

**Statement of Senator Patrick Leahy (D-Vt.),
Ranking Member, Senate Judiciary Committee,
Hearing on
“The failures and future of the EB-5 Regional Center program: Can it be fixed?”
February 2, 2016**

I want to thank Chairman Grassley for holding this important hearing, what I expect to be the first in an oversight series. We have worked closely together to bring attention to the problems plaguing the EB-5 Regional Center program. I strongly believe the EB-5 Regional Center program can generate investment and create jobs in rural and poor urban areas that struggle to grow their economies. That is why I have worked to reauthorize the program for many years. Unfortunately, the Regional Center program that exists today has strayed from these important policy goals. Currently, it too often serves as a corporate subsidy for mega developers. And reports of fraud and abuse are rampant. If the program is to continue, it must be reformed.

Chairman Grassley and I are hardly alone in our concerns. A recent GAO report detailed vulnerabilities within the program and questioned its economic impact. Separate reports from the Department of Homeland Security’s Office of Intelligence and Analysis and the Inspector General highlighted additional issues. And newspapers from the *Wall Street Journal* to the *Seattle Times* have exposed the widespread abuse of Targeted Employment Areas, which has resulted in the wealthiest pockets of the country qualifying for incentives intended for distressed areas. Deputy Secretary Mayorkas acknowledged that he is “disturbed by reports that some states are deliberately drawing Targeted Employment Areas to include prosperous areas that should not be subject to the reduced capital requirements that Congress intended only for the benefit of rural areas or areas suffering high unemployment.” Secretary Johnson rightly described the practice as gerrymandering, which has been roundly criticized by The Leadership Conference on Civil and Human Rights.

It is unacceptable that Congress has failed to respond to this overwhelming consensus for reform. I am particularly troubled by the opposition to reform of the Targeted Employment Areas. Their abuse undermines a core objective of the EB-5 Regional Center Program—to spur growth and create jobs in underserved areas where investment capital and jobs are often scarce. I do not suggest that affluent areas should not benefit from EB-5. They should. But they should not qualify as distressed areas. In many cases, these projects would be pursued regardless of EB-5, calling into question whether the EB-5 capital is creating any jobs at all.

I believe the Regional Center program can be fixed, but only if it is significantly reformed. In recent years, DHS has made important changes to its review of EB-5 petitions. These actions have helped the agency to guard against abuse. But Secretary Johnson himself has acknowledged that more reform is needed and he has called on Congress to act.

Last Congress, I authored a reform-oriented EB-5 amendment to Comprehensive Immigration Reform. Unfortunately, the House of Representatives failed to allow a vote on the bipartisan bill.

This Congress, I worked with Chairman Grassley, House Judiciary Chairman Goodlatte and Ranking Member Conyers, and others, on comprehensive EB-5 reform. Our proposal would

address national security concerns and fraud. It would expand background checks, site visits, and the vetting of projects and investors alike. It would raise minimum investment thresholds so more money goes to the communities that need it. And, critically, it would help to restore the program to its original intent, by ensuring meaningful incentives to invest in underserved areas.

Our bipartisan proposal answered the concerns raised by Secretary Johnson, the DHS Inspector General, the GAO, and others. It won the support of the largest industry trade group, Invest in the USA. And it won support from important voices in the civil rights community, such as The Leadership Conference. They recognized our reforms would give distressed urban and rural communities a fair shot at attracting investment and new jobs.

Despite the strong support of the chairmen of both the Senate and House Judiciary Committees, Congressional leaders inexcusably blocked our reforms. As Chairman Grassley said in December, “our House and Senate leadership failed us.”

The Regional Center Program must be meaningfully reformed. Small but powerful corporate interests must not be allowed to derail improvements that can help our most distressed communities. They must not be given credit for window-dressing reform proposals that do little to change the status quo. Today’s hearing is an important step. I stand ready to work with anyone interested in genuinely reforming the Regional Center program. I will not give up working to improve a jobs program that could be so beneficial to distressed and rural communities. We still have an opportunity to get this right.

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