

112TH CONGRESS
1ST SESSION

S. 332

To promote the enforcement of immigration laws and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2011

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

A BILL

To promote the enforcement of immigration laws and for
other purposes.

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 “Strengthening Our
5 Commitment to Legal Immigration and America’s Secu-
6 rity Act”.

7 **SEC. 2. DEFERRED ACTION AND PAROLE.**

8 Section 212(d)(5) of the Immigration and Nationality
9 Act (8 U.S.C. 1182(d)(5)) is amended by adding at the
10 end the following:

1 “(C) Notwithstanding any other provision of law, an
2 alien may only be paroled into the United States or grant-
3 ed deferred action of a final order of removal on a case-
4 by-case basis for urgent humanitarian reasons or signifi-
5 cant public benefit.”.

6 **SEC. 3. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.**

7 Section 241(i) of the Immigration and Nationality
8 Act (8 U.S.C. 1231(i)) is amended—

9 (1) by redesignating paragraphs (5) and (6) as
10 paragraphs (6) and (7), respectively;

11 (2) in paragraph (7), as redesignated, by strik-
12 ing “paragraph (5)” and inserting “paragraph (6)”;
13 and

14 (3) by inserting after paragraph (4) the fol-
15 lowing:

16 “(5) A State or local law enforcement agency,
17 detention center, or correction facility selected and
18 enrolled in the Secure Communities Program or se-
19 lected and enrolled to perform immigration law en-
20 forcement functions pursuant to section 287(g) and
21 subsequently fails to fully comply with the require-
22 ments of such programs may not be reimbursed for
23 incarceration expenses under this subsection.”.

1 **SEC. 4. VISA REFORM.**

2 (a) VISA INELIGIBILITY FOR ORGANIZED CRIME
3 MEMBERS.—Section 212(a)(2) of the Immigration and
4 Nationality Act (8 U.S.C. 1182(a)(2)) is amended by add-
5 ing at the end the following:

6 “(J) ALIENS ENGAGED IN ORGANIZED
7 CRIME.—Any alien who the consular officer or
8 the Attorney General knows, or has reason to
9 believe, is a member of a known criminal orga-
10 nization that regularly engages in transnational
11 criminal activity, is inadmissible.”.

12 (b) EXIT PROCEDURES FOR FOREIGN VISITORS.—
13 Not later than 120 days after the date of the enactment
14 of this Act, the Secretary of Homeland Security, in coordi-
15 nation with the Secretary of State and the aviation indus-
16 try, as appropriate, shall create a mandatory exit proce-
17 dure for foreign visitors, based upon—

18 (1) the results of the programs piloted by
19 United States Customs and Border Protection to
20 track the departure of foreign visitors, including
21 US-VISIT; and

22 (2) the feasibility and benefits of the departure
23 confirmation systems tested under such exit pilot
24 programs.

25 (c) ELIMINATION OF DIVERSITY VISA PROGRAM.—

1 (1) IN GENERAL.—Section 203 of the Immigra-
2 tion and Nationality Act (8 U.S.C. 1153) is amend-
3 ed by striking subsection (c).

4 (2) TECHNICAL AND CONFORMING AMEND-
5 MENTS.—Title II of the Immigration and Nation-
6 ality Act (8 U.S.C. 1151) is amended—

7 (A) in section 201—

8 (i) in subsection (a)—

9 (I) in paragraph (1), by adding
10 “and” at the end; and

11 (II) in paragraph (2), by striking
12 “; and” at the end and inserting a pe-
13 riod; and

14 (ii) by striking subsection (e);

15 (B) in section 203—

16 (i) in subsection (d), by striking “sub-
17 section (a), (b), or (c)” and inserting “sub-
18 section (a) or (b)”;

19 (ii) in subsection (g), by striking
20 “subsection (a), (b), or (c)” and inserting
21 “subsection (a) or (b)”; and

22 (iii) in subsection (h)(2)(B), by strik-
23 ing “subsection (a), (b), or (c)” and insert-
24 ing “subsection (a) or (b)”; and

1 (C) section 204(a)(1), is amended by strik-
2 ing subparagraph (I).

3 (3) REPORT.—Not later than 60 days after the
4 date of the enactment of this Act, the Secretary of
5 State shall submit a report to the Committee on the
6 Judiciary of the Senate and the Committee on the
7 Judiciary of the House of Representatives that in-
8 cludes recommended changes to the Diversity Visa
9 Program to combat fraud and eliminate abuse.

10 (4) SENSE OF CONGRESS.—It is the sense of
11 Congress that the Diversity Visa Program will be
12 discontinued as of the effective date set forth in
13 paragraph (5) unless Congress enacts legislation to
14 authorize the continuation of the Diversity Visa Pro-
15 gram with appropriate changes to reduce fraud and
16 abuse.

17 (5) EFFECTIVE DATE.—The amendments made
18 by this subsection shall become effective on the first
19 day of the first fiscal year beginning on or after the
20 date that is 120 days after the date of the enact-
21 ment of this Act.

1 **SEC. 5. ANNUAL ACCOUNTABILITY OF FEDERAL WELFARE**
 2 **BENEFITS RECEIVED BY ALIENS UNLAW-**
 3 **FULLY PRESENT IN THE UNITED STATES.**

4 The Secretary of Health and Human Services, in con-
 5 sultation with the Secretary of Homeland Security and the
 6 head of any other appropriate Federal agency, shall sub-
 7 mit to Congress an annual report that includes, for each
 8 State (and including the District of Columbia)—

9 (1) the total amount of Federal welfare benefits
 10 provided to such State during the most recent fiscal
 11 year, disaggregated by State; and

12 (2) the total amount of Federal welfare benefits
 13 provided to households with any persons who resided
 14 in the United States illegally during the most recent
 15 fiscal year.

16 **SEC. 6. LIMITATION ON STATE OPTION TO EXPAND CHIP**
 17 **COVERAGE TO NONCITIZEN CHILDREN OR**
 18 **NONCITIZEN PREGNANT WOMEN.**

19 Section 2107 of the Social Security Act (42 U.S.C.
 20 1397gg) is amended—

21 (1) in subsection (e)(1)(J), by inserting “and
 22 only if the State satisfies the requirements described
 23 in subsection (g)” before the period at the end; and

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

25 “(g) **DEMONSTRATION OF COVERAGE AND MAINTENANCE OF EFFORT.**—For purposes of subsection
 26

1 (e)(1)(J), the requirements described in this subsection
2 are the following:

3 “(1) The State demonstrates to the Secretary
4 (on the basis of the best data reasonably available
5 to the Secretary and in accordance with such tech-
6 niques for sampling and estimating as the Secretary
7 determines appropriate) that the State has enrolled
8 in the State plan under title XIX, the State child
9 health plan under this title, or under a waiver of ei-
10 ther such plan, at least 90 percent of the children
11 residing in the State who are citizens or nationals of
12 the United States, whose family income does not ex-
13 ceed 200 percent of the poverty line (as determined
14 before January 1, 2014, without regard to the appli-
15 cation of any general exclusion or disregard of a
16 block of income that is not determined by type of ex-
17 pense or type of income, and as determined on or
18 after January 1, 2014, in accordance with section
19 1902(e)(14)), and who are eligible for medical as-
20 sistance under the State plan under title XIX or
21 child health assistance under the State child health
22 plan under this title.

23 “(2) The State provides assurances that the
24 amount of State or other non-Federal funds ex-
25 pended annually by the State to provide medical as-

1 sistance, child health assistance, or other health ben-
 2 efits coverage to lawfully residing immigrant chil-
 3 dren or lawfully residing immigrant pregnant women
 4 will not be less than the amount of such funds ex-
 5 pended for such purposes for fiscal year 2009.”.

6 **SEC. 7. IDENTITY THEFT.**

7 (a) AMENDMENTS TO THE CRIMINAL CODE.—Chap-
 8 ter 47 of title 18, United States Code, is amended—

9 (1) in section 1028—

10 (A) in subsection (a)(7), by striking “of
 11 another person” and inserting “other than his
 12 or her own”; and

13 (B) in subsection (b)(3)—

14 (i) in subparagraph (B), by striking
 15 “or” at the end;

16 (ii) in subparagraph (C), by adding
 17 “or” at the end; and

18 (iii) by adding at the end the fol-
 19 lowing:

20 “(C) to facilitate or assist in harboring or
 21 hiring unauthorized workers in violation of sec-
 22 tion 274, 274A or 274C of the Immigration
 23 and Nationality Act (8 U.S.C. 1324, 1324a,
 24 and 1324e)”.

25 (b) IRS NOTIFICATION REQUIREMENT.—

1 (1) REQUIREMENT TO NOTIFY SOCIAL SECUR-
2 RITY ACCOUNT NUMBER HOLDERS.—If the Commis-
3 sioner of Internal Revenue sends a notice to an em-
4 ployer that an inaccurate Social Security account
5 number has been discovered for an employee and the
6 employer does not respond to the notice within 60
7 days to correct such account number, the Commis-
8 sioner shall send such a notice—

9 (A) to the individual who was originally
10 issued such Social Security account number; or

11 (B) if such individual is a minor, to the in-
12 dividual’s legal guardian.

13 (2) CONTENT OF NOTICE.—A notice sent to an
14 individual under paragraph (1) shall include the fol-
15 lowing:

16 (A) A request that the individual respond
17 to such notice within 60 days to correct the in-
18 formation associated with the Social Security
19 account number.

20 (B) Information on how to respond to the
21 notice.

22 (C) Notification that if a response is not
23 received by the Commissioner within 60 days,
24 the Commissioner shall provide notice of the in-
25 accurate Social Security account number to the

1 appropriate agencies for possible investigation,
2 including the Department of Homeland Security,
3 the Department of Justice, and the Federal
4 Trade Commission.

5 (D) Notification—

6 (i) that if the individual suspects that
7 the individual's Social Security account
8 number may have been used fraudulently,
9 the individual should notify the Federal
10 Trade Commission and the various credit
11 bureaus; and

12 (ii) information on how to provide the
13 notifications described in clause (i).

14 (c) STUDY AND REPORT.—

15 (1) IN GENERAL.—The Secretary of the Treasury,
16 the Chairman of the Federal Trade Commission,
17 and the Commissioner of Social Security, in
18 consultation with the Secretary of Commerce and
19 other appropriate Federal officials, shall conduct a
20 study to determine the most feasible and cost effective
21 ways to protect the credit worthiness of individuals,
22 especially children.

23 (2) ISSUES TO BE STUDIED.—The study conducted
24 under paragraph (1) shall—

1 (A) assess the types of data held by the
2 Federal Government and the private sector that
3 could prove beneficial in protecting and
4 verifying identity;

5 (B) assess current government and indus-
6 try practices designed to protect personal pri-
7 vacy and determine how such practices could be
8 improved to protect and verify individuals' cred-
9 it worthiness;

10 (C) analyze the estimated impact of alter-
11 native systems of achieving effective protection
12 of credit on the financial industry (including
13 small banks, rural financial institutions, and
14 credit unions), consumers, and the government
15 with respect to—

16 (i) costs;

17 (ii) credit availability;

18 (iii) convenience;

19 (iv) privacy; and

20 (v) other nonfinancial burdens, includ-
21 ing any effects on personal privacy; and

22 (D) determine the most effective ways to
23 protect and verify credit information.

24 (3) PARTICIPATION.—Representatives of the fi-
25 nancial industry, members of the public, government

1 agencies, and other interested groups shall be given
2 opportunities to provide information for the study
3 conducted under paragraph (1).

4 (4) REPORT.—Not later than 1 year after the
5 date of the enactment of this Act, the Secretary of
6 the Treasury shall submit a report containing the
7 results of the study conducted under paragraph (1),
8 including any recommendations for legislative or ad-
9 ministrative actions, to the Committee on Finance of
10 the Senate and the Committee on Ways and Means
11 of the House of Representatives.

12 **SEC. 8. ENHANCED PENALTIES FOR CERTAIN DRUG OF-**
13 **FENSES ON FEDERAL LANDS.**

14 (a) CULTIVATING OR MANUFACTURING CONTROLLED
15 SUBSTANCES ON FEDERAL PROPERTY.—Section
16 401(b)(5) of the Controlled Substances Act (21 U.S.C.
17 841(b)(5)) is amended by striking “as provided in this
18 subsection” and inserting “for not more than 10 years,
19 in addition to any other term of imprisonment imposed
20 under this subsection,”.

21 (b) USE OF HAZARDOUS SUBSTANCES.—Pursuant to
22 its authority under section 994 of title 28, United States
23 Code, the United States Sentencing Commission shall
24 amend the Federal Sentencing Guidelines and policy state-
25 ments to ensure that the guidelines provide an additional

1 penalty increase of 2 offense levels above the sentence oth-
 2 erwise applicable for a violation of section 401(a) of the
 3 Controlled Substances Act (21 U.S.C. 841(a)) if the of-
 4 fense—

5 (1) includes the use of a poison, chemical, or
 6 other hazardous substance to cultivate or manufac-
 7 ture controlled substances on Federal property;

8 (2) creates a hazard to humans, wildlife, or do-
 9 mestic animals;

10 (3) degrades or harms the environment or nat-
 11 ural resources; or

12 (4) pollutes an aquifer, spring, stream, river, or
 13 body of water.

14 (c) STREAM DIVERSION OR CLEAR CUTTING ON
 15 FEDERAL PROPERTY.—

16 (1) PROHIBITION ON STREAM DIVERSION OR
 17 CLEAR CUTTING ON FEDERAL PROPERTY.—Section
 18 401(b) of the Controlled Substances Act (21 U.S.C.
 19 841(b)) is amended by adding at the end the fol-
 20 lowing:

21 “(8) DESTRUCTION OF BODIES OF WATER.—

22 Any person who violates subsection (a) in a manner
 23 that diverts, redirects, obstructs, or drains an aquifer,
 24 spring, stream, river, or body of water or clear
 25 cuts timber while cultivating or manufacturing a

1 controlled substance on Federal property shall be
2 fined in accordance with title 18, United States
3 Code.”.

4 (2) FEDERAL SENTENCING GUIDELINES EN-
5 HANCEMENT.—Pursuant to its authority under sec-
6 tion 994 of title 28, United States Code, the United
7 States Sentencing Commission shall amend the Fed-
8 eral Sentencing Guidelines and policy statements to
9 ensure that the guidelines provide an additional pen-
10 alty increase of 2 offense levels for above the sen-
11 tence otherwise applicable for a violation of section
12 401(a) of the Controlled Substances Act (21 U.S.C.
13 841(a)) if the offense involves the diversion, redirec-
14 tion, obstruction, or draining of an aquifer, spring,
15 stream, river, or body of water or the clear cut of
16 timber while cultivating or manufacturing a con-
17 trolled substance on Federal property.

18 (d) BOOBY TRAPS ON FEDERAL LAND.—Section
19 401(d)(1) of the Controlled Substances Act (21 U.S.C.
20 841(d)(1)) is amended by inserting “cultivated,” after “is
21 being”.

22 (e) USE OR POSSESSION OF FIREARMS IN CONNec-
23 tion WITH DRUG OFFENSES ON FEDERAL LANDS.—Pur-
24 suant to its authority under section 994 of title 28, United
25 States Code, the United States Sentencing Commission

1 shall amend the Federal Sentencing Guidelines and policy
2 statements to ensure that the guidelines provide an addi-
3 tional penalty increase of 2 offense levels above the sen-
4 tence otherwise applicable for a violation of section 401(a)
5 of the Controlled Substances Act (21 U.S.C. 841(a)) if
6 the offense involves the possession of a firearm while culti-
7 vating or manufacturing controlled substances on Federal
8 lands.

9 **SEC. 9. FEDERAL LANDS COUNTERDRUG ACTION PLAN.**

10 (a) DEFINITIONS.—In this section:

11 (1) CONTROLLED SUBSTANCE.—The term
12 “controlled substance” has the meaning given the
13 term in section 102 of the Controlled Substances
14 Act (21 U.S.C. 802).

15 (2) COVERED LANDS.—The term “covered
16 lands” means—

17 (A) units of the National Park System;

18 (B) National Forest System land;

19 (C) public lands (as defined by section
20 103(e) of the Federal Land Policy and Manage-
21 ment Act of 1976 (43 U.S.C. 1702(e)); and

22 (D) all land administered by the Bureau of
23 Land Management.

24 (b) IMPLEMENTATION OF FEDERAL LANDS
25 COUNTERDRUG ACTION PLAN.—

1 (1) IN GENERAL.—

2 (A) REQUIREMENT FOR ACTION PLAN.—

3 Not later than 90 days after the date of the en-
4 actment of this Act, the Director of National
5 Drug Control Policy shall implement an action
6 plan for keeping controlled substances off of
7 Federal lands (referred to in this section as the
8 “Federal Lands Counterdrug Action Plan”).

9 (B) REPORT TO CONGRESS.—Not later
10 than 2 years after the implementation of the
11 Federal Lands Counterdrug Action Plan, the
12 Director shall submit a report to Congress that
13 describes the progress made in carrying out
14 such Action Plan.

15 (2) CONSULTATION REQUIREMENT.—In imple-
16 menting the Federal Lands Counterdrug Action
17 Plan, the Director of National Drug Control Policy
18 shall consult with the heads of relevant Federal
19 agencies, including the Drug Enforcement Adminis-
20 tration, the Forest Service, the National Park Serv-
21 ice, the Bureau of Land Management, and any rel-
22 evant State, local, and tribal law enforcement agen-
23 cies.

24 (c) CONTENTS.—The Federal Lands Counterdrug
25 Action Plan shall include—

1 (1) the Federal Government’s action plan for
2 preventing the illegal production, cultivation, manu-
3 facture, and trafficking of controlled substances on
4 covered lands;

5 (2) the specific roles of relevant Federal agen-
6 cies, including the Drug Enforcement Administra-
7 tion and relevant agencies within the Department of
8 the Interior for implementing such an action plan;

9 (3) the specific resources required to enable the
10 agencies referred to in paragraph (2) to implement
11 that strategy;

12 (4) a strategy to reduce the cultivation and
13 trafficking of marijuana on covered lands by Mexi-
14 can drug trafficking organizations;

15 (5) the use of available technology to reduce the
16 cultivation and trafficking of marijuana on covered
17 lands;

18 (6) the impact of Federal land management
19 statutes on law enforcement efforts; and

20 (7) the costs associated with marijuana eradi-
21 cation programs through high intensity drug traf-
22 ficking areas.

23 (d) EFFECT ON EXISTING LAW.—The Federal Lands
24 Counterdrug Action Plan—

1 (1) may not change existing agency authorities
2 or laws governing interagency relationships; and

3 (2) may provide recommendations for changes
4 to such authorities or laws.

5 (e) DISTRIBUTION.—

6 (1) IN GENERAL.—The Director of the Office of
7 National Drug Control Policy shall provide a copy of
8 the Federal Lands Counterdrug Action Plan to—

9 (A) the Committee on the Judiciary of the
10 Senate;

11 (B) the Committee on Appropriations of
12 the Senate;

13 (C) the Committee on Homeland Security
14 and Governmental Affairs of the Senate;

15 (D) the United States Senate Caucus on
16 International Narcotics Control;

17 (E) the Committee on the Judiciary of the
18 House of Representatives;

19 (F) the Committee on Appropriations of
20 the House of Representatives; and

21 (G) the Committee on Homeland Security
22 of the House of Representatives.

23 (2) CLASSIFIED INFORMATION.—Any classified
24 or law enforcement sensitive information contained
25 in the Federal Lands Counterdrug Action Plan may

- 1 be submitted in a classified annex to accompany the
- 2 Action Plan.

