

October 21, 2005

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 entitled "The Illegal Immigration Reform Act" (File No. SA2005RF0099).

## Background

*Recent California Population Trends.* The U.S. Census Bureau indicates that California's population grew from 29.8 million in 1990 to 34.0 million in 2000, an increase of 14 percent. The California Department of Finance (DOF) estimates that subsequent population growth through July 1, 2005, results in a figure just over 37 million people. The annual growth in statewide population since 2000 has averaged about 600,000, consisting of both *natural increase* (the excess of births over deaths) and *net in-migration* (persons moving to California from other states and countries, minus people leaving the state for other destinations). In recent years, each of these two factors has contributed roughly equally to the overall increase.

The official figures from both the U.S. Census Bureau and DOF have not been corrected for issues related to potential undercounting, including those associated with undocumented immigration.

*Documenting U.S. Citizenship.* Currently, the United States has no universal national identity card, so documenting citizenship or legal immigration status can be complex, even for native-born citizens. Generally, several documents are needed (for example, a U.S. birth certificate to establish the basis for citizenship and a driver's license with a photo to establish identity). However, many people (especially children) do not have a driver's license or other official photo identification. Documenting citizenship for these people may involve additional steps, such as verifying the identity of a child's parents.

Most legal immigrants have an identification card from the U.S. Department of Homeland Security (DHS) to verify their status, such as a “green card” issued to immigrants who are granted permanent residence in our country. The DHS has developed a computer system that government agencies and employers can use to check the validity of most types of immigration documents. No similar nationwide automated system exists to check the validity of birth certificates, which are issued by thousands of local agencies throughout the country.

Under the U. S. Constitution, children born in this country to undocumented immigrant parents are U.S. citizens—just like any other child born here. Many undocumented immigrant families in California have citizen children, who have the same rights and are entitled to the same benefits as any other citizen.

***Federal Law.*** The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (the 1996 federal welfare reform law) defines “nonqualified aliens” and makes them ineligible for federal public benefits. Qualified aliens include immigrants who are permanent residents, asylees, refugees, and certain other groups of immigrants who have been granted the legal right to remain in the United States. Nonqualified aliens include undocumented immigrants and some types of nonresident aliens, such as tourists.

The federal welfare reform law also prohibits state and local governments from providing public benefits to nonqualified aliens without state enactment of subsequent authorizing legislation. Examples of programs where the state has passed legislation to provide benefits to nonqualified aliens include prenatal care and long-term care benefits in the Medi-Cal Program.

***Voting Rights and Privileges.*** Only residents of California who are citizens of the United States are eligible to vote in California elections. Under current federal law, first-time voters who register by mail have to provide identification at some point in the voting process (either when registering or voting). Identification can include photograph identification cards or other types of documents which show the voter’s name and address.

## **Proposal**

***Drivers’ Licenses.*** This measure directs the Department of Motor Vehicles (DMV) to issue drivers’ licenses that are in compliance with the Federal Real ID Act of 2005. Under the act, an individual in a noncompliant state could not use their license for various activities—such as opening a bank account, traveling on a plane, or collecting Social Security payments. Given the general importance of having such a license, it is likely that DMV would issue drivers’ licenses that comply with the act even in the absence of this initiative.

The measure specifically precludes the state from providing drivers' licenses to undocumented immigrants that can be used for identification purposes. The DMV does not now do so; thus, this provision would not change DMV's current practice.

***Penalties for the Manufacture or Use of False Citizenship Documents.*** The measure doubles the penalties for the manufacture and sale (to \$150,000) and use (to \$50,000) of false citizenship documents.

***Voting Provisions.*** This measure requires all California voters to show identification at a polling place when voting. In addition, the measure is more restrictive than current law as to what types of documents can be used to prove eligibility to vote.

***Health and Social Services Benefits.*** This measure eliminates the state and local governments' option that currently exists under the federal law to provide public benefits to nonqualified aliens. For example, the state could no longer provide prenatal care or long-term care to nonqualified aliens. In addition, the measure would preclude the state from providing health and social-services-related public benefits to undocumented immigrants in the future.

***Higher Education.*** This measure prohibits the state from providing postsecondary college education to undocumented aliens.

## **Fiscal Effect**

If this measure were approved by the voters, we estimate that it would have the following fiscal effects.

### **Costs**

***DMV Costs.*** At this time, the costs to DMV to implement this measure are unknown. However, because it is likely that the department would issue licenses that comply with the Federal Real ID Act anyway, this initiative would not impose additional administrative costs on DMV.

Additionally, the measure's precluding DMV from issuing drivers' licenses to undocumented immigrants for identification purposes represents current practice; consequently, this provision of the measure also would not result in additional costs to the state.

***Voting Provisions.*** The measure would increase state and county costs for administering elections. For instance, the checking of identification at polling places could increase the amount of staff necessary at many precincts. Compared to the overall cost of administering a statewide election, however, the costs of the measure probably would be minor.

***Verification of Public Benefits.*** In order to ensure that undocumented immigrants do not receive public benefits, the state would have to verify applicants' citizenship or immigration status. Thus, whenever a person applies for a public benefit, the state would need to verify the applicant's eligibility for benefits. Consequently, the state would likely experience increased administrative costs to comply with the measure's requirements. For example, under the measure, the state would need to verify eligibility for various higher education, health, and social services-related benefits.

The state would incur unknown, but potentially major, one-time expenses to implement verification procedures. Ongoing costs could vary substantially because the number of information requests from one governmental entity to another is unknown. These costs to state and local governments are potentially in the tens of millions of dollars annually.

### **Savings**

***Savings Resulting From Reduced Services.*** This measure would result in savings because it (1) eliminates the option of state and local governmental entities to provide public benefits to undocumented immigrants and (2) requires them to verify the eligibility of each applicant for services. The magnitude of these savings to state and local governments is unknown, but could be in the hundreds of millions of dollars annually.

***Denying Some Services May Increase Future Costs.*** Denying some services to undocumented immigrants could result in future increased state health-care costs. For example, eliminating prenatal services to undocumented immigrant women could result in higher Medi-Cal costs to their infants, who would be citizens. In addition, failure to treat and control serious contagious diseases—such as tuberculosis—among undocumented immigrants could increase future costs to treat the disease in the general population.

### **Revenues**

***Increased Penalty Revenues.*** The increases in the penalties for manufacturing, sale, and using false citizenship documentation would result in higher revenues to the state. Increased revenues could be over \$1 million annually.

The measure could also result in indirect revenue effects. Unknown potential state and local revenue reductions could occur, depending on how the measure is implemented and the extent to which it reduces the labor force, production, statewide personal income, and other revenue-related economic variables.

**Summary of Fiscal Effects**

The measure could have the following major fiscal effects:

- Program savings to the state and local governments due to reduced expenditures for certain public services. These savings could be in the hundreds of millions of dollars annually.
- Potentially costs in the tens of millions of dollars annually, to verify citizenship or immigrations status of persons receiving public benefits.

Sincerely,

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Elizabeth G. Hill  
Legislative Analyst

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Michael Genest  
Acting Director of Finance