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California State Senate

SENATOR
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SENATE MINORITY WHIP
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May 10, 2010

President Barack Obama
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear Mr. President:

I write this letter in response to the federal government's continued and historic failure to secure our nation's borders, enforce provisions of immigration law, or reimburse California for the tremendous costs unauthorized immigrants pose to our state.

Under the United States Constitution, Congress has the authority "to establish a uniform rule of naturalization." Over a century of Supreme Court precedent establishes that the federal government holds the crucial responsibility of "prescribing the terms and conditions upon which [immigrants] may come to this country, and to have its declared policy in that regard enforced exclusively through executive officers." Lem Moon Sing v. U.S., 158 U.S. 538 (1895). Through programs like the State Criminal Alien Assistance Program (SCAAP), Washington has pledged to reimburse states for the costs of undocumented immigration.

As you admitted last week, the federal government has failed the states on undocumented immigration. While an apology from Washington is appreciated, their "failure to act responsibly at the federal level" cannot be forgivingly dismissed. California's undocumented immigrant population burdens the state's taxpayers with more than \$10.5 billion annually for education, medical care and incarceration. In 2009, California spent over \$1 billion incarcerating almost 30,000 undocumented immigrants in state prison. The federal government reimbursed only 10 percent of those costs. No sustainable public program can or should be operated under such unscrupulous accounting procedures. This twisted formula for federal reimbursement harms state and local governments. Further, it injects fiscal instability into state budget processes by withholding long-overdue federal funds over legislators' heads.

In the absence of federal leadership on immigration policy, states with high populations of undocumented immigrants that accordingly incur disproportionate costs cannot afford to wait indefinitely for empty promises of comprehensive immigration reform to be fulfilled on the federal level. To California, the price of indecision in Washington is catastrophic in Sacramento.

These efforts are not borne of discriminatory intent or disrespect for civil liberties and human rights. California public officials and taxpayers alike do not advocate anything other than a principled, humane and legal solution to undocumented immigration. On its worst day, the United States is still the beacon of hope and destination of choice for oppressed people throughout the world, and to the extent this flow of the “huddled masses yearning to be free” can be responsibly regulated and consistently controlled, I and other Californians wholeheartedly support immigration. This sense of compassion and justice tempered with legitimate concerns about the dangers posed by undocumented immigration is the source of this letter. Caricaturing or dismissing concerned citizens as racist or xenophobic because of their opposition to undocumented immigration and their fears about its impact on their state and local governments is intellectually dishonest and ultimately unfair.

States cannot afford to wait indefinitely for empty promises of comprehensive immigration reform to be fulfilled on the federal level. Federal failure to implement sound immigration policy or enforce existing federal law encourages frustrated states to craft their own *ad hoc* policy solutions for undocumented immigration, an approach that threatens costly litigation, social conflict, and legal confusion.

Citizens across the country deserve responsible leadership in a policy area preempted by Congress and the President. Americans do not hate immigrants. Rather, they favor an immigration policy that controls both the borders and costs to state and local governments. Through this letter, I stand with my fellow citizens in issuing a clear message to the federal government that if leaders in Washington cannot enforce the law and control the flow of undocumented immigration, the individual states must take steps to reluctantly fill the void.

Sincerely

A handwritten signature in black ink that reads "Tom Harman". The signature is written in a cursive style with a large, stylized "T" and "H".

TOM HARMAN

California State Senator, 35th District

cc: California Congressional Delegation