

114TH CONGRESS  
1ST SESSION

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

To increase the worldwide level of employment-based immigrants and to reauthorize the EB-5 regional center program.

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IN THE SENATE OF THE UNITED STATES

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Mr. PAUL introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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## **A BILL**

To increase the worldwide level of employment-based immigrants and to reauthorize the EB-5 regional center program.

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 “Invest in Our Commu-  
5 nities Act”.

1 **SEC. 2. EXEMPTION OF DEPENDENTS FROM BEING COUNT-**  
2 **ED TOWARDS WORLDWIDE EMPLOYMENT-**  
3 **BASED IMMIGRATION LEVEL.**

4 Section 201(b)(1) of the Immigration and Nationality  
5 Act (8 U.S.C. 1151(b)(1)) is amended by adding at the  
6 end the following:

7 “(F) Aliens who are spouses or children of an  
8 alien admitted as an employment-based immigrant  
9 under section 203(b)(5).”.

10 **SEC. 3. WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMI-**  
11 **GRANTS.**

12 Section 201(d) of the Immigration and Nationality  
13 Act (8 U.S.C. 1151(d) is amended to read as follows:

14 “(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED  
15 IMMIGRANTS.—

16 “(1) IN GENERAL.—The worldwide level of em-  
17 ployment-based immigrants under this subsection for  
18 a fiscal year is equal to the sum of—

19 “(A) 150,000; and

20 “(B) the number computed under para-  
21 graph (2).

22 “(2) ADJUSTMENT.—The number computed  
23 under this paragraph for fiscal year 2015 and each  
24 subsequent fiscal year is the difference (if any) be-  
25 tween—

1           “(A) the maximum number of visas which  
2           may be issued under section 203(a) (relating to  
3           family-sponsored immigrants) during the pre-  
4           vious fiscal year; and

5           “(B) the number of visas issued under that  
6           section during that year.”.

7   **SEC. 4. EXCLUSION OF EB-5 VISAS FROM COUNTRY CAPS.**

8           Section 202(a)(5) of the Immigration and Nationality  
9   Act (8 U.S.C. 1152(a)(5)) is amended by adding at the  
10   end the following:

11           “(C) EXCLUSION OF EB-5 VISAS FROM  
12           PER COUNTRY LIMITATION.—Visas issued under  
13           section 203(b)(5) shall not be counted toward  
14           the numerical limitation under paragraph (2).”.

15   **SEC. 5. PERMANENT REAUTHORIZATION OF EMPLOYMENT  
16           CREATION REGIONAL CENTERS.**

17           Section 203(b)(5) of the Immigration and Nationality  
18   Act (8 U.S.C. 1153(b)(5)) is amended—

19           (1) by redesignating subparagraph (D) as sub-  
20           paragraph (H); and

21           (2) by inserting after subparagraph (C) the fol-  
22           lowing:

23           “(D) EMPLOYMENT CREATION REGIONAL  
24           CENTERS.—

1                   “(i) IN GENERAL.—Visas under this  
2 paragraph shall be made available to quali-  
3 fied immigrants who participate in a pro-  
4 gram involving a regional center in the  
5 United States, which has been designated  
6 by the Secretary of Homeland Security, in  
7 consultation with the Secretary of Com-  
8 merce, on the basis of a general proposal  
9 filed with the Secretary of Homeland Secu-  
10 rity, for the promotion of economic growth,  
11 including—

12                                   “(I) increased exports;

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

15                                   “(III) job creation; and

16                                   “(IV) increased domestic capital  
17 investment.

18                   “(ii) JURISDICTION.—A regional cen-  
19 ter shall have jurisdiction over a specific  
20 geographic area, which shall be—

21                                   “(I) described in the proposal  
22 filed under clause (i); and

23                                   “(II) consistent with the purpose  
24 of concentrating pooled investment in  
25 defined economic zones.

1                   “(iii) GENERAL PREDICTIONS.—The  
2                   establishment of a regional center under  
3                   this subparagraph may be based on gen-  
4                   eral predictions contained in the proposal  
5                   concerning—

6                   “(I) the kinds of new commercial  
7                   enterprises that will receive capital  
8                   from aliens;

9                   “(II) the jobs that will be created  
10                  directly or indirectly as a result of  
11                  such investments; and

12                  “(III) other positive economic ef-  
13                  fects such investments will have.

14                  “(iv) METHODOLOGIES FOR DETER-  
15                  MINING JOB CREATION.—Notwithstanding  
16                  requirements applicable to investors not in-  
17                  volved in a regional center, in determining  
18                  compliance with this subparagraph, the  
19                  Secretary of Homeland Security shall rec-  
20                  ognize reasonable methodologies for deter-  
21                  mining the number of jobs created by a  
22                  designated regional center, including jobs  
23                  that are estimated to have been created in-  
24                  directly through revenues generated  
25                  from—

6

1 “(I) increased exports;

2 “(II) improved regional produc-  
3 tivity; or

4 “(III) increased domestic capital  
5 investment resulting from the regional  
6 center.

7 “(v) SPECIAL PROCEDURES.—

8 “(I) PREAPPROVAL OF NEW COM-  
9 Mercial Enterprises.—The Sec-  
10 retary of Homeland Security shall es-  
11 tablish a preapproval procedure for  
12 new commercial enterprises that—

13 “(aa) allows a regional cen-  
14 ter or potential regional center to  
15 apply to the Secretary for  
16 preapproval of a new commercial  
17 enterprise before any alien files a  
18 petition for classification under  
19 this paragraph by reason of in-  
20 vestment in the new commercial  
21 enterprise;

22 “(bb) allows the applicant to  
23 address and cure any deficiencies  
24 identified by the Secretary in the

1 application before a final deter-  
2 mination on the application;

3 “(cc) requires that the Sec-  
4 retary make final decisions on all  
5 issues under this paragraph other  
6 than those issues unique to each  
7 individual investor in the new  
8 commercial enterprise; and

9 “(dd) requires that the Sec-  
10 retary eliminate the need for the  
11 repeated submission of docu-  
12 mentation that is common to  
13 multiple petitions for classifica-  
14 tion under this paragraph  
15 through a regional center.

16 “(II) DEFERENCE TO PRIOR  
17 RULINGS.—Absent material change,  
18 fraud, or legal deficiency, the Sec-  
19 retary of Homeland Security shall  
20 give deference to, and not revisit, fa-  
21 vorable determinations made per-  
22 taining to a commercial enterprise  
23 during the adjudication of—

24 “(aa) petitions filed by im-  
25 migrants investing in the com-

1                   merchial enterprise under this sub-  
2                   paragraph; and

3                   “(bb) petitions filed by such  
4                   immigrants under section 216A  
5                   for the removal of conditional  
6                   basis.

7                   “(vi) PROCESSING TIMES.—

8                   “(I) IN GENERAL.—The Sec-  
9                   retary of Homeland Security shall  
10                  make determinations on a proposal  
11                  filed under clause (i) or an application  
12                  filed under clause (v) not later than  
13                  180 days after the date on which the  
14                  proposal or application is filed.

15                  “(II) ADDITIONAL INFORMA-  
16                  TION.—If the Secretary determines  
17                  that an initial filing under this section  
18                  does not meet the standards for ap-  
19                  proval, the Secretary shall—

20                  “(aa) not later than 30 days  
21                  after the date of such filing, no-  
22                  tify the applicant of the reasons  
23                  such proposal or application was  
24                  not approved and the additional

1 information or documentation  
2 that is required for approval; and

3 “(bb) permit the applicant  
4 to promptly resubmit a modified  
5 filing; and

6 “(cc) adjudicate the modi-  
7 fied proposal or application not  
8 later than 30 days after it is re-  
9 ceived.”.

10 **SEC. 6. SECURITY REFORMS.**

11 Section 203(b)(5) of the Immigration and Nationality  
12 Act (8 U.S.C. 1153(b)(5)), as amended by section 5, is  
13 further amended by adding at the end the following:

14 “(E) APPELLATE RIGHTS.—

15 “(i) IN GENERAL.—Any person sub-  
16 ject to the suspension or termination of  
17 rights under this paragraph, if such deci-  
18 sion was under the discretion of the Sec-  
19 retary of Homeland Security, may appeal  
20 such decision and be entitled to a hearing  
21 before an administrative law judge.

22 “(ii) APPELLANT’S RIGHTS.—An ap-  
23 pellant under this subparagraph has the  
24 right—



1 CENTER ASSOCIATED COMMERCIAL ENTER-  
2 PRISES.—

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

16 “(I) the person has been found  
17 liable within the previous 5 years for  
18 any criminal or civil violation of any  
19 law relating to fraud or deceit, or at  
20 any time if such violation involved a  
21 civil liability in excess of \$1,000,000,  
22 a criminal conviction with a term of  
23 imprisonment of more than 1 year or  
24 a criminal or civil violation of any law  
25 or agency regulation in connection

1 with the offer, purchase, or sale of a  
2 security;

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

18 “(aa) prohibits fraudulent,  
19 manipulative, or deceptive con-  
20 duct; or

21 “(bb) bars the person  
22 from—

23 “(AA) association with  
24 an entity regulated by such

1 commission, authority, agen-  
2 cy, or officer;

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

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

9 “(III) the person has been con-  
10 victed of—

11 “(aa) any activity relating to  
12 espionage, sabotage, or theft of  
13 intellectual property;

14 “(bb) any activity related to  
15 money laundering (as described  
16 in section 1956 or 1957 of title  
17 18, United States Code);

18 “(cc) any terrorist activity  
19 (as defined in clauses (iii) and  
20 (iv) of section 212(a)(3)(B)); or

21 “(dd) any activity related to  
22 human trafficking or a human  
23 rights offense;

24 “(IV) the person—

1                   “(aa) is, or during the pre-  
2                   ceding 5 years has been, included  
3                   on the Department of Justice’s  
4                   List of Currently Disciplined  
5                   Practitioners; or

6                   “(bb) during the preceding 5  
7                   years, has received a reprimand  
8                   or otherwise been publicly dis-  
9                   ciplined by a bar association of  
10                  which the person is or was a  
11                  member.

12                  “(ii) STATUS OF REGIONAL CENTER  
13                  PRINCIPALS.—

14                  “(I)   LAWFUL   STATUS   RE-  
15                  QUIRED.—No person may be directly  
16                  or indirectly involved with a regional  
17                  center as its principal, administrator,  
18                  owner, officer, board member, man-  
19                  ager, executive, general partner, fidu-  
20                  ciary, or other similar position of sig-  
21                  nificant authority for the operations  
22                  or management of the regional center  
23                  unless the person is a national of the  
24                  United States or an individual who

1 has been lawfully admitted for perma-  
2 nent residence.

3 “(II) FOREIGN GOVERNMENTS.—  
4 No foreign government entity may be  
5 directly or indirectly involved with the  
6 ownership or administration of a re-  
7 gional center.

8 “(iii) INFORMATION REQUIRED.—The  
9 Secretary of Homeland Security shall re-  
10 quire such attestations and information,  
11 including the submission of fingerprints or  
12 other biometrics to the Federal Bureau of  
13 Investigation, and shall perform such  
14 criminal record checks and other back-  
15 ground checks with respect to a regional  
16 center or regional center associated com-  
17 mercial enterprise, and persons involved in  
18 a regional center or regional center associ-  
19 ated commercial enterprise, to determine  
20 whether such regional center or regional  
21 center associated commercial enterprise is  
22 in compliance with clauses (i) and (ii).

23 “(iv) TERMINATION.—The Secretary  
24 shall terminate any regional center or re-  
25 gional center associated commercial enter-

1                   prise from the regional center program if  
2                   the Secretary determines that—

3                   “(I) the regional center or re-  
4                   gional center associated commercial  
5                   enterprise has violated clause (i);

6                   “(II) the regional center has vio-  
7                   lated clause (ii); or

8                   “(III) the regional center, a re-  
9                   gional center associated commercial  
10                  enterprise, or any person involved  
11                  with the regional center or regional  
12                  center associated commercial enter-  
13                  prise—

14                  “(aa) fails to provide an at-  
15                  testation or information re-  
16                  quested by the Secretary;

17                  “(bb) provides any false at-  
18                  testation or information under  
19                  clause (iii);

20                  “(cc) has engaged in fraud,  
21                  misrepresentation, or criminal  
22                  misuse; or

23                  “(dd) poses a threat to pub-  
24                  lic safety or national security.

1                   “(G) COMPLIANCE WITH SECURITIES  
2 LAWS.—

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

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

17                   “(I) INITIAL CERTIFICATION.—  
18 The Secretary of Homeland Security  
19 may not approve an application for re-  
20 gional center designation or regional  
21 center amendment unless the regional  
22 center certifies that the regional cen-  
23 ter is in compliance with and has poli-  
24 cies and procedures reasonably de-  
25 signed to ensure that all parties asso-

1           ciated with the regional center remain  
2           in compliance with the securities laws  
3           of the United States and of any State  
4           in which the regional center operates  
5           in connection with the offer, purchase,  
6           or sale of securities or the provision of  
7           investment advice by the regional cen-  
8           ter or parties associated with the re-  
9           gional center.

10                   “(II) REISSUE.—A regional cen-  
11           ter shall annually reissue a certifi-  
12           cation described in subclause (I). An-  
13           nual certifications under this sub-  
14           clause shall certify compliance with  
15           clause (iii) by stating that—

16                           “(aa) the certifier is in a po-  
17                           sition to have knowledge of the  
18                           offers, purchases, and sales of se-  
19                           curities or the provision of invest-  
20                           ment advice by parties associated  
21                           with the regional center; and

22                           “(bb) to the best of the cer-  
23                           tifier’s knowledge, after reason-  
24                           able investigation—

1                   “(AA) all such offers,  
2                   purchases, and sales of secu-  
3                   rities or the provision of in-  
4                   vestment advice complied  
5                   with securities laws of the  
6                   United States; and

7                   “(BB) records, data,  
8                   and information related to  
9                   such offers, purchases, and  
10                  sales have been 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 regional center that does not provide the  
2 certification described in clause (ii). The  
3 Secretary, in the Secretary’s unreviewable  
4 discretion, may suspend or terminate the  
5 designation of any regional center or im-  
6 pose other sanctions against the regional  
7 center if the regional center or any parties  
8 associated with the regional center—

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

15 “(II) are subject to any final  
16 order of the Securities and Exchange  
17 Commission that—

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

22 “(bb) constitutes a final  
23 order based on violations in con-  
24 nection with the offer, purchase,

1 or sale of, or advice relating to, a  
2 security; or

3 “(III) knowingly submitted or  
4 caused to be submitted a certification  
5 described in clause (ii) that contained  
6 an untrue statement of a material fact  
7 or omitted to state a material fact  
8 necessary in order to make the state-  
9 ments made, in light of the cir-  
10 cumstances under which they were  
11 made, not misleading.

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

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

20 “(I) the regional center;

21 “(II) any commercial enterprise  
22 associated with the regional center;

23 “(III) the regional center’s and  
24 associated commercial enterprise’s  
25 owners, officers, directors, managers,

1 partners, broker-dealers, employees,  
2 and attorneys; and

3 “(IV) any person in active con-  
4 cert or participation with the regional  
5 center or directly or indirectly control-  
6 ling, controlled by, or under common  
7 control with the regional center.”.

8 (b) STUDY AND REPORT.—

9 (1) IN GENERAL.—Not later than 2 years after  
10 the date of the enactment of this Act, the Secretary  
11 of Homeland Security, in coordination with the Sec-  
12 retary of Commerce and after consultation with rel-  
13 evant Federal agencies, shall submit a report to the  
14 Committee on the Judiciary of the Senate and the  
15 Committee on the Judiciary of the House of Rep-  
16 resentatives that describes—

17 (A) the percentage of completed and pend-  
18 ing capital investment projects, within the scope  
19 of business plans both approved and awaiting  
20 approval—

21 (i) in targeted rural employment  
22 areas;

23 (ii) in targeted high unemployment  
24 areas;

25 (iii) in high poverty areas;

1 (iv) for infrastructure projects; and

2 (v) not included in the areas described

3 in clauses (i) through (iii);

4 (B) whether other Federal financial assist-  
5 ance programs, such as economic development  
6 programs administered by the Department of  
7 Agriculture, the Department of Housing and  
8 Urban Development, or the Community Devel-  
9 opment Financial Institutions Fund, are also  
10 used or intended to support projects described  
11 in subparagraph (A); and

12 (C) whether market demands to approve  
13 projects described in subparagraph (A) exceed  
14 the number of visas allowed under section  
15 203(b)(5)(F) of the Immigration and Nation-  
16 ality Act, as added by subsection (a).

17 (2) PUBLIC INPUT.—Not later than 60 days be-  
18 fore the submission of the report under paragraph  
19 (1), the public shall receive notice and an oppor-  
20 tunity to comment on such draft study.

21 **SEC. 8. AGE DETERMINATION FOR CHILDREN OF ALIEN IN-**  
22 **VESTORS.**

23 Section 203(h) of the Immigration and Nationality  
24 Act (8 U.S.C. 1153(h)) is amended by adding at the end  
25 the following:

1           “(5) AGE DETERMINATION FOR CHILDREN OF  
2           ALIEN INVESTORS.—

3           “(A) IN GENERAL.—Subject to subpara-  
4           graph (B), an alien admitted under subsection  
5           (d) as a lawful permanent resident on a condi-  
6           tional basis as the child of an alien lawfully ad-  
7           mitted for permanent residence under sub-  
8           section (b)(5), whose lawful permanent resident  
9           status on a conditional basis is terminated  
10          under section 216A, shall continue to be consid-  
11          ered a child of the principal alien for the pur-  
12          pose of a subsequent immigrant petition by  
13          such alien under subsection (b)(5) if—

14                   “(i) the alien remains unmarried; and

15                   “(ii) the subsequent petition is filed  
16                   by the principal alien not later than 1 year  
17                   after the termination of conditional lawful  
18                   permanent resident status.

19           “(B) EXCEPTION.—An alien shall not be  
20          considered a child under this paragraph with  
21          respect to more than 1 petition filed after the  
22          alien reaches 21 years of age.”.