

106TH CONGRESS
2D SESSION

H. R. 4282

To provide Federal reimbursement for indirect costs relating to the incarceration of illegal aliens and for emergency health services furnished to undocumented aliens.

IN THE HOUSE OF REPRESENTATIVES

APRIL 13, 2000

Mr. BILBRAY (for himself and Mr. HUNTER) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide Federal reimbursement for indirect costs relating to the incarceration of illegal aliens and for emergency health services furnished to undocumented aliens.

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 “State Criminal Alien
5 Assistance Program II and Local Medical Emergency Re-
6 imbursement Act”.

1 **TITLE I—STATE CRIMINAL**
2 **ALIEN ASSISTANCE PROGRAM II**

3 **SEC. 101. SHORT TITLE.**

4 This Act may be cited as the “State Criminal Alien
5 Assistance Program II Act of 2000”.

6 **SEC. 102. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress makes the following find-
8 ings:

9 (1) Federal policies and strategies aimed at
10 curbing illegal immigration and criminal alien activ-
11 ity implemented along our Nation’s southwest border
12 influence the number of crossings, especially their lo-
13 cation.

14 (2) States and local governments were reim-
15 bursed approximately 60 percent of the costs of the
16 incarceration of criminal aliens in fiscal year 1996
17 when only 90 jurisdictions applied for such reim-
18 bursement. In subsequent years, the number of local
19 jurisdictions receiving reimbursement has increased.
20 For fiscal year 1999, 280 local jurisdictions applied,
21 and reimbursement amounted to only 40 percent of
22 the costs incurred by those jurisdictions.

23 (3) Certain counties, often with a small tax-
24 payer base, located on or near the border across
25 from sometimes highly populated areas of Mexico,

1 suffer a substantially disproportionate share of the
2 impact of criminal illegal aliens on its law enforce-
3 ment and criminal justice systems.

4 (4) A University of Arizona study released in
5 January 1998 reported that at least 2 of the 4 coun-
6 ties located on Arizona's border of Mexico, Santa
7 Cruz and Cochise Counties, are burdened with this
8 problem—

9 (A) for example, in 1998, Santa Cruz
10 County had 12.7 percent of Arizona's border
11 population but 50 percent of alien crossings and
12 32.5 percent of illegal alien apprehensions;

13 (B) for fiscal year 1998, it is estimated
14 that, of its total criminal justice budget of
15 \$5,033,000, Santa Cruz County spent
16 \$1,900,000 (39 percent) to process criminal il-
17 legal aliens, of which over half was not reim-
18 bursed by Federal monies; and

19 (C) Santa Cruz County has not obtained
20 relief from this burden, despite repeated ap-
21 peals to Federal and State officials.

22 (5) In the State of Texas, the border counties
23 of Cameron, Dimmit, El Paso, Hidalgo, Kinney, Val
24 Verde, and Webb bore the unreimbursed costs of ap-
25 prehension, prosecution, indigent defense, and other

1 related services for criminal aliens who served more
2 than 142,000 days in county jails.

3 (6) Throughout Texas nonborder counties bore
4 similar unreimbursed costs for apprehension, pros-
5 ecution, indigent defense, and other related services
6 for criminal aliens who served more than 1,000,000
7 days in county jails.

8 (7) The State of Texas has incurred substantial
9 additional unreimbursed costs for State law enforce-
10 ment efforts made necessary by the presence of
11 criminal illegal aliens.

12 (8) The Federal Government should reimburse
13 States and units of local government for the related
14 costs incurred by the State for the imprisonment of
15 any illegal alien.

16 (9) According to data from the Immigration
17 and Naturalization Service, 27 percent of all Border
18 Patrol apprehensions along the U.S.-Mexico border
19 in fiscal year 1999 took place in the San Diego and
20 El Centro sectors of California. Yet, those counties
21 were reimbursed for only a fraction of the expenses
22 associated with the criminal activity of illegal aliens.

23 (10) It is estimated that it costs in excess of
24 \$50,000,000 to San Diego and Imperial County hos-
25 pitals to treat undocumented individuals in emer-

1 agency rooms. In October of 1997 the California
2 State Auditor issued a report that estimated be-
3 tween \$4,900,000 and \$8,100,000 of unreimbursed
4 medical expenses were incurred by U.S. Border Pa-
5 trol “dumping”.

6 (11) One example of costs incurred by health
7 providers involved an overturned van containing 20
8 undocumented persons in Imperial County. One of
9 the victims involved a young man who suffered head
10 trauma. This patient never regained consciousness
11 and the costs of his care were magnified by treating
12 him at an acute level, as placement to a lower level
13 of care was not possible. The cost of providing care
14 for this patient alone was in excess of \$200,000.

15 (b) PURPOSE.—The purpose of this title is—

16 (1) to assist States and local communities by
17 providing financial assistance for expenditures for il-
18 legal juvenile aliens, and for related costs to States
19 and units of local government that suffer a substan-
20 tially disproportionate share of the impact of crimi-
21 nal illegal aliens on their law enforcement and crimi-
22 nal justice systems; and

23 (2) to ensure equitable treatment for those
24 States and local governments that are affected by
25 Federal policies and strategies aimed at curbing ille-

1 gal immigration and criminal alien activity imple-
2 mented on the southwest border.

3 **SEC. 103. REIMBURSEMENT OF STATES AND POLITICAL**
4 **SUBDIVISIONS FOR INDIRECT COSTS RELAT-**
5 **ING TO THE INCARCERATION OF ILLEGAL**
6 **ALIENS.**

7 Section 501 of the Immigration Reform and Control
8 Act of 1986 (8 U.S.C. 1365) is amended—

9 (1) in subsection (a), by striking “a State for”
10 and all that follows through the end and inserting
11 the following: “a State (or, if appropriate, a political
12 subdivision of the State) for—

13 “(1) the costs incurred by the State or political
14 subdivision for the imprisonment of any illegal alien
15 or Cuban national who is convicted of a felony by
16 such State; and

17 “(2) the indirect costs related to the imprison-
18 ment described in paragraph (1).”;

19 (2) by striking subsection (c) and inserting the
20 following:

21 “(c) **INDIRECT COSTS DEFINED.**—In subsection (a),
22 the term ‘indirect costs’ includes—

23 “(1) court costs, county attorney costs, and
24 criminal proceedings expenditures that do not in-
25 volve going to trial;

1 “(2) indigent defense; and

2 “(3) unsupervised probation costs.”; and

3 (3) by amending subsection (d) to read as fol-
4 lows:

5 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated \$200,000,000 to carry
7 out subsection (a) for each of the fiscal years 2001
8 through 2004.”.

9 **SEC. 104. REIMBURSEMENT OF STATES AND POLITICAL**
10 **SUBDIVISIONS FOR COSTS OF INCARCER-**
11 **ATING JUVENILE ALIENS.**

12 (a) IN GENERAL.—Section 501 of the Immigration
13 Reform and Control Act of 1986 (8 U.S.C. 1365), as
14 amended by section 103 of this Act, is further amended—

15 (1) in subsection (a)(1), by inserting “or illegal
16 juvenile alien who has been adjudicated delinquent
17 or committed to a juvenile correctional facility by
18 such State or locality” before the semicolon;

19 (2) in subsection (b), by inserting “(including
20 any juvenile alien who has been adjudicated delin-
21 quent or has been committed to a correctional facil-
22 ity)” before “who is in the United States unlaw-
23 fully”; and

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

1 “(f) JUVENILE ALIEN DEFINED.—In this section,
2 the term ‘juvenile alien’ means an alien (as defined in sec-
3 tion 101(a)(3) of the Immigration and Nationality Act)
4 who has been adjudicated delinquent or committed to a
5 correctional facility by a State or locality as a juvenile of-
6 fender.”.

7 (b) ANNUAL REPORT.—Section 332 of the Illegal Im-
8 migration Reform and Immigrant Responsibility Act of
9 1996 (8 U.S.C. 1366) is amended—

10 (1) by striking “and” at the end of paragraph
11 (3);

12 (2) by striking the period at the end of para-
13 graph (4) and inserting “; and”; and

14 (3) by adding at the end the following:

15 “(5) the number of illegal juvenile aliens (as de-
16 fined in section 501(f) of the Immigration Reform
17 and Control Act) that are committed to State or
18 local juvenile correctional facilities, including the
19 type of offense committed by each juvenile.”.

20 (c) CONFORMING AMENDMENT.—Section
21 241(i)(3)(B) of the Immigration and Nationality Act (8
22 U.S.C. 1231(i)(3)(B)) is amended—

23 (1) by striking “or” at the end of clause (ii);

24 (2) by striking the period at the end of clause

25 (iii) and inserting “; or”; and

1 (3) by adding at the end the following:

2 “(iv) is a juvenile alien with respect to
3 whom section 501 of the Immigration Re-
4 form and Control Act of 1986 applies.”.

5 **SEC. 105. REIMBURSEMENT OF STATES BORDERING**
6 **MEXICO OR CANADA.**

7 Section 501 of the Immigration Reform and Control
8 Act of 1986 (8 U.S.C. 1365), as amended by sections 103
9 and 104 of this Act, is further amended by adding at the
10 end the following new subsection:

11 “(g) MANNER OF ALLOTMENT OF REIMBURSE-
12 MENTS.—Reimbursements under this section shall be al-
13 lotted in a manner that takes into account special consid-
14 eration for any State that—

15 “(1) shares a border with Mexico or Canada; or

16 “(2) includes within the State an area in which
17 a large number of undocumented aliens reside rel-
18 ative to the general population of the area.”.

1 **TITLE II—REIMBURSEMENT OF**
2 **STATES AND LOCALITIES FOR**
3 **EMERGENCY HEALTH SERV-**
4 **ICES TO UNDOCUMENTED**
5 **ALIENS**

6 **SEC. 201. AUTHORIZATION OF ADDITIONAL FEDERAL REIM-**
7 **BURSEMENT OF EMERGENCY HEALTH SERV-**
8 **ICES FURNISHED TO UNDOCUMENTED**
9 **ALIENS**

10 (a) TOTAL AMOUNT AVAILABLE FOR ALLOTMENT.—

11 To the extent of available appropriations under subsection
12 (e), there are available for allotments under this section
13 for each of fiscal years 2002 through 2005, \$200,000,000
14 for payments to certain States under this section.

15 (b) STATE ALLOTMENT AMOUNT.—

16 (1) IN GENERAL.—The Secretary shall compute
17 an allotment for each fiscal year beginning with fis-
18 cal year 2001 and ending with fiscal year 2004 for
19 each of the 17 States with the highest number of
20 undocumented aliens. The amount of such allotment
21 for each such State for a fiscal year shall bear the
22 same ratio to the total amount available for allot-
23 ments under subsection (a) for the fiscal year as the
24 ratio of the number of undocumented aliens in the
25 State in the fiscal year bears to the total of such

1 numbers for all such States for such fiscal year. The
2 amount of allotment to a State provided under this
3 paragraph for a fiscal year that is not paid out
4 under subsection (c) shall be available for payment
5 during the subsequent fiscal year.

6 (2) DETERMINATION.—For purposes of para-
7 graph (1), the number of undocumented aliens in a
8 State under this section shall be determined based
9 on estimates of the resident illegal alien population
10 residing in each State prepared by the Statistics Di-
11 vision of the Immigration and Naturalization Service
12 as of October 1992 (or as of such later date if such
13 date is at least 1 year before the beginning of the
14 fiscal year involved).

15 (c) USE OF FUNDS.—

16 (1) IN GENERAL.—From the allotments made
17 under subsection (b) for a fiscal year, the Secretary
18 shall pay to each State amounts described in a State
19 plan, submitted to the Secretary, under which the
20 amounts so allotted will be paid to local govern-
21 ments, hospitals, and related providers of emergency
22 health services to undocumented aliens in a manner
23 that—

24 (A) takes into account—

1 (i) each eligible local government's,
2 hospital's or related provider's payments
3 under the State plan approved under title
4 XIX of the Social Security Act for emer-
5 gency medical services described in section
6 1903(v)(2)(A) of such Act (42 U.S.C.
7 1396b(v)(2)(A)) for such fiscal year; or

8 (ii) an appropriate alternative proxy
9 for measuring the volume of emergency
10 health services provided to undocumented
11 aliens by eligible local governments, hos-
12 pitals, and related providers for such fiscal
13 year; and

14 (B) provides special consideration for local
15 governments, hospitals, and related providers
16 located in—

17 (i) a county that shares a border with
18 Mexico or Canada; or

19 (ii) an area in which a large number
20 of undocumented aliens reside relative to
21 the general population of the area.

22 (2) SPECIAL RULES.—For purposes of this sub-
23 section:

24 (A) A provider shall be considered to be
25 “related” to a hospital to the extent that the

1 provider furnishes emergency health services to
2 an individual for whom the hospital also fur-
3 nishes emergency health services.

4 (B) Amounts paid under this subsection
5 shall not duplicate payments made under title
6 XIX of the Social Security Act for the provision
7 of emergency medical services described in sec-
8 tion 1903(v)(2)(A) of such Act (42 U.S.C.
9 1396b(v)(2)(A)).

10 (d) DEFINITIONS.—In this section:

11 (1) HOSPITAL.—The term “hospital” has the
12 meaning given such term in section 1861(e) of the
13 Social Security Act (42 U.S.C. 1395x(e)).

14 (2) PROVIDER.—The term “provider” includes
15 a physician, another health care professional, and an
16 entity that furnishes emergency ambulance services.

17 (3) SECRETARY.—The term “Secretary” means
18 the Secretary of Health and Human Services.

19 (4) STATE.—The term “State” means the 50
20 States and the District of Columbia.

21 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
22 authorized to be appropriated to carry out this section
23 \$200,000,000 for each of fiscal years 2001 through 2005.

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