

STATE CRIMINAL ALIEN ASSISTANCE PROGRAM



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REQUESTED ACTION: Congress should significantly increase funding for the State Criminal Alien Assistance Program (SCAAP), as well as address several key SCAAP-related issues, which are identified below.

BACKGROUND AND NEED FOR INCREASED FUNDING: The SCAAP program, first authorized by the *Immigration Reform and Control Act of 1986* and subsequently modified by the *1994 Crime Act*, provides partial reimbursement to States and local governments for costs associated with incarcerating undocumented criminals. Specifically, SCAAP provides federal payments to jurisdictions that incurred correctional officer salary costs for housing undocumented individuals who have at least one felony or two misdemeanor convictions for violations of State or local law and were incarcerated for at least four consecutive days during the reporting period.

Since 2000, the SCAAP program's funding has been reduced by 70 percent - not accounting for inflation - while state and local detention costs, as well as the number of jurisdictions applying for the program, have significantly increased. All told, the State of California and its counties are estimated to incur over \$1 billion in SCAAP-eligible expenses annually; nevertheless, the total **nationwide** appropriation for SCAAP is only \$185 million.

The federal government's failure to protect the nation's borders places an enormous, ongoing financial burden on California's counties. It is therefore the responsibility of Congress to provide adequate reimbursement to jurisdictions for the growing costs of incarcerating undocumented criminals.

Program Reauthorization. Although Congress has continued to provide funding for SCAAP, the program technically expired in fiscal year 2011. CSAC supports a long-term reauthorization of SCAAP at increased funding levels.

Reimbursement Criteria Change. Current law limits SCAAP reimbursement to those cases in which an undocumented inmate is *convicted* of a felony or two or more misdemeanors. Congress should approve legislation that would reimburse jurisdictions for the costs of detaining inmates who are *charged with* such crimes. This commonsense change would correct a long-standing flaw in federal statute that disadvantages county governments, which incur considerable costs housing pretrial offenders who may not ultimately be convicted of the crimes for which they are charged.

Transfer of SCAAP Program. CSAC believes it would be advantageous for the Department of Homeland Security (DHS) to assume full responsibility for management of the SCAAP program. Because recent trends in federal spending show that Congress has provided increased investment for various DHS-related functions, SCAAP could receive a more favorable appropriation if the program is funded under the DHS spending bill. Additionally, and pursuant to the *Homeland Security Act of 2002*, most immigration-related functions were transferred from the Department of Justice (DOJ) to DHS.

DOJ Reprogramming Authority. During the last several fiscal years, DOJ has utilized statutory discretion to transfer 10 percent of SCAAP funds - the maximum amount allowable - to other justice activities. This reprogramming, which has slashed the amount of SCAAP funds available to jurisdictions by roughly \$48 million, should be eliminated or significantly limited.

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