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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Strengthening Our Commitment to Legal Immigration and America’s Security Act”.

SEC. 2. DEFERRED ACTION AND PAROLE.

Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)) is amended by adding at the end the following:
“(C) Notwithstanding any other provision of law, an alien may only be paroled into the United States or granted deferred action of a final order of removal on a case-by-case basis for urgent humanitarian reasons or significant public benefit.”.

SEC. 3. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

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

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

(2) in paragraph (7), as redesignated, by striking “paragraph (5)” and inserting “paragraph (6)”;

and

(3) by inserting after paragraph (4) the following:

“(5) A State or local law enforcement agency, detention center, or correction facility selected and enrolled in the Secure Communities Program or selected and enrolled to perform immigration law enforcement functions pursuant to section 287(g) and subsequently fails to fully comply with the requirements of such programs may not be reimbursed for incarceration expenses under this subsection.”.
SEC. 4. VISA REFORM.

(a) Visa Ineligibility for Organized Crime Members.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following:

“(J) Aliens engaged in organized crime.—Any alien who the consular officer or the Attorney General knows, or has reason to believe, is a member of a known criminal organization that regularly engages in transnational criminal activity, is inadmissible.”.

(b) Exit Procedures for Foreign Visitors.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security, in coordination with the Secretary of State and the aviation industry, as appropriate, shall create a mandatory exit procedure for foreign visitors, based upon—

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

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

(c) Elimination of Diversity Visa Program.—
(1) IN GENERAL.—Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended by striking subsection (c).

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Title II of the Immigration and Nationality Act (8 U.S.C. 1151) is amended—

(A) in section 201—

(i) in subsection (a)—

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

(II) in paragraph (2), by striking “; and” at the end and inserting a period; and

(ii) by striking subsection (e);

(B) in section 203—

(i) in subsection (d), by striking “subsection (a), (b), or (c)” and inserting “subsection (a) or (b)”;

(ii) in subsection (g), by striking “subsection (a), (b), or (e)” and inserting “subsection (a) or (b)”;

(iii) in subsection (h)(2)(B), by striking “subsection (a), (b), or (e)” and inserting “subsection (a) or (b)”;

and
(C) section 204(a)(1), is amended by striking subparagraph (I).

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

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

(5) EFFECTIVE DATE.—The amendments made by this subsection shall become effective on the first day of the first fiscal year beginning on or after the date that is 120 days after the date of the enactment of this Act.
SEC. 5. ANNUAL ACCOUNTABILITY OF FEDERAL WELFARE BENEFITS RECEIVED BY ALIENS UNLAWFULLY PRESENT IN THE UNITED STATES.

The Secretary of Health and Human Services, in consultation with the Secretary of Homeland Security and the head of any other appropriate Federal agency, shall submit to Congress an annual report that includes, for each State (and including the District of Columbia)—

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

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

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

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

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

(2) by adding at the end the following:

“(g) DEMONSTRATION OF COVERAGE AND MAINTENANCE OF EFFORT.—For purposes of subsection
(e)(1)(J), the requirements described in this subsection are the following:

“(1) The State demonstrates to the Secretary (on the basis of the best data reasonably available to the Secretary and in accordance with such techniques for sampling and estimating as the Secretary determines appropriate) that the State has enrolled in the State plan under title XIX, the State child health plan under this title, or under a waiver of either such plan, at least 90 percent of the children residing in the State who are citizens or nationals of the United States, whose family income does not exceed 200 percent of the poverty line (as determined before January 1, 2014, without regard to the application of any general exclusion or disregard of a block of income that is not determined by type of expense or type of income, and as determined on or after January 1, 2014, in accordance with section 1902(e)(14)), and who are eligible for medical assistance under the State plan under title XIX or child health assistance under the State child health plan under this title.

“(2) The State provides assurances that the amount of State or other non-Federal funds expended annually by the State to provide medical as-
sistance, child health assistance, or other health ben-
"efits coverage to lawfully residing immigrant chil-
dren or lawfully residing immigrant pregnant women
will not be less than the amount of such funds ex-
pended for such purposes for fiscal year 2009.”

SEC. 7. IDENTITY THEFT.

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

(1) in section 1028—

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

(B) in subsection (b)(3)—

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

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

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

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

(b) IRS NOTIFICATION REQUIREMENT.—
(1) Requirement to notify Social Security account number holders.—If the Commissioner of Internal Revenue sends a notice to an employer that an inaccurate Social Security account number has been discovered for an employee and the employer does not respond to the notice within 60 days to correct such account number, the Commissioner shall send such a notice—

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

(B) if such individual is a minor, to the individual’s legal guardian.

(2) Content of notice.—A notice sent to an individual under paragraph (1) shall include the following:

(A) A request that the individual respond to such notice within 60 days to correct the information associated with the Social Security account number.

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

(C) Notification that if a response is not received by the Commissioner within 60 days, the Commissioner shall provide notice of the inaccurate Social Security account number to the
appropriate agencies for possible investigation, including the Department of Homeland Security, the Department of Justice, and the Federal Trade Commission.

(D) Notification—

(i) that if the individual suspects that the individual’s Social Security account number may have been used fraudulently, the individual should notify the Federal Trade Commission and the various credit bureaus; and

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

(e) STUDY AND REPORT.—

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

(2) ISSUES TO BE STUDIED.—The study conducted under paragraph (1) shall—
(A) assess the types of data held by the Federal Government and the private sector that could prove beneficial in protecting and verifying identity;

(B) assess current government and industry practices designed to protect personal privacy and determine how such practices could be improved to protect and verify individuals’ credit worthiness;

(C) analyze the estimated impact of alternative systems of achieving effective protection of credit on the financial industry (including small banks, rural financial institutions, and credit unions), consumers, and the government with respect to—

(i) costs;

(ii) credit availability;

(iii) convenience;

(iv) privacy; and

(v) other nonfinancial burdens, including any effects on personal privacy; and

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

(3) PARTICIPATION.—Representatives of the financial industry, members of the public, government
agencies, and other interested groups shall be given opportunities to provide information for the study conducted under paragraph (1).

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

SEC. 8. ENHANCED PENALTIES FOR CERTAIN DRUG OFFENSES ON FEDERAL LANDS.

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

(b) USE OF HAZARDOUS SUBSTANCES.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend the Federal Sentencing Guidelines and policy statements to ensure that the guidelines provide an additional
penalty increase of 2 offense levels above the sentence otherwise applicable for a violation of section 401(a) of the Controlled Substances Act (21 U.S.C. 841(a)) if the offense—

(1) includes the use of a poison, chemical, or other hazardous substance to cultivate or manufacture controlled substances on Federal property;

(2) creates a hazard to humans, wildlife, or domestic animals;

(3) degrades or harms the environment or natural resources; or

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

(c) Stream Diversion or Clear Cutting on Federal Property.—

(1) Prohibition on stream diversion or clear cutting on federal property.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by adding at the end the following:

“(8) Destruction of bodies of water.—Any person who violates subsection (a) in a manner that diverts, redirects, obstructs, or drains an aquifer, spring, stream, river, or body of water or clear cuts timber while cultivating or manufacturing a
controlled substance on Federal property shall be fined in accordance with title 18, United States Code.”.

(2) Federal sentencing guidelines enhancement.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend the Federal Sentencing Guidelines and policy statements to ensure that the guidelines provide an additional penalty increase of 2 offense levels for above the sentence otherwise applicable for a violation of section 401(a) of the Controlled Substances Act (21 U.S.C. 841(a)) if the offense involves the diversion, redirection, obstruction, or draining of an aquifer, spring, stream, river, or body of water or the clear cut of timber while cultivating or manufacturing a controlled substance on Federal property.

(d) Booby traps on Federal land.—Section 401(d)(1) of the Controlled Substances Act (21 U.S.C. 841(d)(1)) is amended by inserting “cultivated,” after “is being”.

(e) Use or possession of firearms in connection with drug offenses on Federal lands.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission
shall amend the Federal Sentencing Guidelines and policy statements to ensure that the guidelines provide an additional penalty increase of 2 offense levels above the sentence otherwise applicable for a violation of section 401(a) of the Controlled Substances Act (21 U.S.C. 841(a)) if the offense involves the possession of a firearm while cultivating or manufacturing controlled substances on Federal lands.

SEC. 9. FEDERAL LANDS COUNTERDRUG ACTION PLAN.

(a) DEFINITIONS.—In this section:

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

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

(A) units of the National Park System;

(B) National Forest System land;

(C) public lands (as defined by section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e))); and

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

(b) IMPLEMENTATION OF FEDERAL LANDS COUNTERDRUG ACTION PLAN.—
(1) **IN GENERAL.**—

(A) **REQUIREMENT FOR ACTION PLAN.**—
Not later than 90 days after the date of the enactment of this Act, the Director of National Drug Control Policy shall implement an action plan for keeping controlled substances off of Federal lands (referred to in this section as the ‘‘Federal Lands Counterdrug Action Plan’’).

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

(2) **CONSULTATION REQUIREMENT.**—In implementing the Federal Lands Counterdrug Action Plan, the Director of National Drug Control Policy shall consult with the heads of relevant Federal agencies, including the Drug Enforcement Administration, the Forest Service, the National Park Service, the Bureau of Land Management, and any relevant State, local, and tribal law enforcement agencies.

(c) **CONTENTS.**—The Federal Lands Counterdrug Action Plan shall include—
(1) the Federal Government’s action plan for preventing the illegal production, cultivation, manufacture, and trafficking of controlled substances on covered lands;

(2) the specific roles of relevant Federal agencies, including the Drug Enforcement Administration and relevant agencies within the Department of the Interior for implementing such an action plan;

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

(4) a strategy to reduce the cultivation and trafficking of marijuana on covered lands by Mexican drug trafficking organizations;

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

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

(7) the costs associated with marijuana eradication programs through high intensity drug trafficking areas.

(d) EFFECT ON EXISTING LAW.—The Federal Lands Counterdrug Action Plan—
(1) may not change existing agency authorities or laws governing interagency relationships; and

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

(e) DISTRIBUTION.—

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

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

(B) the Committee on Appropriations of the Senate;

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

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

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

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

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

(2) CLASSIFIED INFORMATION.—Any classified or law enforcement sensitive information contained in the Federal Lands Counterdrug Action Plan may
be submitted in a classified annex to accompany the Action Plan.