

response. As new and more dangerous opioids hit the streets, this crisis could become exponentially worse. Our failure to act is having tragic consequences.

At long last, let's give law enforcement, let's give treatment providers, and let's give recovery centers the resources they so desperately need. At long last, let's come together. Let's pass an emergency funding bill to combat the opioid epidemic. If we can spend billions to fight Ebola on a distant continent, surely we can allocate \$600 million to combat a raging epidemic right here at home.

When the Senate comes back into session after the election, we will have another opportunity to consider emergency funding to combat this crisis. For tens of thousands of Americans, this is very literally a matter of life and death.

Let's put politics aside. Let's do the job the American people sent us to do. At long last, let's give law enforcement and treatment providers on the frontlines the resources they need to effectively address the opioid crisis.

Thank you to my colleagues from Massachusetts and Minnesota for coming to the floor to once again point out the need we so desperately have.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I believe we had arranged for Senator GRASSLEY and me to speak at this point.

I see my distinguished colleague on the floor.

Mr. BARRASSO. Mr. President, I have about 8 minutes or 9 minutes of remarks, but I don't see the Senator from Iowa yet. If the Senator from Vermont wishes to speak—

Mr. LEAHY. Mr. President, he wanted me to speak, and then he was going to speak. If I might continue, this will be fairly brief.

EB-5 REGIONAL CENTER PROGRAM

Mr. LEAHY. Mr. President, the reason I have come to the floor today—and I will be joined by Senator GRASSLEY—is to share my concern and his concern about the EB-5 Regional Center Program. The authorization of this program is set to expire at the end of the month, but Senate leadership wants to extend the EB-5 Program as part of the continuing resolution. I want the Senators to know that if this flawed program is not reformed, I believe it should end. I can no longer support a straight extension of the program.

For years, I strongly supported the EB-5 Program. I even championed its reauthorization. I did so because EB-5 was designed to bring in investment and jobs to underserved rural and urban communities. For some time, that is what it did. In my home State of Vermont, communities such as Warren and Vergennes used EB-5 to create and save jobs during difficult economic times. They are EB-5 success stories,

but that was the EB-5 yesterday. The EB-5 Program today is mired in fraud and abuse. It has strayed from its important policy goals. The incentives Congress created to direct investment to underserved areas—the very reason I supported this program—have been rendered meaningless.

The program has become an unintended boon for the wealthiest business districts in the country. Affluent areas now dominate the program. They exploit incentives that were intended for underserved areas, a practice Department of Homeland Security Secretary Johnson has rightly described as gerrymandering. It has reached the point where a luxury hotel in Beverly Hills, CA, qualifies as a distressed urban area. Only in the world of EB-5 is Beverly Hills considered economically distressed.

This type of abuse today is not the exception, it is the rule. Currently, 90 percent of EB-5 capital goes to areas that rely on gerrymandering to qualify as distressed—90 percent. That is why the civil rights community, led by the Leadership Conference on Civil and Human Rights, has so strongly criticized this program.

Far from being a tool for economic development and job creation, EB-5 is now serving as a corporate subsidy for wealthy developers, allowing them to save tens of millions of dollars in financing. It is no wonder these developers fight so hard against reforms that would restore incentives for EB-5 to do what it was supposed to do when it began—promote investment in rural and poor urban areas.

I am not suggesting that affluent areas should never qualify, I am merely suggesting they should not qualify for the unique incentives that Congress intended for underserved communities because these underserved communities have far more trouble attracting capital to create jobs.

Unfortunately, gerrymandering and abused incentives are only part of the problem. In recent years, EB-5 has become riddled with fraud. Review after review—conducted by the GAO, the Inspector General, and by Senator GRASSLEY and me on the Judiciary Committee—have revealed serious vulnerabilities in the program. Investors have been defrauded. They have lost money and their immigration benefits have been put in jeopardy.

Communities that once hoped to benefit from this program have been left to pick up the pieces. From California to Florida, and from Texas to even my home State of Vermont, allegations of fraud have stained this program. Since 2013, the Securities and Exchange Commission has filed dozens of EB-5-related enforcement actions. As of last year, over 50 more Federal investigations were ongoing. Fraud will continue unabated until we give the Department of Homeland Security the tools it needs to guard against abuse.

We have an obligation in Congress to ensure that Federal agencies can do

their job. The Department of Homeland Security has made some administrative improvements to EB-5, but Secretary Johnson has made it clear to both me and Senator GRASSLEY that congressional action is necessary.

For 5 years, I worked with both Democrats and Republicans to reform EB-5. In 2013, I included EB-5 reforms in the Senate-passed comprehensive immigration reform. That received a bipartisan vote of 68 votes in the Senate, but the House of Representatives failed to allow a vote on those reforms. Since then, I have continued to work with Senator GRASSLEY to review and reform the EB-5 Program.

Last year, he and I negotiated far-reaching reforms with our counterparts in the House Judiciary Committee. Senator GRASSLEY and I pushed to have that four corners agreement included in the omnibus appropriations bill at the end of last year. But big city developers still viewed our reforms as a threat to their bottom line, and they have worked aggressively to block our efforts.

Unfortunately, leaders in Congress sided with the developers and extended the EB-5 Program without reform. Senator GRASSLEY and I are not going to relent in our efforts to reform this program.

I see the distinguished Senator from Iowa on the floor. He will be speaking on this, but I would note that at the very beginning of the new year, we worked together to continue a series of public hearings to keep pushing for reform. We are united in our belief that it is unacceptable that Congress has failed to respond to an overwhelming consensus for reform. A full revamping of the program is required. A Band-Aid is not good enough. Powerful corporate interests must not be allowed to derail improvements that can guard against fraud, protect investors, and also help our most distressed communities.

The powerful developers want only “window dressing” reform proposals that do little to change the status quo. We cannot accept so-called reforms that the SEC believes would, in fact, leave holes in enforcement efforts.

Senator GRASSLEY and I, along with our counterparts in both parties in the House Judiciary Committee, have put forward meaningful reforms. These reforms were developed in consultation with the Department of Homeland Security and the SEC. They are tailored to prevent the rampant fraud we are seeing today. They are necessary to save EB-5 from itself.

As the American people learn more about how the EB-5 Program is being abused, the louder the calls will be for its reform or even its termination. I believe we could still fix EB-5, but I cannot support simply extending it yet again. I do not come to this decision lightly, but I cannot support a continuing resolution that leaves these flaws in place. The time has come, either reform EB-5 or get rid of it.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise to fully support everything Senator LEAHY has said. I have my own remarks on the same subject.

When Senator LEAHY and I are done—and I may be the end of that—if Senator LEAHY wants to speak, I ask unanimous consent to speak for 60 seconds on another item.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, in 1990, Congress created the EB-5 visa, which was intended to create new employment for U.S. workers and to infuse new capital into the country. Two years later, Congress revised the EB-5 category by establishing a pilot program allowing investors to use regional centers to pool their investments. This pilot program still exists, nearly 25 years later, but it is deeply flawed, lacks adequate oversight, and has veered far away from congressional intent.

The Regional Center Program expires on September 30 of this year. In my view, it is in need of a major overhaul if it is going to be reauthorized. I have said that repeatedly on the Senate floor, in hearings, and in letters to Senate leadership.

Despite the need for reform, the fiscal year 2016 Omnibus appropriations bill included a straight and clean extension of the program. This was a disappointment given the alarm bells and the whistleblower allegations. It was a missed opportunity. It is my hope that both House and Senate leaders will find a way to include reforms in a continuing resolution or simply leave it off the table for a later date.

The Senate Judiciary Committee held two hearings this year on the program. We discussed the flaws and corruption. We noted the many vulnerabilities. We had stakeholders weigh in. We heard from local leaders, associations representing workers and regional centers. We listened to academics and government officials. We received feedback from all types of industries, as well as immigration and securities attorneys. We talked to other Senate offices and committees.

We have outlined the problems. Allow me to mention a few of them. Under the EB-5 Regional Center Program: Investments can be spent before business plans are approved. Regional center operators can charge excessive fees of foreign nationals in addition to their required investments. Jobs created are not “direct” or verifiable jobs but rather are “indirect” and based on estimates and economic modeling. All jobs created by a project are counted by the foreign national when obtaining a green card, even if EB-5 money is only a fraction of the total invested. Investment funds are not adequately vetted. Gifts and loans are acceptable sources of funds from foreign nationals. The investment level has been stagnant for nearly 25 years. There is no prohibition against foreign governments owning or operating regional centers or projects.

Regional centers can be rented or sold without government oversight or approval. Regional centers don’t have to certify they comply with securities laws. There is no oversight of promoters who work overseas for the regional centers. There is no set of sanctions for violations, no recourse for bad actors. There are no required background checks on anyone associated with a regional center. Regional centers draw targeted employment area boundaries around poor areas in order to come in at a lower investment level, yet the jobs created are not actually created in those areas, and the projects aren’t actually in those areas. Every targeted employment area designation is rubberstamped by the agency. Adjudicators are pressured to get to a yes, especially for those politically connected. Visas are not properly scrutinized. They have been approved despite national security warnings. Files and applications lack basic and necessary information to monitor compliance. The agency does not do site visits for each and every project. There is no transparency on how funds are spent, who is paid, and what investors are told about the projects they invest in.

Then there are the national security problems. Our committee has received numerous briefings and classified documents to show this side of the story.

The enforcement arm of the Department of Homeland Security wrote an internal memo that raises significant concerns about the program. There was an interagency working group that reviewed fraud and other national security vulnerabilities in 2010. Members of the working group made recommendations to reform the program, including the recommendation to sunset the regional center model due to crippling fraud and national security vulnerabilities.

Not all of these recommendations were communicated to Congress. This week, Chairman CHAFFETZ, Mr. CUMMINGS, and I sent a letter to the Director of the agency in charge and asked for documents relating to this working group. I also sent a letter to Secretary Johnson, calling on him to investigate the policies and guidance that permit foreign ownership of an EB-5 regional center. It is obvious that foreign corporations and foreign governments are increasingly taking advantage of the Regional Center Program to establish ownership in U.S.-based real estate projects. I am concerned that this may allow foreign corporations and foreign governments to profit from marketing U.S. green cards to their citizens in return for investment and ownership in EB-5 real estate projects. I asked for a top-to-bottom review to ensure that U.S. interests are protected in the EB-5 program.

The Securities and Exchange Commission has brought over a dozen suits against regional centers and operators. U.S. investors and foreign nationals are being duped and left high and dry. Just this week another individual was

indicted for devising a scheme to defraud and obtain money and property from investors. This person was able to take in millions of dollars from foreign investors and use the money for his personal gain. I have seen it time and again. But, under current law, such individuals are not banned from the program in the future.

Aside from the vulnerabilities, the benefits of the program are questionable. Even the Government Accountability Office says it is hard to ascertain the economic benefits.

Most of the visas are going to urban and affluent areas at a discounted rate when Congress specifically intended to steer some visas to rural and high unemployment areas. Census tracts are stitched together to incorporate remote public housing developments so that highrises, hotels, casinos and resorts can attract investors for less than the statutory \$1 million requirement.

The Judiciary Committee held a hearing on this specific issue. Though Congress intended for most EB-5 investments to be made at the \$1 million level, nearly all are made at the \$500,000 level because of gerrymandering. That is just not right. Gerrymandering allows very affluent areas to benefit from the lower investment threshold, resulting in little incentive to invest EB-5 funds in distressed or rural areas, as was envisioned by Senators when it was created.

The senior Senator from New York says we don’t know how cities work. He doesn’t think projects should or could be built in the Bronx. He says they will commute and work on 5th Avenue where luxury condos are being built. Those in New York jump over rivers and go through Central Park just to connect to low-income neighborhoods.

As a result, smaller and economically depressed cities are forced to compete with Beverly Hills, Miami, and Manhattan. Foreign investors—who ultimately want a green card—want to put their money in glitzy hotels and luxurious condo projects where there is a higher return.

Targeted employment areas are at the heart of the controversy about EB-5 and are the principal reason we were unable to pass commonsense reforms last year. Yet we proposed a lot of good reforms. For example, the Grassley-Leahy-Conyers-Goodlatte proposal, for the first time, incentivized EB-5 investment in manufacturing and infrastructure projects.

Manufacturing employers create direct, long-term, quality jobs in their communities. As for infrastructure, we have lots of needs in the Midwest, including rail and river transportation, wastewater treatment plants, and bridges. More EB-5 capital in infrastructure projects would reduce the burden on taxpayers, especially when local governments are up against Federal mandates.

We also proposed reallocating the visas—carving out enough for rural and

high unemployment areas but leaving more than half of the visas for projects that come in at the higher investment level. We even offered to give affluent areas their own carve-out. Yet one proposal suggested to us was to make the visas cheaper. They want to reduce the amount an investor has to pay for a green card. They also want more visas. The demand for visas is through the roof, yet they want to reduce the price.

My colleagues and I have been willing to engage with other Members on this issue. We have made so many concessions. I am not sure how much more we can give, especially when there are increasing calls to end the program. The status quo is not acceptable. It is time for things to change.

I encourage my colleagues to join the ranking member and me in our request for reforms. I hope this body will think twice before allowing the program to continue as is.

TRANSPARENCY AND GOVERNMENT OVERSIGHT

Mr. GRASSLEY. Now, Mr. President, I would like to use that additional 60 seconds.

Another issue I want to raise with Senate leadership is transparency and our responsibility of government oversight.

Last week, I spoke about the danger of allowing agencies to improperly use the Office of Senate Security to keep information secret even when it is unclassified.

I said that if we let the FBI get away with hiding the Clinton investigation documents from the public, then other agencies would abuse the system to undermine transparency and oversight. That is exactly what is happening.

The State, Treasury, and Justice Departments are trying the same trick to hide documents about the Obama administration's transfer of billions of dollars to Iran for hostages.

These unclassified documents requested by the Judiciary Committee are being locked away in the basement of the Capitol. They are being treated as if they are classified, but they are not.

The Committee was not consulted and did not agree to these burdensome and unnecessary document controls.

With the Clinton investigation documents, the FBI improperly mixed classified and unclassified documents together in order to keep the unclassified documents secret. But, this time every paragraph and every page of the Iran hostage payment documents is 100 percent unclassified.

So why send it to Senate Security? Why keep it locked away from the public and congressional oversight? Why would the Senate participate in this scheme to undermine transparency?

If the Senate, as an institution, wants to take its oversight responsibility seriously, we should not be helping the executive branch hide embarrassing information from the American people.

The PRESIDING OFFICER (Mr. RUBIO). The Senator's time has expired. Mr. GRASSLEY. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. FISCHER). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. SASSE). Morning business is closed.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2017—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to H.R. 5325, which the clerk will report.

The senior assistant legislative clerk read as follows:

Motion to proceed to Calendar No. 516, H.R. 5325, a bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 2017, and for other purposes.

The PRESIDING OFFICER. All postcloture time has expired.

The question is on agreeing to the motion.

The motion was agreed to.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2017

The PRESIDING OFFICER. The clerk will report the bill.

The senior assistant legislative clerk read as follows:

A bill (H.R. 5325) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2017, and for other purposes.

AMENDMENT NO. 5082

(Purpose: In the nature of a substitute)

Mr. MCCONNELL. Mr. President, I have a substitute amendment at the desk that I ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The senior assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for Mr. COCHRAN, proposes an amendment numbered 5082.

Mr. MCCONNELL. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. MCCONNELL. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 5083 TO AMENDMENT NO. 5082

Mr. MCCONNELL. Mr. President, I have an amendment that is at the desk that I ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The senior assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 5083 to amendment No. 5082.

Mr. MCCONNELL. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end add the following:

This Act shall take effect 1 day after the date of enactment.

Mr. MCCONNELL. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 5084 TO AMENDMENT NO. 5083

Mr. MCCONNELL. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The senior assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 5084 to amendment No. 5083.

The amendment is as follows:

Strike "1 day" and insert "2 days".

AMENDMENT NO. 5085

Mr. MCCONNELL. Mr. President, I have an amendment to the text proposed to be stricken.

The PRESIDING OFFICER. The clerk will report.

The senior assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 5085 to the language proposed to be stricken by amendment No. 5082.

The amendment is as follows:

At the end add the following:

This Act shall take effect 3 days after the date of enactment.

Mr. MCCONNELL. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 5086 TO AMENDMENT NO. 5085

Mr. MCCONNELL. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The senior assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 5086 to amendment No. 5085.