



DATE: Apr 17, 2023 - testimony in support of HB 1100

To: Members of the Senate Judiciary Committee

From: Mo Kantner, Senior Director, Policy and Research, American Immigration Council

My name is Mo Kantner, and I am the Senior Director of Policy and Research at the American Immigration Council (the Council), an organization that works to create a more welcoming America—one that provides a fair immigration process and adopts laws and policies that take into account the needs of the U.S. economy and the vital contributions of immigrants and refugees.

The Council would like to express its strong support for HB 1100, *Restrict Government Involvement in Immigration Detention*. HB 1100 will prohibit governmental bodies within Colorado from entering into an agreement for the purposes of immigration detention in a facility that is owned, managed, or operated by a private entity. Immigration detention is fraught with abuse, neglect and mismanagement. Federal oversight bodies [regularly report](#) on issues ranging from medical neglect to violations of a detained persons' constitutional rights. With the Biden Administration failing to halt Intergovernmental Service Agreements (IGSAs) for immigration detention, Colorado has an opportunity to be a leader in providing humane, judicious processing for immigrants across the state. Doing so will allow immigrants to have their cases heard and adjudicated without fear of a detention that is profit-driven and financially incentivized to maximize incarceration rates.

Ending IGSAs currently in operation has already been legally tested in Illinois through *McHenry et. al. V. Raoul*, with the 7th Circuit Court of Appeals upholding the state legislature's ability to end these agreements and prohibit local governments from entering into new contracts for the purpose of detaining individuals in privately owned or run immigration detention facilities across Illinois.

Colorado now has the opportunity to create a more fair and humane system for immigrants within its borders, and the Council strongly encourages the Senate Judiciary Committee to support the passage of CO HB 1100.

Thank you for your consideration,

Mo Kantner
Senior Director of Policy and Research
American Immigration Council

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FAIR is a nonprofit public interest organization working to end illegal immigration and to set levels of legal immigration that are consistent with the national interest.



FEDERATION FOR AMERICAN IMMIGRATION REFORM

April 14, 2023

The Honorable Julie Gonzales, Chair
Senate Judiciary Committee
Colorado General Assembly
346 200 E Colfax
Denver, CO 80203

RE: HB 1100 – Concerning Restrictions on Governmental
Participation in Civil Immigration Detention

Dear Madam Chair Gonzales and other distinguished Members of the
Judiciary Committee:

My name is Shari Rendall and I am the Director of State and Local
Engagement at the Federation for American Immigration Reform
(FAIR). FAIR is a non-profit, non-partisan organization of concerned
individuals who believe that our immigration laws must be reformed to
serve our nation's interests.

FAIR advocates for immigration policies that reduce the harmful
impact of illegal immigration on national security, public safety, the
economy, jobs, education, healthcare and the environment.

Founded in 1979, FAIR has approximately three million members and
supporters nationwide including in nearly 10,000 Colorado. On behalf
of our members and supporters, I am writing to express FAIR's
opposition to House Bill (HB) 1100.

HB 1100 prohibits state agencies and local jurisdictions from
contracting with Immigration and Customs Enforcement (ICE) as well
as prohibits private detention facilities from operating and detaining
any individual for ICE.

Many open-borders advocates demonize correctional facilities that
partner with ICE, as well as private detention facilities, hoping to
convince the American people that no individuals entering the United
States illegally should be detained. This concept of open borders has
public safety and national security risks. Nearly ninety percent of the
illegal aliens arrested by ICE in the interior of the United States are
either convicted criminals or face pending criminal charges. If these
individuals were released back into the community instead of detained,



approximately half would re-offend within a year and 75 percent would re-offend within five years, according to former ICE Director Tom Homan.

In addition, many proponents of bills like this one claim that private detention facilities operate outside the purview of public oversight and accountability. However, this is simply untrue. ICE and its contractors are committed to quality and provide safe, secure, and humane conditions for those in their custody. The private companies and contractors that operate these facilities must comply with strict governmental requirements as well as national accreditation and certification standards.

Likewise, policies like HB 1100 hamper ICE's ability to effectively accomplish its statutorily mandated mission to identify and ultimately remove illegal aliens, especially dangerous, criminal aliens. Historically, ICE utilizes third party facilities since the agency doesn't own or operate its own facilities. If Colorado enacts this legislation, then ICE would not have access to any detention capacity. However, it will not succeed in stopping the detention of illegal aliens. It will simply raise the detention costs on taxpayers and it will mean individuals will be detained in other states further away from their families and counsel.

Additionally, HB 1100 imposes a "one-size-fits-all" policy statewide on communities that have already made the decision locally that they want an immigration detention facility. Currently there are three such facilities in Colorado – Aurora Contract Detention Facility, Teller County Detention Facility, and El Paso County Criminal Justice Center. Such facilities provide both well-paying jobs and streams of federal revenue. Enacting HB 1100 would likely pull the rug out from under and could be economically devastating to both the workers and the local economy.

Finally, HB 1100 could lead to costly litigation that Colorado could potentially lose. Although neither is binding on Colorado, the United States Court of Appeals for the Ninth Circuit held in September that California's immigration detention ban was unconstitutional and enjoined its operation, *see GEO Group Inc. v. Newsom*, No. 20-56172 (9th Cir. Sept. 26, 2022) (en banc)¹, while the Seventh Circuit upheld

¹ <https://www.courthousenews.com/wp-content/uploads/2022/09/GEO-group-9th-Circuit-en-banc-ruling.pdf>

Illinois's ban, *see McHenry County v. Raoul*, No. 21-3334 (7th Cir. Aug. 9, 2022).² A lawsuit was also recently filed challenging New Jersey's ban. Moreover, on March 14, the New Mexico Senate voted down a bill similar to HB 1100 based on the analysis by the New Mexico Attorney General's (AG) Office. The AG opinion concluded that "part of the US Constitution precludes states from dictating to the federal government who can perform federal work."

For the aforementioned reasons, FAIR urges you to oppose HB 1100. I thank you for the opportunity to provide my input. Please do not hesitate to reach out to me, if I may be of assistance. I may be reached by email at srendall@fairus.org or by phone at 202-328-7004.

Sincerely,

A handwritten signature in black ink that reads "Shari Rendall". The signature is written in a cursive, flowing style.

Shari Rendall

² <http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=Display&Path=Y2022/D08-09/C:21-3334:J:Hamilton:aut:T:fnOp:N:2915372:S:0>