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August 31, 2001

Hon. Bill Lockyer  
Attorney General  
1300 I Street, 17<sup>th</sup> Floor  
Sacramento, California 95814

Attention: Ms. Tricia Knight  
Initiative Coordinator

Dear Attorney General Lockyer:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative (File No. SA2001RF0021) regarding the labeling of foods that contain or were produced with genetically engineered materials.

**Background**

Genetic engineering is the technique of removing, modifying, or adding genes to a DNA molecule. The term also applies to research in genetics regarding the alteration or modification of the genetic material carried by a living organism to produce some desired change in its characteristics. Genetic engineering is used in the development of new plant varieties that are used as sources of foods.

The federal Food and Drug Administration (FDA) has authority under the Federal Food, Drug, and Cosmetic Act to ensure the safety and wholesomeness of most foods (except meat and poultry), including foods developed through biotechnology. In California, the Department of Health Services (DHS) regulates food safety—except for meats, poultry, and dairy—which are overseen by the California Department of Food

and Agriculture (CDFA). These inspection programs are currently funded by the General Fund and fee revenues.

In a 1992 policy statement, the FDA stated that the regulation and labeling of food products containing genetically engineered components is subject to the same safety standards as any other food product. Federal and state law require that the label disclose information that is material to representations made about the product and the consequences that may arise from the use of the product.

### **Summary of the Initiative**

This measure requires that genetically engineered foods sold or distributed in or from the state be labeled as such for display in retail stores in a way that is clearly legible and conspicuous. The label would have to appear on the principal display panel of the food product which is that part of the label that is most likely to be displayed.

The label by law would have to include the words "Genetically engineered" followed immediately by these words: "NOTICE: This product contains genetically engineered material or was produced with genetically engineered material." The words "Genetically engineered" would have to be at least twice the size of the additional notice.

### **Fiscal Effects**

**Costs.** This measure would increase the state government's costs of monitoring regulated food products. The DHS and the CDFCA inspect processing plants for various health and safety measures, including that of accuracy in labeling. This measure would expand the scope of those inspections. The increased workload reflects the need for inspectors to review production records in order to ascertain whether or not a product contains any genetically engineered components. We estimate that the cost to state government of these activities could be several million dollars annually. The measure does not address how these costs would be funded.

Because this measure establishes a new misdemeanor crime, the state and local governments may also incur law enforcement and other criminal justice system costs. These costs are unknown but are probably not significant.

**Revenues.** Under this measure, businesses engaged in the production, distribution, and sale of food will incur costs for record keeping and retail labeling associated with genetic foods and meats. The amount of these costs will vary depending on a variety of

factors, including the expenses associated with collecting and verifying the information to appear on the labels, redesigning the existing labels, and the incremental costs of manufacturing the new labels and affixing them to the affected foods and meats. Additional expenses may be incurred by businesses to redesign food and meat facilities and display areas for the items involved.

To the extent these costs are incurred by retail and other food businesses, they will reduce their taxable business profits and thus state income tax revenues. Likewise, to the extent that these various costs are borne by consumers through higher product prices, this may reduce sales volumes and business profits, and thus income tax revenues. The magnitude of these labeling-related costs to businesses is unknown. Consequently, the effect on state tax revenues is unknown, but probably minor in the context of overall state revenues.

*Summary of Fiscal Effects.* This measure would probably result in state costs of several million dollars annually and potential state revenue reductions that are probably minor in the context of overall state revenues. It could also result in unknown, but probably not significant, costs for local government.

Sincerely,

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Elizabeth G. Hill  
Legislative Analyst

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B. Timothy Gage  
Director of Finance