

TO EXTEND FOR 5 YEARS THE EB-5 REGIONAL CENTER
PILOT PROGRAM

JUNE 5, 2008.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. CONYERS, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 5569]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill
(H.R. 5569) to extend for 5 years the EB-5 regional center pilot
program, having considered the same, report favorably thereon
without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 5569 reauthorizes the EB-5 Immigrant Investor Pilot Pro-
gram for regional centers for 5 years, until September 30, 2013.

BACKGROUND AND NEED FOR THE LEGISLATION

Congress created the fifth employment-based preference (EB-5) immigrant visa category in 1990 for immigrants seeking to enter the United States to invest in a commercial enterprise that will benefit the U.S. economy and create at least 10 full-time jobs.¹ The basic amount required to be invested is \$1 million, although that amount can be reduced to \$500,000 if the investment is made in a rural or high unemployment area.² Approximately 10,000 visas are available in this green card category each year.

Since its inception, the EB-5 category has been underutilized. For example, in FY 2007, a total of only 806 investors and family members immigrated to the United States in the EB-5 category.³ This still represented a high for the program, however, and evidences the fact that interest and participation in the EB-5 program has increased significantly over the past several years. Unofficial estimates indicate that the EB-5 immigrant investor program is projected to achieve, during the current year, an annual rate of \$1 billion in aggregate immigrant investment, with more than 20,000 new direct and indirect jobs created annually.

To help further encourage immigration through the EB-5 category, Congress created a temporary pilot program in 1993.⁴ The Immigrant Investor Pilot Program allocates 3,000 visas each year for EB-5 investors who invest in “designated regional centers.” The pilot program has been renewed several times, and is currently due to expire September 30, 2008.⁵ H.R. 5569 would extend the EB-5 regional center pilot program for 5 years, until September 30, 2013.

An investment under the EB-5 pilot program must be made in a commercial enterprise located within a “regional center,” defined as “any economic unit, public or private, which is involved with the promotion of economic growth, including increased export sales, improved regional productivity, job creation, or increased domestic capital investment.”⁶

A regional center seeking approval must submit a proposal showing how it plans to focus on a geographical region within the United States. The proposal must show “in verifiable detail how jobs will be created,” along with the amount and source of capital committed and the promotional efforts made and planned.⁷ There are approximately 19 active approved regional centers today, and at least 20 other applications for regional center designation are pending.

U.S. Citizenship and Immigration Services (USCIS) is currently stepping up its review of new regional center applications and increasing oversight of existing regional centers to ensure that the EB-5 program grows in a responsible way. In a recent advisory letter to a regional center, USCIS outlined 17 types of information

¹ Immigration and Nationality Act, § 203(b)(5), 8 U.S.C. § 1153(b)(5) (2007).

² Immigration and Nationality Act, § 203(b)(5)(C)(ii), 8 U.S.C. § 1153(b)(5)(C)(ii) (2007).

³ Department of Homeland Security, Yearbook of Immigration Statistics: 2007, at <http://www.dhs.gov/ximgrn/statistics/publications/LPR07.shtm> (table 7).

⁴ Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1993, Pub. L. No. 102-395, § 610, 106 Stat. 1874 (1992), 8 U.S.C. § 1153 note (2007).

⁵ Basic Pilot Program Extension and Expansion Act of 2003, Pub. L. No. 108-156, § 4(b), 117 Stat. 1945 (2003) (extending EB-5 pilot program 5 years to Sept. 30, 2008).

⁶ 8 C.F.R. § 204.6(e).

⁷ 8 C.F.R. § 204.6(m)(3).

that approved regional centers must track to keep their regional center designation.⁸

Assuming a regional center application has been approved, an applicant seeking EB-5 status under the pilot program must make the qualifying investment (i.e., the amount of money required under the regular EB-5 program) within an approved regional center. The requirement of creating at least 10 new jobs, however, is met by a showing that as a result of the new enterprise, such jobs will be created directly or indirectly.

In 2003, Congress asked the U.S. Government Accountability Office (GAO) to study the EB-5 program. The GAO concluded that the program had been under-utilized—for a variety of reasons. It found, however, that even though few people have used the EB-5 category, EB-5 participants have invested an estimated \$1 billion in a variety of U.S. businesses.⁹

To help further the purposes of the EB-5 program, the Committee recommends that, to the extent practicable, qualifying investments under the pilot program should be made in targeted employment areas, as defined in section 203(b)(5)(B)(ii) of the Immigration and Nationality Act,¹⁰ These should include rural areas, i.e., areas other than an area within a metropolitan statistical area or within the outer boundary of any city or town having a population of 20,000 or more (based on the most recent decennial census of the United States). And they should also include high-unemployment areas, i.e. areas that have experienced unemployment of at least 150 percent of the national average rate.

HEARINGS

The Committee on the Judiciary held no hearings on H.R. 5569.

COMMITTEE CONSIDERATION

On March 12, 2008, the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law met in open session and ordered the bill, H.R. 5569, favorably reported, without amendment, by voice vote, a quorum being present. On April 2, 2008, the Committee met in open session and ordered the bill, H.R. 5569, favorably reported, without amendment, by voice vote, a quorum being present.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that there were no recorded votes during the Committee's consideration of H.R. 5569.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings

⁸Letter from USCIS Foreign Trader, Investor & Regional Center Program to Metropolitan Milwaukee Association of Commerce (June 12, 2007).

⁹U.S. Government Accountability Office, No. GAO-05-256, "Immigrant Investors: Small Number of Participants Attributed to Pending Regulations and Other Factors" (Apr. 2005), at <http://www.gao.gov/new.items/d05256.pdf>.

¹⁰8 U.S.C. § 1153(b)(5)(B)(ii) (2007).

and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 5569, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 9, 2008.

Hon. JOHN CONYERS, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5569, a bill to extend for 5 years the EB-5 regional center pilot program.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226-2860.

Sincerely,

PETER R. ORSZAG,
DIRECTOR.

Enclosure

cc: Honorable Lamar S. Smith.
Ranking Member

H.R. 5569—A bill to extend for 5 years the EB-5 regional center pilot program.

CBO estimates that implementing H.R. 5569 would have no significant cost to the Federal Government. Enacting the bill could affect direct spending, but CBO estimates that any such effects would not be significant in any year. In addition, we estimate that enacting H.R. 5569 would increase revenues by less than \$500,000 a year. H.R. 5569 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of State, local, or tribal governments.

Current law authorizes 3,000 immigrant visas each year under the EB-5 regional center pilot program for investors and entrepreneurs meeting certain criteria. This pilot program will expire on September 30, 2008, and H.R. 5569 would extend the program for 5 years.

The Department of State charges a \$45 security surcharge for such visas and, depending on the type of petition, may charge additional fees for fingerprinting or affidavits of support. In addition,

the Department of Homeland Security (DHS) collects a fee of \$1,435 to process visa applications submitted by applicants for the pilot program. All of those fees are classified as offsetting collections (for the Department of State) or offsetting receipts (for DHS) and are retained and spent by the departments. CBO estimates that the net budgetary effect of those increased collections and related spending would be less than \$500,000 a year.

The Department of State also collects fees from persons who apply for such visas from overseas. Under current law, an application fee of \$355 per person is charged by the department and deposited in the Treasury as a revenue. Based on participation in the pilot program in recent years, CBO estimates that the department would process fewer than 1,000 persons annually and that enacting H.R. 5569 would increase revenues by less than \$500,000 a year.

The CBO staff contacts for this estimate are Mark Grabowicz (for DHS's costs), who can be reached at 226–2860, and Sunita D'Monte (for the Department of State's costs), who can be reached at 226–2840. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 5569 will extend for 5 years the EB-5 regional center pilot program.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8, clause 4 of the Constitution.

ADVISORY ON EARMARKS

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 5569 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

SECTION-BY-SECTION ANALYSIS

The following discussion describes the bill as reported by the Committee.

Sec. 1. Extension of EB-5 Regional Center Pilot Program. This section extends the EB-5 Regional Center Pilot Program by 5 years, until September 30, 2013.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**SECTION 610 OF THE DEPARTMENTS OF COMMERCE,
JUSTICE, AND STATE, THE JUDICIARY, AND RELATED
AGENCIES APPROPRIATIONS ACT, 1993**

SEC. 610. PILOT IMMIGRATION PROGRAM.—(a) * * *

(b) For purposes of the pilot program established in subsection (a), beginning on October 1, 1992, but no later than October 1, 1993, the Secretary of State, together with the Secretary of Homeland Security, shall set aside 3,000 visas annually **【for 15 years】** *for 20 years* to include such aliens as are eligible for admission under section 203(b)(5) of the Immigration and Nationality Act and this section, as well as spouses or children which are eligible, under the terms of the Immigration and Nationality Act, to accompany or follow to join such aliens.

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