  
10                  revocably committed to each cap-  
11                  ital investment project;

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

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

19                  “(ff) a description of all  
20                  funds, including administrative,  
21                  loan monitoring, or loan manage-  
22                  ment fees, in addition to investor  
23                  capital collected from alien entre-  
24                  preneurs by any party in relation  
25                  to the investment or participation

1 in the regional center program  
2 described in subparagraph (E),  
3 the entities that received such  
4 funds, and the purpose for which  
5 such funds were collected;

6 “(gg) any documentation re-  
7 ferred to in subparagraph  
8 (F)(i)(IV) if there has been a  
9 material change during the pre-  
10 ceeding fiscal year; and

11 “(hh) a certification by the  
12 regional center and associated  
13 commercial enterprise that such  
14 statements are accurate.

15 “(ii) AMENDMENT OF ANNUAL STATE-  
16 MENTS.—The Director—

17 “(I) shall require the regional  
18 center to amend or supplement an an-  
19 nual statement required under clause  
20 (i) if the Director determines that  
21 such statement is deficient; and

22 “(II) may require the regional  
23 center to amend or supplement such  
24 annual statement if the Director de-

1 termines that such an amendment or  
2 supplement is appropriate.

3 “(iii) SANCTIONS.—

4 “(I) EFFECT OF VIOLATION.—If  
5 the Director determines that a re-  
6 gional center or other individual affili-  
7 ated with a regional center, including  
8 an individual affiliated with an associ-  
9 ated commercial enterprise, and any  
10 legal representative of such entities,  
11 has violated any certification under  
12 clause (i) or that the regional center  
13 is conducting itself in a manner incon-  
14 sistent with its designation, including  
15 any willful and material deviation by  
16 commercial enterprises associated  
17 with the regional center from any ap-  
18 proved business plan for such com-  
19 mercial enterprises, the Director shall  
20 sanction the violating entity or indi-  
21 vidual under subclause (II).

22 “(II) AUTHORIZED SANCTIONS.—

23 The Director shall establish a grad-  
24 uated set of sanctions based on the  
25 severity of the violations referred to in

1 subclause (I), as determined by the  
2 Director, including—

3 “(aa) civil money penalties  
4 equal to not more than 10 per-  
5 cent of the total capital invested  
6 by alien entrepreneurs in the re-  
7 gional center’s associated com-  
8 mercial enterprises, the payment  
9 of which shall not in any cir-  
10 cumstance utilize any of such  
11 alien entrepreneurs’ capital in-  
12 vestment;

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

21 “(cc) permanent bar from  
22 program participation for 1 or  
23 more individuals associated with  
24 the regional center or an associ-  
25 ated commercial enterprise; and

1                   “(dd) termination of re-  
2                   gional center status.

3                   “(H) BONA FIDES OF PERSONS ASSOCI-  
4                   ATED WITH REGIONAL CENTERS OR REGIONAL  
5                   CENTER ASSOCIATED COMMERCIAL ENTER-  
6                   PRISES.—

7                   “(i) IN GENERAL.—No person shall be  
8                   permitted by any regional center or re-  
9                   gional center associated commercial enter-  
10                  prise to be directly or indirectly involved  
11                  with the regional center or commercial en-  
12                  terprise as its principal, representative, ad-  
13                  ministrator, owner, officer, board member,  
14                  manager, executive, general partner, fidu-  
15                  ciary, marketer, promoter, or other similar  
16                  position of substantive authority for the  
17                  operations, management or promotion of  
18                  the regional center or commercial enter-  
19                  prise if—

20                  “(I) the person has been found  
21                  liable within the previous 10 years for  
22                  any criminal or civil violation of any  
23                  law relating to fraud or deceit, or at  
24                  any time if such violation involved a  
25                  civil liability in excess of \$1,000,000,

1 a criminal conviction with a term of  
2 imprisonment of more than 1 year or  
3 a criminal or civil violation of any law  
4 or agency regulation in connection  
5 with the offer, purchase, or sale of a  
6 security;

7 “(II) the person is subject to a  
8 final order of a State securities com-  
9 mission (or an agency or officer of a  
10 State who performs similar functions),  
11 a State authority that supervises or  
12 examines banks, savings associations,  
13 or credit unions, a State insurance  
14 commission (or an agency of or officer  
15 of a State who performs similar func-  
16 tions), an appropriate Federal bank-  
17 ing agency, the Commodity Futures  
18 Trading Commission, or the National  
19 Credit Union Administration, which is  
20 based on a violation of any law or reg-  
21 ulation that—

22 “(aa) prohibits fraudulent,  
23 manipulative, or deceptive con-  
24 duct; or

1                   “(bb) bars the person  
2 from—

3                   “(AA) association with  
4 an entity regulated by such  
5 commission, authority, agen-  
6 cy, or officer;

7                   “(BB) engaging in the  
8 business of securities, insur-  
9 ance, or banking; or

10                   “(CC) engaging in sav-  
11 ings association or credit  
12 union activities;

13                   “(III) there is reasonable cause  
14 to believe that the person is engaged  
15 in, has ever been engaged in, or seeks  
16 to engage in—

17                   “(aa) any illicit trafficking  
18 in any controlled substance or in  
19 any listed chemical (as defined in  
20 section 102 of the Controlled  
21 Substances Act);

22                   “(bb) any activity relating to  
23 espionage, sabotage, or theft of  
24 intellectual property;



1           “(cc) any activity related to  
2 money laundering (as described  
3 in section 1956 or 1957 of title  
4 18, United States Code);

5           “(dd) any terrorist activity  
6 (as defined in clauses (iii) and  
7 (iv) of section 212(a)(3)(B));

8           “(ee) any activity related to  
9 human trafficking or a human  
10 rights offense;

11           “(ff) any activity described  
12 in section 212(a)(3)(E); or

13           “(gg) the violation of any  
14 statute, regulation, or Executive  
15 order regarding foreign financial  
16 transactions or foreign asset con-  
17 trol; or

18           “(IV) the person—

19           “(aa) is, or during the pre-  
20 ceeding 10 years has been, in-  
21 cluded on the Department of  
22 Justice’s List of Currently Dis-  
23 ciplined Practitioners; or

24           “(bb) during the preceding  
25 10 years, has received a rep-

1 rimand or otherwise been publicly  
2 disciplined by a bar association of  
3 which the person is or was a  
4 member.

5 “(ii) STATUS OF REGIONAL CENTER  
6 PRINCIPALS.—

7 “(I) LAWFUL STATUS RE-  
8 QUIRED.—No person may be directly  
9 or indirectly involved with a regional  
10 center as its principal, administrator,  
11 owner, officer, board member, man-  
12 ager, executive, general partner, fidu-  
13 ciary, or other similar position of sig-  
14 nificant authority for the operations  
15 or management of the regional center  
16 unless the person is a national of the  
17 United States or an individual who  
18 has been lawfully admitted for perma-  
19 nent residence.

20 “(II) FOREIGN GOVERNMENTS.—  
21 No foreign government entity may be  
22 directly or indirectly involved with the  
23 ownership or administration of a re-  
24 gional center.

1           “(iii) INFORMATION REQUIRED.—The  
2           Secretary shall require such attestations  
3           and information, including the submission  
4           of fingerprints or other biometrics to the  
5           Federal Bureau of Investigation, and shall  
6           perform such criminal record checks and  
7           other background checks with respect to a  
8           regional center or regional center associ-  
9           ated commercial enterprise, and persons  
10          involved in a regional center or regional  
11          center associated commercial enterprise as  
12          described in clauses (i) and (ii), to deter-  
13          mine whether such regional center or re-  
14          gional center associated commercial enter-  
15          prise is in compliance with clauses (i) and  
16          (ii). The Secretary may require the infor-  
17          mation and attestations described in this  
18          clause from such regional center or re-  
19          gional center associated commercial enter-  
20          prise, and any person involved in the re-  
21          gional center or regional center associated  
22          commercial enterprise, at any time on or  
23          after the date of the enactment of the  
24          American Job Creation and Investment  
25          Promotion Reform Act of 2015.

1           “(iv) TERMINATION.—The Secretary,  
2           in the Secretary’s unreviewable discretion,  
3           shall terminate from the program under  
4           this paragraph any regional center or re-  
5           gional center associated commercial enter-  
6           prise if the Secretary determines that—

7                   “(I) the regional center or re-  
8                   gional center associated commercial  
9                   enterprise has violated clause (i);

10                   “(II) the regional center has vio-  
11                   lated clause (ii);

12                   “(III) the regional center, a re-  
13                   gional center associated commercial  
14                   enterprise, or any person involved  
15                   with the regional center or regional  
16                   center associated commercial enter-  
17                   prise fails to provide an attestation or  
18                   information requested by the Sec-  
19                   retary or provides any false attesta-  
20                   tion or information under clause (iii);  
21                   or

22                   “(IV) the regional center, a re-  
23                   gional center associated commercial  
24                   enterprise, or any person involved  
25                   with the regional center or regional

1 center associated commercial enter-  
2 prise has engaged in fraud, misrepre-  
3 sentation, criminal misuse, or poses a  
4 threat to public safety or national se-  
5 curity.

6 “(I) COMPLIANCE WITH SECURITIES  
7 LAWS.—

8 “(i) JURISDICTION.—In view of the  
9 objective of promoting investment in the  
10 United States, in an action filed by the Se-  
11 curities and Exchange Commission, the  
12 purchase or sale of securities offered or  
13 sold by any regional center or any party  
14 associated with a regional center shall be  
15 deemed to have occurred within the terri-  
16 tory of the United States for purposes of  
17 the securities laws, and subject matter ju-  
18 risdiction shall also lie within the United  
19 States.

20 “(ii) REGIONAL CENTER CERTIFI-  
21 CATIONS REQUIRED.—

22 “(I) INITIAL CERTIFICATION.—  
23 The Secretary of Homeland Security  
24 shall not approve an application for  
25 regional center designation or regional

1 center amendment unless the regional  
2 center certifies that the regional cen-  
3 ter is in compliance with and has poli-  
4 cies and procedures reasonably de-  
5 signed to ensure that all parties asso-  
6 ciated with the regional center remain  
7 in compliance with the securities laws  
8 of the United States and of any State  
9 in which the regional center operates  
10 in connection with the offer, purchase,  
11 or sale of securities or the provision of  
12 investment advice by the regional cen-  
13 ter or parties associated with the re-  
14 gional center.

15 “(II) REISSUE.—A regional cen-  
16 ter shall annually reissue a certifi-  
17 cation described in subclause (I) in  
18 accordance with subparagraph (G).  
19 Annual certifications under this sub-  
20 clause shall also certify compliance  
21 with clause (iii) by stating that the  
22 certifier is in a position to have  
23 knowledge of the offers, purchases,  
24 and sales of securities or the provision  
25 of investment advice by parties associ-

1           ated with the regional center and, to  
2           the best of the certifier’s knowledge,  
3           after reasonable investigation, all such  
4           offers, purchases, and sales of securi-  
5           ties or the provision of investment ad-  
6           vice complied with securities laws of  
7           the United States and that records,  
8           data, and information related to such  
9           offers, purchases, and sales have been  
10          maintained.

11                   “(III) EFFECT OF NONCOMPLI-  
12                   ANCE.—If a regional center, through  
13                   its due diligence, discovered during  
14                   the previous fiscal year that the re-  
15                   gional center or any party associated  
16                   with the regional center was not in  
17                   compliance with the securities laws of  
18                   the United States, the certifier shall—

19                           “(aa) describe the activities  
20                           that led to noncompliance;

21                           “(bb) describe the actions  
22                           taken to remedy the noncompli-  
23                           ance; and

24                           “(cc) certify that the re-  
25                           gional center and all parties asso-

1                   ciated with the regional center  
2                   are currently in compliance.

3                   “(iii) OVERSIGHT REQUIRED.—Each  
4 regional center shall monitor and supervise  
5 all offers, purchases, and sales of, and ad-  
6 vice relating to, securities made by parties  
7 associated with the regional center to en-  
8 sure compliance with the securities laws of  
9 the United States, and maintain records,  
10 data, and information relating to all such  
11 offers, purchases, sales, and advice during  
12 the 5-year period beginning on the date of  
13 their creation. Such records, data, and in-  
14 formation shall be made available to the  
15 Securities and Exchange Commission and  
16 to the Secretary upon request.

17                   “(iv) SUSPENSION OR TERMI-  
18 NATION.—The Secretary, in the Sec-  
19 retary’s unreviewable discretion, shall sus-  
20 pend or terminate the designation of any  
21 regional center that does not provide the  
22 certification described in clause (ii). In ad-  
23 dition to any other authority provided to  
24 the Secretary under this paragraph, the  
25 Secretary, in the Secretary’s unreviewable



1 discretion, may suspend or terminate the  
2 designation of any regional center or im-  
3 pose other sanctions against the regional  
4 center if the regional center or any parties  
5 associated with the regional center—

6 “(I) are permanently or tempo-  
7 rarily enjoined by order, judgment, or  
8 decree of any court of competent ju-  
9 risdiction in connection with the offer,  
10 purchase, or sale of a security or the  
11 provision of investment advice;

12 “(II) are subject to any final  
13 order of the Securities and Exchange  
14 Commission that—

15 “(aa) bars such person from  
16 association with an entity regu-  
17 lated by the Securities and Ex-  
18 change Commission; or

19 “(bb) constitutes a final  
20 order based on violations in con-  
21 nection with the offer, purchase,  
22 or sale of, or advice relating to, a  
23 security; or

24 “(III) knowingly submitted or  
25 caused to be submitted a certification

1 described in clause (ii) that contained  
2 an untrue statement of a material fact  
3 or omitted to state a material fact  
4 necessary in order to make the state-  
5 ments made, in light of the cir-  
6 cumstances under which they were  
7 made, not misleading.

8 “(v) SAVINGS PROVISION.—Nothing in  
9 this subparagraph may be construed to im-  
10 pair or limit the authority of the Securities  
11 and Exchange Commission under the Fed-  
12 eral securities laws.

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

16 “(I) the regional center;

17 “(II) any commercial enterprise  
18 associated with the regional center;

19 “(III) the regional center’s and  
20 associated commercial enterprise’s  
21 owners, officers, directors, managers,  
22 partners, agents, employees, pro-  
23 moters and attorneys; and

24 “(IV) any person in active con-  
25 cert or participation with the regional

1 center or directly or indirectly control-  
2 ling, controlled by, or under common  
3 control with the regional center.

4 “(J) EB–5 INTEGRITY FUND.—

5 “(i) ESTABLISHMENT.—There is es-  
6 tablished in the United States Treasury a  
7 special fund, which shall be known as the  
8 EB–5 Integrity Fund (referred to in this  
9 subparagraph as the ‘Fund’). Amounts de-  
10 posited into the Fund shall be available  
11 until expended to the Secretary of Home-  
12 land Security for the purposes set forth in  
13 clause (iii).

14 “(ii) FEES.—The Secretary of Home-  
15 land Security shall collect an annual fee of  
16 \$20,000 for the Fund from each regional  
17 center designated under subparagraph (E).  
18 The first fee under this clause shall be due  
19 not later than January 1, 2016, and subse-  
20 quent fees due not later than January 1 of  
21 each year thereafter. Newly designated re-  
22 gional centers shall pay their initial fee for  
23 the calendar year following the calendar  
24 year during which the regional center was  
25 so designated. The Secretary may pre-

1 scribe regulations, as necessary, to increase  
2 the dollar amount specified under this  
3 clause to ensure the Secretary's continued  
4 ability to carry out the activities specified  
5 in clause (iii).

6 “(iii) PERMISSIBLE USES OF FUND.—  
7 The Secretary of Homeland Security  
8 shall—

9 “(I) use not less than  $\frac{1}{3}$  of the  
10 amounts deposited into the Fund to  
11 conduct audits and site visits (an-  
12 nounced and unannounced);

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

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

20 “(bb) ensuring an alien en-  
21 trepreneur's compliance with sub-  
22 paragraph (L);

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

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

3                   “(bb) to determine whether  
4                   regional centers, associated com-  
5                   mercial enterprises, and alien en-  
6                   trepreneurs (and alien spouses  
7                   and alien children, if any) comply  
8                   with applicable immigration laws  
9                   and regulations;

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 a regional  
15                  center and regional center associated  
16                  commercial enterprise; 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 if a regional center does not pay the  
5 fee required under clause (ii) within  
6 30 days of the date on which such fee  
7 is due under clause (ii); and

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

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

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

23           “(i) RULES AND STANDARDS.—Direct  
24 and third-party promoters of a regional  
25 center, parties associated with a regional

1 center, or of the investment opportunities  
2 of a regional center, shall comply with the  
3 rules and standards prescribed by the Sec-  
4 retary of Homeland Security to oversee re-  
5 gional center promotion, including—

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

10 “(II) minimum qualifications;

11 “(III) guidelines for offering in-  
12 vestment opportunities and rep-  
13 resenting the visa process to foreign  
14 entrepreneurs; and

15 “(IV) permissible fee arrange-  
16 ments.

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

1           “(iii) COMPLIANCE.—Each regional  
2 center shall maintain a written agreement  
3 between the regional center or regional  
4 center associated commercial enterprise  
5 and each direct or third-party promoter  
6 operating on behalf of such regional center  
7 or commercial enterprise that outlines the  
8 rules and standards prescribed under  
9 clause (i).

10           “(L) SOURCE OF FUNDS.—

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

18           “(ii) REQUIRED INFORMATION.—The  
19 Secretary of Homeland Security shall re-  
20 quire, as applicable, that an alien entre-  
21 preneur 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 any other en-  
5           tity in any form that has filed in  
6           any country or subdivision there-  
7           of any return described in this  
8           subpart), and personal tax re-  
9           turns including income, fran-  
10          chise, property (whether real,  
11          personal, or intangible), or any  
12          other tax returns of any kind  
13          filed within 7 years, with any  
14          taxing jurisdiction in or outside  
15          the United States by or on behalf  
16          of the alien entrepreneur; and

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

20          “(II) evidence related to mone-  
21          tary judgments against the alien en-  
22          trepreneur, including certified copies  
23          of any judgments or evidence of all  
24          pending governmental civil or criminal  
25          actions, governmental administrative

1 proceedings, and any private civil ac-  
2 tions (pending or otherwise) involving  
3 monetary judgments against the alien  
4 entrepreneur from any court in or  
5 outside the United States; and

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

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

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

17 “(iii) GIFT RESTRICTIONS.—Gifted  
18 funds may be counted toward the min-  
19 imum capital investment requirement  
20 under subparagraph (C) only if such funds  
21 were gifted to the alien entrepreneur by  
22 the alien entrepreneur’s spouse, parent,  
23 child, sibling, or grandparent and such  
24 funds were gifted in good faith and not to  
25 circumvent any limitations imposed on per-

1           missible sources of capital under this sub-  
2           paragraph. If a significant portion of the  
3           capital invested under subparagraph (A)  
4           was gifted to the alien entrepreneur, the  
5           Secretary shall require the alien entre-  
6           preneur’s petition under this paragraph to  
7           include records described in subclauses (I)  
8           and (II) of clause (ii) from the donor.

9           “(iv) LOAN RESTRICTIONS.—Capital  
10          derived from indebtedness may be counted  
11          toward the minimum capital investment re-  
12          quirement under subparagraph (C) only if  
13          such capital is—

14                 “(I) secured by assets owned by  
15                 the alien entrepreneur; and

16                 “(II) issued by a reputable bank-  
17                 ing or lending institution that is prop-  
18                 erly chartered or licensed under the  
19                 laws of any State, territory, country,  
20                 or applicable jurisdiction, which the  
21                 Secretary shall determine after con-  
22                 sulting with relevant commercial or  
23                 government databases, such as those  
24                 of the Department of the Treasury’s  
25                 Office of Foreign Assets Control, Of-

1            fice of Terrorist Financing and Fi-  
2            nancial Crimes, and Financial Crimes  
3            Enforcement Network.

4            “(M) TREATMENT OF ENTREPRENEURS IF  
5 REGIONAL CENTER TERMINATED.—

6            “(i) IN GENERAL.—Upon the termi-  
7 nation of a regional center or regional cen-  
8 ter associated commercial enterprise under  
9 this paragraph—

10            “(I) the conditional permanent  
11 residence of an alien who has been ad-  
12 mitted to the United States pursuant  
13 to section 216A(a)(1) based on an in-  
14 vestment in a commercial enterprise  
15 associated with the terminated re-  
16 gional center or regional center associ-  
17 ated commercial enterprise shall con-  
18 tinue to be authorized; and

19            “(II) the alien shall not accrue  
20 any period of unlawful presence under  
21 section 212(a)(9) during the 180-day  
22 period following such termination un-  
23 less the Secretary has reason to be-  
24 lieve the alien was a knowing partici-  
25 pant in the conduct that led to the

1 termination of such regional center or  
2 regional center associated commercial  
3 enterprise.

4 “(ii) NEW REGIONAL CENTER OR IN-  
5 VESTMENT.—The conditional permanent  
6 resident status of an alien described in  
7 clause (i)(I) shall be terminated at the end  
8 of the 180-day period described in clause  
9 (i)(II) unless—

10 “(I) in the case of the termi-  
11 nation of a regional center—

12 “(aa) the associated com-  
13 mercial enterprise affiliates with  
14 an approved regional center des-  
15 igned to operate within the  
16 same geographic area as the  
17 commercial enterprise; or

18 “(bb) such alien invests in  
19 another commercial enterprise  
20 associated with an approved re-  
21 gional center; or

22 “(II) in the case of the termi-  
23 nation of a regional center associated  
24 commercial enterprise, such alien in-  
25 vests in another commercial enterprise

1 associated with an approved regional  
2 center.

3 “(iii) REMOVAL OF CONDITIONS.—  
4 Aliens described in subclauses (I)(bb) and  
5 (II) of clause (ii) shall be eligible to have  
6 their conditions removed pursuant to sec-  
7 tion 216A beginning on the date that is 2  
8 years after the date of the subsequent in-  
9 vestment.

10 “(N) FRAUD, CRIMINAL MISUSE, AND  
11 THREATS TO NATIONAL INTERESTS.—

12 “(i) DENIAL OR REVOCATION.—If the  
13 Secretary of Homeland Security deter-  
14 mines, in the Secretary’s unreviewable dis-  
15 cretion, that the approval of a petition, ap-  
16 plication, or benefit described in this para-  
17 graph is contrary to the national interest  
18 of the United States for reasons relating to  
19 fraud, misrepresentation, criminal misuse,  
20 or threats to public safety or national secu-  
21 rity, the Secretary shall deny or revoke the  
22 approval of—

23 “(I) a petition seeking classifica-  
24 tion of an alien as an alien entre-  
25 preneur under this paragraph;

1                   “(II) a petition to remove condi-  
2                   tions under section 216A before  
3                   granting lawful permanent resident  
4                   status or any other petition, applica-  
5                   tion, or benefit based upon the pre-  
6                   vious or concurrent filing or approval  
7                   of a petition for classification of an  
8                   alien under this paragraph;

9                   “(III) an application for approval  
10                  of a business plan in a regional center  
11                  associate commercial enterprise; or

12                  “(IV) an application for designa-  
13                  tion as a regional center.

14                  “(ii) DEBARMENT.—If a regional cen-  
15                  ter or regional center associated commer-  
16                  cial enterprise has its designation or par-  
17                  ticipation in the program under this para-  
18                  graph terminated for reasons relating to  
19                  fraud, intentional material misrepresenta-  
20                  tion, criminal misuse, or threats to public  
21                  safety or national security, any person as-  
22                  sociated with such regional center or re-  
23                  gional center associated commercial enter-  
24                  prise, including an alien investor, shall be  
25                  permanently barred from future participa-

1           tion in the program if the Secretary of  
2           Homeland Security, in the Secretary’s  
3           unreviewable discretion, determines that  
4           such person was a knowing participant in  
5           the conduct that led to the termination.”.

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

8           (1) shall take effect on the date of the enact-  
9           ment of this 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 the enactment of this Act, on or  
17           after a delayed effective date that is 1 year  
18           after such date of enactment with respect to  
19           any person involved in the regional center on or  
20           after such delayed effective date, unless other-  
21           wise provided in this section.

22          (d) GAO REPORT.—Not later than December 31,  
23 2018, the Comptroller General of the United States shall  
24 submit a report to the Committee on the Judiciary of the



1 Senate and the Committee on the Judiciary of the House  
2 of Representatives that describes—

3           (1) the economic benefits of the regional center  
4 program established under section 203(b)(5) of the  
5 Immigration and Nationality Act (8 U.S.C.  
6 1153(b)(5)), including the steps taken by U.S. Citi-  
7 zenship and Immigration Services to verify job cre-  
8 ation;

9           (2) the extent to which U.S. Citizenship and  
10 Immigration Services ensures compliance by regional  
11 center participants;

12           (3) the extent to which U.S. Citizenship and  
13 Immigration Services has maintained records by re-  
14 gional centers and associated commercial enter-  
15 prises, including annual statements and certifi-  
16 cations;

17           (4) the steps taken by U.S. Citizenship and Im-  
18 migration Services to verify the source of funds, as  
19 required under section 203(b)(5)(L) of the Immigra-  
20 tion and Nationality Act, as added by subsection (b);

21           (5) the extent to which U.S. Citizenship and  
22 Immigration Services collaborates with other Federal  
23 and law enforcement agencies, particularly to detect  
24 illegal activity and threats to national security;

1           (6) the extent to which U.S. Citizenship and  
2           Immigration Services has prevented fraud and abuse  
3           in regional center activities, including the designa-  
4           tion of a regional center investment in a targeted  
5           employment area;

6           (7) the extent to which U.S. Citizenship and  
7           Immigration Services has used its authority to sanc-  
8           tion, suspend, bar, or terminate a regional center or  
9           individuals affiliated with a regional center;

10          (8) the steps that have been taken to oversee  
11          direct and third-party promoters under section  
12          203(b)(5)(H) of the Immigration and Nationality  
13          Act, as added by subsection (b);

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

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

22          (e) INSPECTOR GENERAL REPORT.—Not later than  
23          December 31, 2018, the Inspector General of the Intel-  
24          ligence Community, in coordination with the Inspector  
25          General of the Department of Homeland Security and

1 after consultation with relevant Federal agencies, includ-  
2 ing U.S. Immigration and Customs Enforcement, shall  
3 submit a report to the Committee on the Judiciary of the  
4 Senate and the Committee on the Judiciary of the House  
5 of Representatives that describes—

6           (1) vulnerabilities within the EB–5 Immigrant  
7     Investor Program that may undermine the national  
8     security of the United States;

9           (2) actual or potential use of the EB–5 Immi-  
10    grant Investor Program to facilitate export of sen-  
11    sitive technology;

12          (3) actual or potential use of the EB–5 Immi-  
13    grant Investor Program to facilitate economic espio-  
14    nage;

15          (4) actual or potential use of the EB–5 Immi-  
16    grant Investor Program by foreign government  
17    agents; and

18          (5) actual or potential use of the EB–5 Immi-  
19    grant Investor Program to facilitate terrorist activ-  
20    ity, including funding terrorist activity or laundering  
21    terrorist funds.

1 **SEC. 3. CONDITIONAL PERMANENT RESIDENT STATUS FOR**  
2 **ALIEN ENTREPRENEURS, SPOUSES, AND**  
3 **CHILDREN.**

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

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

9 (2) in subsection (a), by amending paragraph  
10 (1) to read as follows:

11 “(1) **CONDITIONAL BASIS FOR STATUS.**—

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

19 “(B) **EXCEPTION.**—Alien entrepreneurs  
20 who meet the requirements under subsection  
21 (d)(2)(A)(ii) shall obtain the status of an alien  
22 lawfully admitted for permanent residence with-  
23 out a conditional basis upon approval of the pe-  
24 tition required under such subsection.”;

25 (3) in subsection (c)—

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

3 (B) in paragraph (1)—

4 (i) in the matter preceding subpara-  
5 graph (A), by striking “In order” and in-  
6 serting “Except as provided in paragraph  
7 (3)(D), in order”;

8 (ii) in subparagraph (A), by striking  
9 “, and” and inserting a semicolon;

10 (iii) in subparagraph (B), by striking  
11 “Service respecting the facts and informa-  
12 tion described in subsection (d)(1).” and  
13 inserting “Department of Homeland Secu-  
14 rity respecting the facts and information  
15 described in subsection (d)(1); and”;

16 (iv) by adding at the end the fol-  
17 lowing:

18 “(C) the Secretary shall perform a site  
19 visit to the job creating entity in which the  
20 alien entrepreneur invested capital under sec-  
21 tion 203(b)(5)(A), which visit may take place at  
22 any time after an application for approval of in-  
23 vestment in a commercial enterprise is filed  
24 under section 203(b)(5)(F).”; and

1 (C) in paragraph (3)(A), by striking “the”  
2 before “such filing”;

3 (4) in subsection (d)—

4 (A) in paragraph (1)(A)(ii), by inserting  
5 “except for alien entrepreneurs described in  
6 subsection (d)(2)(A)(ii),” before “sustained”;

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.—(i) Except as provided in clause  
11 (ii) and subparagraph (B), the petition under  
12 subsection (c)(1)(A) shall be filed during the  
13 90-day period before the second anniversary of  
14 the alien entrepreneur’s lawful admission for  
15 permanent residence.

16 “(ii) If the alien entrepreneur has sus-  
17 tained the actions described in paragraph  
18 (1)(A)(i) for at least a 24-month period before  
19 admission, the alien entrepreneur may file the  
20 petition under subsection (c)(1)(A) any time  
21 after such period and before admission for per-  
22 manent residence.”; and

23 (C) in paragraph (3), by striking “Service”  
24 and inserting “Department of Homeland Secu-  
25 rity”;

1           (5) by redesignating subsection (f) as sub-  
2           section (g); and

3           (6) by inserting after subsection (e) the fol-  
4           lowing:

5           “(f) FRAUD, MISREPRESENTATION, CRIMINAL MIS-  
6           USE, OR THREATS TO THE PUBLIC SAFETY OR NATIONAL  
7           SECURITY.—If the Secretary of Homeland Security deter-  
8           mines, in the Secretary’s sole and unreviewable discretion,  
9           that the approval of any petition under this section or the  
10          conditional permanent resident status granted to an alien  
11          entrepreneur under subsection (a) is contrary to the na-  
12          tional interest of the United States for reasons relating  
13          to fraud, misrepresentation, criminal misuse, or threats to  
14          public safety or national security, the Secretary shall—

15                 “(1) notify the alien involved of such deter-  
16                 mination without being required to disclose the basis  
17                 for such determination to the extent such disclosure  
18                 would be contrary to the national interest of the  
19                 United States; and

20                 “(2) deny such petition or terminate the perma-  
21                 nent resident status of the alien involved (and the  
22                 alien spouse and alien children of such immigrant)  
23                 as of the date of such determination.”.

24          (b) EFFECTIVE DATE.—

1           (1) IN GENERAL.—Except as provided under  
2 paragraph (2), the amendments made by this section  
3 shall take effect on the date of the enactment of this  
4 Act.

5           (2) EXCEPTION.—The amendment made by  
6 subsection (a)(3)(B)(iv) shall take effect on the date  
7 that is 2 years after the date of the enactment of  
8 this Act.

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

10 (a) TARGETED EMPLOYMENT AREAS.—

11           (1) IN GENERAL.—Section 203(b)(5)(B) of the  
12 Immigration and Nationality Act (8 U.S.C.  
13 1153(b)(5)(B)) is amended to read as follows:

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 AREA DESIGNATION.—A designation  
3           of a high unemployment area as a targeted  
4           employment area shall be valid for the 2-  
5           year period beginning on the date of ap-  
6           proval of an application filed under sub-  
7           paragraph (F) or at the time of the invest-  
8           ment for aliens not subject to the require-  
9           ments of subparagraph (F). Such designa-  
10          tion may be renewed for additional 2-year  
11          periods if the area continues to meet the  
12          definition of a high unemployment area.  
13          An entrepreneur who has made the re-  
14          quired amount of investment in such a tar-  
15          geted employment area during its period of  
16          designation shall not be required to in-  
17          crease the amount of investment based  
18          upon expiration of the designation.”.

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

22                 (1) by striking clauses (i) and (ii) and inserting  
23          the following:

24                         “(i)           MINIMUM           INVESTMENT  
25                         AMOUNTS.—Except as otherwise provided

1 in this subparagraph, the amount of cap-  
2 ital required under subparagraph (A) shall  
3 be \$1,200,000. In the case of an invest-  
4 ment in a targeted employment area, the  
5 amount of capital required under subpara-  
6 graph (A) shall be \$800,000.

7 “(ii) ADJUSTMENT OF MINIMUM IN-  
8 VESTMENT AMOUNTS.—

9 “(I) IN GENERAL.—The Sec-  
10 retary of Homeland Security, in con-  
11 sultation with the Secretary of Labor  
12 and the Secretary of Commerce, may  
13 from time to time prescribe regula-  
14 tions increasing the dollar amounts  
15 specified under clause (i).

16 “(II) AUTOMATIC ADJUST-  
17 MENTS.—Beginning on January 1,  
18 2020, and on every fifth subsequent  
19 January 1—

20 “(aa) if the Secretary did  
21 not increase the minimum  
22 amount during the previous 5 fis-  
23 cal years, the amounts specified  
24 in clause (i) shall automatically  
25 be adjusted by the amount of the

1 cumulative percentage change in  
2 the Consumer Price Index (CPI-  
3 U) for the previous 5 fiscal years;

4 “(bb) if the Secretary in-  
5 creased the minimum amount  
6 during the previous 5 fiscal years  
7 by an amount that is less than  
8 the cumulative percentage change  
9 in the CPI-U during the previous  
10 5 fiscal years, the amounts speci-  
11 fied in clause (i) shall automati-  
12 cally be adjusted by the amount  
13 of such cumulative percentage  
14 change for such period minus any  
15 increase prescribed by the Sec-  
16 retary by regulations; or

17 “(cc) if the Secretary in-  
18 creased the minimum amount  
19 during the previous 5 fiscal years  
20 by an amount that is greater  
21 than the cumulative percentage  
22 change in the CPI-U during the  
23 previous 5 fiscal years, the  
24 amounts specified in clause (i)  
25 shall not be increased.

1                   “(iii) MINIMUM INVESTMENT AMOUNT  
2                   IN A TARGETED EMPLOYMENT AREA.—The  
3                   minimum investment amount in a targeted  
4                   employment area shall be not less than  $\frac{1}{2}$   
5                   and not more than  $\frac{3}{4}$  of the investment in  
6                   a non-targeted area of employment.”; and

7                   (2) in clause (iii) by striking “the Attorney  
8                   General” and inserting “the Secretary”.

9                   (c) DEFINITIONS.—

10                   (1) IN GENERAL.—Section 203(b)(5) of such  
11                   Act (8 U.S.C. 1153(b)(5)), as amended by sub-  
12                   sections (a) and (b) and by section 2, is further  
13                   amended by amending subparagraph (D) to read as  
14                   follows:

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

16                   “(i) CAPITAL.—The term ‘capital’—

17                   “(I) means all real, personal, or  
18                   mixed tangible assets owned and con-  
19                   trolled by the alien entrepreneur, or  
20                   held in trust for the benefit of the  
21                   alien and to which the alien has unre-  
22                   stricted access;

23                   “(II) shall be valued at fair mar-  
24                   ket value in United States dollars, in  
25                   accordance with Generally Accepted

1 Accounting Principles or other stand-  
2 ard accounting practice adopted by  
3 the Securities and Exchange Commis-  
4 sion, at the time it is invested under  
5 this paragraph; and

6 “(III) shall not include assets ac-  
7 quired, directly or indirectly, by un-  
8 lawful means, including any cash pro-  
9 ceeds of indebtedness secured by such  
10 assets.

11 “(ii) COMMERCIAL ENTERPRISE ASSO-  
12 CIATED WITH A REGIONAL CENTER.—The  
13 terms ‘commercial enterprise associated  
14 with a regional center’ and ‘regional center  
15 associated commercial enterprise’ mean  
16 any for-profit activity formed for the ongo-  
17 ing conduct of lawful business, including a  
18 sole proprietorship, partnership (whether  
19 limited or general), holding company, joint  
20 venture, corporation, business trust, or  
21 other entity, that associates with a regional  
22 center and receives, or is established to re-  
23 ceive, capital investment under the regional  
24 center program described in subparagraph  
25 (E).

1           “(iii) FULL-TIME EMPLOYMENT.—The  
2           term ‘full-time employment’ means employ-  
3           ment in a position that requires at least 35  
4           hours of service per week for at least a 24-  
5           month period.

6           “(iv) HIGH UNEMPLOYMENT AREA.—  
7           The term ‘high unemployment area’ means  
8           an area, using the most recent census data  
9           available, consisting of a census tract that  
10          has an unemployment rate that is at least  
11          150 percent of the national average unem-  
12          ployment rate.

13          “(v) RURAL AREA.—The term ‘rural  
14          area’ means any area other than an area  
15          within a metropolitan statistical area or  
16          within the outer boundary of any city or  
17          town having a population of 20,000 or  
18          more (based on the most recent decennial  
19          census of the United States).

20          “(vi) TARGETED EMPLOYMENT  
21          AREA.—

22                 “(I) IN GENERAL.—The term  
23                 ‘targeted employment area’ means a  
24                 high unemployment area, a rural area,  
25                 or any area within the geographic

1 boundaries of any military installation  
2 closed, during the 20-year period im-  
3 mediately preceding the filing of an  
4 application under subparagraph (F),  
5 based upon a recommendation by the  
6 Defense Base Closure and Realign-  
7 ment Commission.

8 “(II) ELIGIBILITY.—Eligibility  
9 for designation as a targeted employ-  
10 ment area shall be determined by the  
11 Secretary of Homeland Security, who  
12 shall not be bound by the determina-  
13 tion of any other Federal or State  
14 governmental or nongovernmental en-  
15 tity.”.

16 (2) RULEMAKING.—The Secretary of Homeland  
17 Security, in consultation with the Secretary of De-  
18 fense, shall issue appropriate regulations to account  
19 for the modified definition of targeted employment  
20 area in section 203(b)(5)(D)(vi) of the Immigration  
21 and Nationality Act, as added by paragraph (1).

22 (d) AGE DETERMINATION FOR CHILDREN OF ALIEN  
23 ENTREPRENEURS.—Section 203(h) of the Immigration  
24 and Nationality Act (8 U.S.C. 1153(h)) is amended by  
25 adding at the end the following:

1           “(5) AGE DETERMINATION FOR CHILDREN OF  
2           ALIEN ENTREPRENEURS.—An alien admitted under  
3           subsection (d) as a lawful permanent resident on a  
4           conditional basis as the child of an alien lawfully ad-  
5           mitted for permanent residence under subsection  
6           (b)(5), whose lawful permanent resident status on a  
7           conditional basis is terminated under section 216A,  
8           shall continue to be considered a child of the prin-  
9           cipal alien for the purpose of a subsequent immi-  
10          grant petition by such alien under subsection (b)(5)  
11          if the alien remains unmarried and the subsequent  
12          petition is filed by the principal alien not later than  
13          1 year after the termination of conditional lawful  
14          permanent resident status. No alien shall be consid-  
15          ered a child under this paragraph with respect to  
16          more than 1 petition filed after the alien reaches 21  
17          years of age.”.

18          (e) ENHANCED PAY SCALE FOR CERTAIN FEDERAL  
19          EMPLOYEES ADMINISTERING THE EB-5 PROGRAM.—The  
20          Secretary of Homeland Security may establish, fix the  
21          compensation of, and appoint individuals to, designated  
22          critical, technical, and professional positions needed to ad-  
23          minister sections 203(b)(5) and 216A of the Immigration  
24          and Nationality Act (8 U.S.C. 1153(b)(5) and 1186b).



1 (f) CONCURRENT FILING OF EB-5 PETITIONS AND  
2 APPLICATIONS FOR ADJUSTMENT OF STATUS.—Section  
3 245 of the Immigration and Nationality Act (8 U.S.C.  
4 1255) is amended—

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

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

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

16 (g) EFFECTIVE DATES.—

17 (1) IN GENERAL.—Except as provided under  
18 paragraph (2), the amendments made by this section  
19 shall be effective upon the date of the enactment of  
20 this Act.

21 (2) EXCEPTIONS.—The amendments made by  
22 subsections (b)(1) and (c)(1) shall not apply to—

23 (A) applications for business plan approval  
24 for regional center investments in actual  
25 projects that were filed with, or approved by,

1 the Secretary of Homeland Security before the  
2 date of the enactment of this Act; and

3 (B) petitions seeking classification under  
4 section 203(b)(5) of the Immigration and Na-  
5 tionality Act (8 U.S.C. 1153(b)(5)) and peti-  
6 tions filed under section 216A of such Act (8  
7 U.S.C. 1186b) by immigrants investing in the  
8 same commercial enterprise concerning the  
9 same economic activity as contained in an appli-  
10 cation for business plan approval described in  
11 subparagraph (A).

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

13 (a) **FILING ORDER.**—Section 204(a)(1)(H) of the  
14 Immigration and Nationality Act (8 U.S.C.  
15 1154(a)(1)(H)) is amended to read as follows:

16 “(H) An alien desiring to be classified under section  
17 203(b)(5) may file a petition with the Secretary of Home-  
18 land Security. An alien petitioning for classification pursu-  
19 ant to section 203(b)(5)(E) may file a petition with the  
20 Secretary only after approval of investment in a commer-  
21 cial enterprise under section 203(b)(5)(F).”.

22 (b) **EFFECTIVE DATE.**—The amendment made by  
23 subsection (a)—

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



1           (2) 120 days after receiving an application for  
2 approval of investment in a commercial enterprise  
3 described in section 203(b)(5)(F);

4           (3) 150 days after receiving a petition from an  
5 alien desiring to be classified under section  
6 203(b)(5)(E); and

7           (4) 180 days after receiving a petition from an  
8 alien for removal of conditions described in section  
9 216A(e).

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

13           (1) in an amount that is equal to the amount  
14 paid by all other classes of fee-paying applicants for  
15 immigration related benefits, to the coverage or re-  
16 duction of the costs of processing or adjudicating  
17 classes of immigration benefit applications that Con-  
18 gress or, in the case of asylum applications, the Sec-  
19 retary has authorized to be processed or adjudicated  
20 at no cost or at a reduced cost to the applicant; and

21           (2) in an amount that is not greater than 1  
22 percent of the fee for filing a petition under section  
23 203(b)(5) of the Immigration and Nationality Act (8  
24 U.S.C. 1153(b)(5)), to improvements to the informa-  
25 tion technological systems used by the Secretary to

1 process, adjudicate, and archive applications and pe-  
2 titions under such section, including the conversion  
3 to electronic format of documents filed by petitioners  
4 and applicants for benefits under such section.

5 (d) RULE OF CONSTRUCTION.—Nothing in this sec-  
6 tion may be construed to require any modification of fees  
7 before the completion of—

8 (1) the fee study described in subsection (a);  
9 and

10 (2) regulations promulgated by the Secretary of  
11 Homeland Security, in accordance with subchapter  
12 II of chapter 5 and chapter 7 of title 5, United  
13 States Code (commonly known as the “Administra-  
14 tive Procedures Act”), to carry out subsection (b).

15 **SEC. 7. TRANSPARENCY.**

16 (a) IN GENERAL.—Employees of the Department of  
17 Homeland Security, including the Secretary of Homeland  
18 Security, the Secretary’s counselors, the Assistant Sec-  
19 retary for the Private Sector, the Director of U.S. Citizen-  
20 ship and Immigration Services, counselors to such Direc-  
21 tor, and the Chief of Immigrant Investor Programs at  
22 U.S. Citizenship and Immigration Services, shall act im-  
23 partially and may not give preferential treatment to any  
24 organization or individual in connection with any aspect  
25 of the immigrant visa program described in section

1 203(b)(5)(E) of the Immigration and Nationality Act, as  
2 added by section 2(b).

3 (b) IMPROPER ACTIVITIES.—Activities that con-  
4 stitute preferential treatment under subsection (a) shall  
5 include—

6 (1) working on, or in any way attempting to ex-  
7 pedite or otherwise influence, in a manner not avail-  
8 able to or accorded to all other petitioners, appli-  
9 cants, and seekers of benefits under the immigrant  
10 visa program described in section 203(b)(5)(E) of  
11 the Immigration and Nationality Act, as added by  
12 section 2(b), the processing of, an application, peti-  
13 tion, or benefit for—

14 (A) a regional center;

15 (B) a commercial enterprise associated  
16 with a regional center;

17 (C) a job-creating entity associated with a  
18 regional center; or

19 (D) any person or entity associated with  
20 such regional center, commercial enterprise, or  
21 job-creating entity; and

22 (2) meeting or communicating with persons as-  
23 sociated with the entities described in paragraph (1),  
24 at the request of such persons, in a manner not  
25 available to or accorded to all other petitioners, ap-

1 plicants, and seekers of benefits under the immi-  
2 grant visa program described in section  
3 203(b)(5)(E) of the Immigration and Nationality  
4 Act, as added by section 2(b).

5 (c) REPORTING OF COMMUNICATIONS.—

6 (1) WRITTEN COMMUNICATION.—Employees of  
7 the Department of Homeland Security, including the  
8 officials listed in subsection (a), shall include, in the  
9 record of proceeding for a case under section  
10 203(b)(5)(E) of the Immigration and Nationality  
11 Act, as added by section 2(b), actual or electronic  
12 copies of all case-specific written communication, in-  
13 cluding e-mails from government and private ac-  
14 counts, with non-Department persons or entities ad-  
15 vocating for regional center proposals or individual  
16 petitions pending on or after the date of enactment  
17 of this Act.

18 (2) ORAL COMMUNICATION.—If substantive oral  
19 communication, including telephonic communication,  
20 virtual communication, and in-person meetings,  
21 takes place between officials of the Department of  
22 Homeland Security and non-Department persons or  
23 entities regarding specific cases under section  
24 203(b)(5)(E) of the Immigration and Nationality  
25 Act (other than routine communications with other

1 agencies of the Federal Government regarding the  
2 case, including communications involving back-  
3 ground checks and litigation defense)—

4 (A) the conversation shall be recorded; or

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

7 (3) NOTIFICATION.—

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

18 (i) the affected party has been given  
19 notice of such evidence; and

20 (ii) if such evidence is derogatory, the  
21 affected party has been given an oppor-  
22 tunity to respond to the evidence.

23 (B) INFORMATION FROM LAW ENFORCE-  
24 MENT, INTELLIGENCE AGENCIES, OR CON-  
25 FIDENTIAL SOURCES.—



1 (i) LAW ENFORCEMENT OR INTEL-  
2 LIGENCE AGENCIES.—Evidence received  
3 from law enforcement or intelligence agen-  
4 cies may not be made part of the record of  
5 proceeding without the consent of the rel-  
6 evant agency or law enforcement entity.

7 (ii) WHISTLEBLOWERS OR OTHER  
8 CONFIDENTIAL SOURCES.—Evidence re-  
9 ceived from whistleblowers or other con-  
10 fidential sources that is included in the  
11 record of proceeding and considered in ad-  
12 judicative proceedings shall be handled in a  
13 manner that does not reveal the identity of  
14 the whistleblower or confidential source.

15 (d) CONSIDERATION OF EVIDENCE.—

16 (1) IN GENERAL.—No case-specific communica-  
17 tion with persons or entities that are not part of the  
18 Department of Homeland Security may be consid-  
19 ered in the adjudication of an application or petition  
20 under section 203(b)(5)(E) of the Immigration and  
21 Nationality Act, as added by section 2(b), unless the  
22 communication is included in the record of pro-  
23 ceeding of the case.

24 (2) WAIVER.—The Secretary of Homeland Se-  
25 curity may waive the requirement under paragraph

1 (1) only in the interests of national security or for  
2 investigative or law enforcement purposes.

3 (e) CHANNELS OF COMMUNICATION.—

4 (1) E-MAIL ADDRESS OR EQUIVALENT.—The  
5 Director of U.S. Citizenship and Immigration Serv-  
6 ices shall maintain an e-mail account (or equivalent  
7 means of communication) for persons or entities—

8 (A) with inquiries regarding specific cases  
9 under section 203(b)(5)(E) of the Immigration  
10 and Nationality Act, as added by section 2(b);  
11 or

12 (B) seeking non-case-specific information  
13 about the regional center program described in  
14 such section.

15 (2) COMMUNICATION ONLY THROUGH APPRO-  
16 PRIATE CHANNELS OR OFFICES.—

17 (A) ANNOUNCEMENT OF APPROPRIATE  
18 CHANNELS OF COMMUNICATION.—Not later  
19 than 40 days after the date of the enactment of  
20 this Act, the Director of U.S. Citizenship and  
21 Immigration Services shall announce that the  
22 only channels or offices by which petitioners,  
23 applicants, and seekers of benefits under the  
24 immigrant visa program described in section  
25 203(b)(5)(E) of the Immigration and Nation-

1            ality Act, or such persons' representatives, may  
2            communicate with the Department of Home-  
3            land Security regarding specific cases under  
4            such section, or non-case-specific information  
5            about the regional center program applicable to  
6            certain cases under such section, are through—

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

9                    (ii) the U.S. Citizenship and Immigra-  
10                    tion Services National Customer Service  
11                    Center, or any successor to that Center; or

12                    (iii) the U.S. Citizenship and Immi-  
13                    gration Services Office of Public Engage-  
14                    ment, Immigrant Investor Program Office,  
15                    Stakeholder Engagement Branch, or any  
16                    successors to those Offices or Branch.

17            (B) DIRECTION OF INCOMING COMMUNICA-  
18            TIONS.—

19                    (i) IN GENERAL.—Employees of the  
20                    Department of Homeland Security shall di-  
21                    rect all persons making inquiries regarding  
22                    the regional center program applicable to  
23                    certain cases under section 203(b)(5)(E) of  
24                    the Immigration and Nationality Act, as  
25                    added by section 2(b) to the channels of

1 communication or offices listed in subpara-  
2 graph (A).

3 (ii) SAVINGS PROVISION.—Nothing in  
4 this subparagraph may be construed to  
5 prevent Department employees from di-  
6 recting inquiries to the U.S. Citizenship  
7 and Immigration Services Ombudsman.

8 (C) LOG.—

9 (i) IN GENERAL.—The Director of  
10 U.S. Citizenship and Immigration Services  
11 shall maintain a written or electronic log  
12 of—

13 (I) all communications described  
14 in subparagraph (A), which shall ref-  
15 erence the date, time, and subject of  
16 the communication, and the identity  
17 of the Department official, if any, to  
18 whom the inquiry was forwarded;

19 (II) with respect to written com-  
20 munications described in subsection  
21 (c)(1), the date the communication  
22 was received, the identities of the  
23 sender and addressee, and the subject  
24 of the communication; and

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

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

13 (3) PUBLICATION OF INFORMATION.—If, as a  
14 result of a communication with an official of the De-  
15 partment of Homeland Security, a person or entity  
16 inquiring about a specific case or generally about the  
17 regional center program described in section  
18 203(b)(5)(E) of the Immigration and Nationality  
19 Act received generally applicable and non-case spe-  
20 cific information about program requirements or ad-  
21 ministration that has not been made publicly avail-  
22 able by the Department, the Director of U.S. Citi-  
23 zenship and Immigration Services, not later than 30  
24 days after the communication of such information to  
25 such person or entity, shall publish such information

1 on the U.S. Citizenship and Immigration Services  
2 website as an update to the relevant Frequently  
3 Asked Questions page or by some other comparable  
4 mechanism.

5 (f) PENALTY.—

6 (1) IN GENERAL.—Any person who violates the  
7 prohibition on preferential treatment under this sec-  
8 tion or intentionally violates the reporting require-  
9 ments under subsection (c) shall be disciplined in ac-  
10 cordance with paragraph (2).

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

18 (A) written reprimand;

19 (B) suspension;

20 (C) demotion; or

21 (D) 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) EFFECTIVE DATE.—The amendments made by  
2 this section shall take effect on the date of the enactment  
3 of this Act.

○