



HOUSE RESOLUTION 07-1008

BY REPRESENTATIVE(S) McFadyen, Weissmann, Benefield, Borodkin, Buescher, Butcher, Cadman, Carroll M., Casso, Cerbo, Curry, Fischer, Gagliardi, Gallegos, Garcia, Gardner B., Gardner C., Gibbs, Green, Hicks, Hodge, Jahn, Judd, Kefalas, Kerr J., King, Labuda, Lambert, Levy, Looper, Lundberg, Marostica, Marshall, Massey, May M., McGihon, McKinley, McNulty, Merrifield, Mitchell V., Peniston, Pommer, Primavera, Rice, Riesberg, Roberts, Romanoff, Rose, Solano, Sonnenberg, Soper, Stafford, Stephens, Summers, Swalm, Todd, Vaad, White, and Witwer.

CONCERNING FEDERAL REIMBURSEMENT FOR COSTS ASSOCIATED WITH INCARCERATION OF UNDOCUMENTED FOREIGN NATIONALS IN COLORADO.

WHEREAS, Establishing immigration policy and controlling the nation's borders are clear, fundamental responsibilities of the federal government; and

WHEREAS, The federal government has failed to discharge its fundamental responsibilities, and, as a consequence, high-impact states like Colorado face extraordinary costs associated with incarcerating undocumented foreign nationals; and

WHEREAS, The State Criminal Alien Assistance Program ("SCAAP"), governed by the federal "Immigration and Nationality Act of 1990", 8 U.S.C. sec. 1231 (i), requires the federal government to reimburse the state of Colorado and local governments for costs associated with incarcerating undocumented foreign nationals; and

WHEREAS, SCAAP provides federal payments to states and localities that incur costs for incarcerating criminals who were born outside the United States or one of its territories and have no reported or documented

claim to United States citizenship; have at least one felony or two misdemeanor convictions for violations of state or local law; and are incarcerated for at least four consecutive days during the reporting period; and

WHEREAS, The Bureau of Justice Assistance in the United States Department of Justice administers SCAAP, in conjunction with the Bureau of Immigration and Customs Enforcement in the United States Department of Homeland Security; and

WHEREAS, The average annual cost of incarcerating an inmate in a Colorado state prison is now \$27,587, according to statistics from the Colorado Department of Corrections; and

WHEREAS, More than 1,560 legal and illegal foreign-born inmates were incarcerated in Colorado facilities during the last fiscal year, resulting in a total cost of incarceration for legal and illegal foreign-born inmates of more than \$43,000,000; and

WHEREAS, Approximately 1,000 persons were incarcerated with detainers from the Bureau of Immigration and Customs Enforcement, yielding a total cost of incarceration for those inmates of approximately \$27,560,000; and

WHEREAS, For fiscal year 2005, the most recent reporting period by the Bureau of Justice Assistance, the state of Colorado received approximately \$2,350,000 from reimbursement applications for some 1,720 qualified and suspected inmates, a return of approximately \$1,370 per inmate; and

WHEREAS, Much of the cost associated with incarceration is borne by counties, most of which traditionally operate with slim budgets and staffing; and

WHEREAS, Over the previous three-year period, the Bureau of Justice Assistance has failed to reimburse the state of Colorado, its counties, and its cities an estimated \$119,580,000 for costs associated with the incarceration of undocumented foreign nationals; and

WHEREAS, During the 2005 legislative session, the Colorado General Assembly enacted section 17-1-107.5, Colorado Revised Statutes, requiring

the governor to submit to the United States attorney general information concerning the costs of incarcerating undocumented criminal aliens as an attempt to prompt the federal government to provide appropriate assistance to the state to reimburse for these costs; and

WHEREAS, The federal government has not met its national immigration policy obligations or adequately compensated the state of Colorado or its local governments for the costs associated with the incarceration of undocumented foreign nationals; now, therefore,

Be It Resolved by the House of Representatives of the Sixty-sixth General Assembly of the State of Colorado:

That the Colorado House of Representatives hereby urges the Governor and the Attorney General of the state of Colorado to institute an action in federal district court to compel the Bureau of Justice Assistance to reimburse the state of Colorado and local governments for all costs associated with the incarceration of undocumented foreign nationals.

Be It Further Resolved, That copies of this Resolution be sent to President George W. Bush, Governor Bill Ritter, Jr., the United States Attorney General, the Colorado Attorney General, each member of Colorado's Congressional delegation, the Majority Leader of the Senate of the United States, the Speaker of the United States House of Representatives, the Chairs of the Appropriations Committees for the United States Senate and the House of Representatives, the Chairs of the Homeland Security Committees for the United States Senate and the House of Representatives, the director of the Colorado Department of Corrections, and the President of the Colorado Sheriffs' Association.

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Andrew Romanoff
SPEAKER OF THE HOUSE
OF REPRESENTATIVES