

## **END FEDERAL FUNDING OF SANCTUARY AIRPORTS**

With a surge in illegal immigration, Congress must empower the Department of Transportation (DOT) to withhold federal grant funds from airport authorities which refuse to allow flights of federal immigration detainees.

### **BACKGROUND**

Apprehensions at the U.S. Southern border with Mexico surged to a 13-year high in May 2019, leading to over 132,000 detentions of undocumented immigrants, a 33 percent increase from the prior month.<sup>1</sup> Despite the spike in illegal entry, about 300 sanctuary cities and jurisdictions across the U.S. reportedly refuse to assist or actively obstruct Immigration and Customs Enforcement (ICE) agents from enforcing federal immigration law.<sup>2</sup>

ICE contracts with charter airline companies to return undocumented immigrants to their home country.<sup>3</sup> Over the past eight years, ICE utilized the King County International Airport (also known as Boeing Field) in Seattle, Washington, to transport roughly 34,400 detainees.<sup>4</sup> According to the Center for Immigration Studies, King County is one of nearly 20 sanctuary jurisdictions in Washington state.<sup>5</sup>

On April 23, 2019, King County Executive Dow Constantine signed an executive order<sup>6</sup> directing operators to take certain actions to minimize deportation services, with the “goal of banning flights of immigration detainees chartered by [ICE]...from our publicly owned airport.”<sup>7</sup> Following the release of the executive order, operators terminated the lease of the airport’s only ICE-contracted airline.<sup>8</sup> One county official stated they are “hoping to be leading the way” in obstructing ICE deportation flights.<sup>9</sup>

On May 1, 2019, DOT issued a letter warning county officials that “federal law expressly prohibits the enforcement of any such directive.”<sup>10</sup> According to DOT, the King County Airport has received \$21 million in federal grants since 2012, under a condition that in part requires King County International Airport to allow the U.S. government use of its facilities.<sup>11</sup>

In 2017, President Trump issued Executive Order (EO) 13,768, directing the Attorney General and the Secretary of the Department of Homeland Security (DHS) to withhold federal grant funding from sanctuary cities and jurisdictions.<sup>12</sup> The Ninth Circuit Court of Appeals struck down the EO 13,768 in August 2018, ruling that the Constitution vests Congress with the exclusive authority to impose conditions on federal grants.<sup>13</sup>

### **CONSTITUTIONAL AUTHORITY AND REPUBLICAN PRINCIPLES**

The Constitution grants Congress the power to “establish a uniform Rule of Naturalization.”<sup>14</sup> While welcoming legal immigrants, the Federal Government has a responsibility to protect America’s sovereignty and secure national borders. Taxpayer dollars should not be awarded to support policies intended to thwart federal law enforcement and undermine national security.

### **Quick Take**

Apprehensions at the U.S. Southern border with Mexico surged to a 13-year high in May 2019.

Congress should act to give agencies the authority to withhold federal grants from airports which obstruct federal law enforcement.

## POLICY SOLUTIONS

Considering the Ninth Circuit ruling, Congress should act to give agencies the authority to withhold federal grants from airports which obstruct federal law enforcement. Congress must pass H.R. 2955, the Prohibiting Local Airports from Neglecting Enforcement (PLANE) Act. The PLANE Act would authorize the Secretary of the Department of Transportation to prohibit federal grant awards to an airport that refuses to cooperate with ICE.

**Please contact Cameron Smith or Kelsey Wall with the Republican Policy Committee at (202) 225-4921 with any questions.**

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<sup>1</sup> U.S. Customs and Border Protection, *Southwest Border Migration FY2019* (2019), <https://www.cbp.gov/newsroom/stats/sw-border-migration>.

<sup>2</sup> Bryan Griffith and Jessica Vaughan, Center for Immigration Studies, *Map: Sanctuary Cities, Counties, and States*, March 2017. <http://cis.org/Sanctuary-Cities-Map>.

<sup>3</sup> Press Release, U.S. Immigration and Customs Enforcement, *ICE uses local airports to deport dangerous criminal aliens* (May 8, 2019), <https://www.ice.gov/news/releases/ice-uses-local-airports-deport-dangerous-criminal-aliens>.

<sup>4</sup> Nina Shapiro, *Over eight years, the government has deported about 34,000 people via Boeing Field. King County wants it stopped.*, The Seattle Times, Apr. 23, 2019, <https://www.seattletimes.com/seattle-news/politics/over-eight-years-the-government-has-deported-about-34000-people-via-boeing-field-king-county-wants-it-stopped/>.

<sup>5</sup> Griffith and Vaughan, *supra*, note 2.

<sup>6</sup> King County Executive Office, King County International Airport – Prohibition on immigrant deportations, PFC-7-1-EO (April 23, 2019), [https://www.kingcounty.gov/~media/elected/executive/constantine/news/documents/PFC-7-1-EO\\_Signed.ashx?la=en](https://www.kingcounty.gov/~media/elected/executive/constantine/news/documents/PFC-7-1-EO_Signed.ashx?la=en).

<sup>7</sup> Press Release, King County Executive Office, *Executive Constantine directs actions against ICE detainee flights from King County Airport* (Apr. 23, 2019), <https://www.kingcounty.gov/elected/executive/constantine/news/release/2019/April/23-ICE-KCIA.aspx>.

<sup>8</sup> Press Release, King County Executive Office, *Operators at King County Airport will not serve ICE flights, leaving no ground support for immigration transfers* (May 2, 2019), <https://kingcounty.gov/elected/executive/constantine/news/release/2019/May/1-KCIA-lease.aspx>.

<sup>9</sup> Shapiro, *supra*, note 4.

<sup>10</sup> Letter from Steven G. Bradbury, General Counsel, U.S. Dept. of Trans., to Dow Constantine, King County Executive, (May 1, 2019), <https://kuow-prod.imgix.net/store/9ced9bda708f52df50ecec46e527314d.pdf>.

<sup>11</sup> *Id.*

<sup>12</sup> Executive Order No. 13768, “Executive Order: Enhancing Public Safety in the Interior of the United States”, January 25, 2017, <https://www.whitehouse.gov/presidential-actions/executive-order-enhancing-public-safety-interior-united-states/>.

<sup>13</sup> *San Francisco v. Trump*, 897 F. 3d 1225 (9th Cir. 2018).

<sup>14</sup> U.S. Const. art. I, § 8, cl. 4.