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STATE CRIMINAL ALIEN ASSISTANCE PROGRAM

REQUESTED ACTION: Fund the State Criminal Alien Assistance Program (SCAAP) at \$950 million in fiscal year 2013. In addition, seek approval of legislation that would allow jurisdictions to be reimbursed for the costs associated with housing undocumented immigrants who are convicted *and accused* of certain crimes. Finally, protect and increase funding for the Southwest Border Prosecution Initiative.

BACKGROUND: The SCAAP program, first authorized by the Immigration and Nationality Act of 1990 and amended by the 1994 Crime Act, partially reimburses states and localities for the costs of incarcerating undocumented criminals. Specifically, the program provides federal assistance to states and local agencies to do the following: (1) offset the costs incurred for the imprisonment of undocumented criminals who are convicted of felony offenses or two or more misdemeanors; (2) better identify undocumented individuals; and (3) expedite the process of transferring undocumented criminals from state and local correctional facilities to federal custody in preparation for deportation.

In fiscal year 2011, the State of California received over \$65.8 million in SCAAP funding, with the state's counties receiving over \$30.5 million. This combined \$96 million represents over 35 percent of the funds allocated nationwide.

Although California receives a significant portion of SCAAP dollars, the program remains greatly underfunded by Congress. By way of illustration, the State of California and its counties are estimated to spend over \$1 billion annually to incarcerate undocumented criminals, while the total nationwide appropriation for SCAAP is only \$240 million. For his part, President Obama has recommended reducing SCAAP funding to \$70 million as part of his fiscal year 2013 budget request.

In the Senate, legislation has been introduced by Senator Dianne Feinstein (S 638) that would have the effect of boosting SCAAP awards to California's counties, which are responsible for housing pre-trial offenders. Specifically, the bill would modify the SCAAP program so that jurisdictions receive reimbursement for the costs associated with housing undocumented individuals regardless of when or if the individual is convicted.

On a related matter, the authorization for SCAAP expired at the end of fiscal year 2011. Senator Feinstein has authored a bill (S 639) that would provide for a multi-year reauthorization of the program. Under S 639, SCAAP would be reauthorized at \$950 million each year through fiscal year 2015.

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