

# WebMemo



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## Immigration: Congressional Miscue Could Compromise Federal-State Cooperation

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When Congress failed last year to pass a bloated, wrong-headed immigration and border security bill, few expected the legislators to tackle these contentious issues again any time soon. Nevertheless, Americans who want serious reforms expected that, at the very least, Congress would not make things worse.

Remarkably, a measure in the House version of the Department of Homeland Security (DHS) appropriations bill does exactly that by hamstringing the “287g” program, one of the department’s most effective initiatives promoting federal, state, and local cooperation in enforcing immigration laws.

The bill cuts funds for any enforcement efforts other than identifying illegal aliens in state and local prisons, jails, and correctional facilities. State and local governments, however, have demonstrated an increased interest in cooperating with DHS regarding a number of law enforcement activities, including counter terrorism investigations. Subsequently, congressional interference that overly restricts 287g is nonsensical. Congress should restore full funding to the program without any limitations.

**Enforcement Is Important.** Any effective solution for reducing illegal border crossings and the unlawful population in the United States must address all aspects of the problem: internal enforcement of immigration laws, border security, and the need to create sufficient legal opportunities to help U.S. employers get the workforce they need to grow the economy. Internal enforcement is essential for reducing and deterring the flood of illegal entrants

into the United States, as well as for making the challenge of securing America’s borders affordable and achievable.

The federal enforcement agencies lack the capacity to aggressively pursue all immigration violations that represent serious criminal and national security threats, much less effectively deter any who wish to defy U.S. immigration laws. DHS does not even have enough resources to deport criminal aliens released from prisons. Furthermore, effective domestic counterterrorism operations and interstate criminal investigations require close cooperation of federal, state, and local investigators.

**Establishing Effective Partnerships.** Authorized under Section 287(g) of the Immigration and Nationality Act, the 287g program allows DHS and state and local governments to enter into assistance compacts. Both sides must agree on the scope and intent of the program before it is implemented, which gives states and local communities the flexibility to shape the programs to meet their needs. State and local law officers governed by a §287(g) agreement must receive adequate training and operate under the direction of federal authorities. In return, they receive full federal authority to enforce

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[www.heritage.org/Research/Immigration/wm2020.cfm](http://www.heritage.org/Research/Immigration/wm2020.cfm)

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immigration law, thereby shifting liability to the federal government and providing the officers with additional immunity when enforcing federal laws.

Five years ago only two states (Florida and Alabama) participated in the program. Today, DHS has over 50 partnerships, and more are on the waiting list. The department has established an office in Immigration and Customs Enforcement (ICE) to manage the program and created a suite of other partnership initiatives, called ICE Access, to complement the program.

**Congressional Meddling Must Stop.** Even as the program's successes have begun garnering national attention, the House version of the annual appropriations cuts funding for any cooperation outside of penal facilities. Under this revision, Florida, for example, which uses the authority for agents

assigned to federal Joint Terrorism Task forces, will lose the investigative and arrest authorities that their agents employ for counter terrorism cases.

Restricting funding is likely the first step in any attempt to eliminate the program altogether. Yet given the success of the program, the congressional prohibition makes no sense. Congress should fully fund the 287g program and allow federal and state authorities to shape assistance compacts in a manner that best suits the needs of both.

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