

109TH CONGRESS  
1ST SESSION

# S. 1006

To reimburse States and local governments for indirect costs relating to the incarceration of illegal criminal aliens.

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IN THE SENATE OF THE UNITED STATES

MAY 11, 2005

Mr. KYL (for himself, Mrs. HUTCHISON, and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To reimburse States and local governments for indirect costs relating to the incarceration of illegal criminal 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”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to assist States and units  
8 of local governments by providing financial assistance for  
9 costs incurred by such States and local governments for

1 processing illegal immigrants through their law enforce-  
 2 ment and criminal justice systems.

3 **SEC. 3. REIMBURSEMENT OF INDIRECT COSTS RELATING**  
 4 **TO THE INCARCERATION OF ILLEGAL**  
 5 **ALIENS.**

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

9 (1) in subsection (a), by striking “a State for”  
 10 and all that follows through “State” and inserting  
 11 the following: “each State and unit of local govern-  
 12 ment for—

13 “(1) costs incurred by the State or unit of local  
 14 government for the imprisonment of any illegal alien  
 15 who is convicted of a felony by such State; and

16 “(2) indirect costs related to the imprisonment  
 17 described in paragraph (1).”; and

18 (2) by striking subsections (c) through (e) and  
 19 inserting the following:

20 “(c) DEFINITIONS.—As used in this section—

21 “(1) the term ‘indirect costs’ includes costs re-  
 22 lating to—

23 “(A) court proceedings, attorneys for units  
 24 of local government, and detention of illegal  
 25 aliens;

1           “(B) indigent defense;  
2           “(C) State and local prosecution;  
3           “(D) autopsies; and  
4           “(E) translation and interpreter services;  
5           and

6           “(2) the term ‘State’ has the meaning given  
7           such term in section 1101(a)(36) of this title.

8           “(d) AUTHORIZATION OF APPROPRIATIONS.—There  
9           are authorized to be appropriated \$500,000,000 for each  
10           of the fiscal years 2006 through 2009 to carry out sub-  
11           section (a)(2).”.

12           (b) STATE ALLOCATIONS.—

13           (1) BASED ON PERCENTAGE OF UNDOCU-  
14           MENTED ALIENS.—

15           (A) IN GENERAL.—From the amount ap-  
16           propriated for a fiscal year pursuant to section  
17           501(d) of the Immigration Reform and Control  
18           Act of 1986 (8 U.S.C. 1365(d)), the Attorney  
19           General shall allocate \$333,000,000 for States  
20           and units of local government in accordance  
21           with subparagraph (B).

22           (B) FORMULA.—The amount allocated  
23           under this paragraph for each State (including  
24           units of local government within such State) for  
25           a fiscal year shall be equal to the product of—

1 (i) the total amount available to be al-  
 2 located under this paragraph for that fiscal  
 3 year; and

4 (ii) the percentage of undocumented  
 5 aliens residing in the State compared to  
 6 the total number of such aliens residing in  
 7 all States, as determined by the Statistics  
 8 Division of the Immigration and Natu-  
 9 ralization Service, as of January 2005,  
 10 based on the 2000 decennial census.

11 (2) BASED ON NUMBER OF UNDOCUMENTED  
 12 ALIEN APPREHENSION STATES.—

13 (A) IN GENERAL.—From the amount ap-  
 14 propriated for a fiscal year pursuant to such  
 15 section 501(d), the Attorney General shall allo-  
 16 cate \$167,000,000, in addition to amounts allo-  
 17 cated under paragraph (1), for each of the 6  
 18 States with the highest number of undocu-  
 19 mented alien apprehensions for such fiscal year.

20 (B) DETERMINATION OF ALLOTMENTS.—  
 21 The amount allocated under this paragraph for  
 22 a fiscal year for each State described in sub-  
 23 paragraph (A) (including units of local govern-  
 24 ment within each such State) shall be equal to  
 25 the product of—

1 (i) the total amount available to be al-  
2 located under this paragraph for the fiscal  
3 year; and

4 (ii) the percentage of undocumented  
5 alien apprehensions in the State in that  
6 fiscal year compared to the total of such  
7 apprehensions for all such States for the  
8 preceding fiscal year.

9 (C) DATA.—For purposes of this para-  
10 graph, the highest number of undocumented  
11 alien apprehensions for a fiscal year shall be  
12 based on the apprehension rates for the 4-con-  
13 secutive-quarter period ending before the begin-  
14 ning of the fiscal year for which information is  
15 available for undocumented aliens in such  
16 States, as reported by the Department of  
17 Homeland Security.

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