40 YEARS FAIR

FEDERATION FOR AMERICAN IMMIGRATION REFORM

December 11, 2019

New Jersey Senate
Committee on Transportation
State House Annex
131-137 West State Street
Trenton, NJ 08608

Dear Chair Diegnan, Vice-Chair Vitale, and other distinguished members of the committee:

My name is David Jaroslav and I am the State & Local Legislative Manager at the Federation for American Immigration Reform (FAIR). FAIR is a non-profit, non-partisan organization of concerned individuals who believe that our immigration laws must be reformed – and enforced – to better serve the needs of current and future generations.

For the past 40 years, FAIR has been offering and advocating for solutions that help reduce the harmful impact of illegal immigration on national security, public safety, the economy, jobs, education, health care, and our environment. Our support base includes over two million diverse members and supporters, including activists, social media followers, and donors. I write to express FAIR's opposition to Senate Bill (SB) 3229, which would authorize issuance of New Jersey drivers' licenses and identification cards to illegal aliens.

FAIR opposes SB 3229 for the following reasons:

Granting Driver's Licenses to Illegal Aliens Threatens National Security and Public Safety.

States that issue driver's licenses or IDs to illegal aliens make the United States needlessly vulnerable to national security threats. Any driver's license or ID process that does not verify the authenticity of an applicant's identity documents can be used as easily by terrorists as by illegal aliens. Even states that claim to conduct thorough background checks on applicants are often simply unequipped to verify the authenticity of many foreign or easily forgeable documents that illegal aliens must use to provide evidence of their identities.

Jurisdictions that allow illegal aliens to receive driver's licenses and IDs often become magnets for illegal immigration, while providing safe havens to criminal aliens and terrorists. This is because driver's licenses and IDs are useful tools to feign lawful immigration status, assume false identities, and become invisible to law enforcement. This stark reality hit Americans when the attacks of September 11, 2001 revealed that the terrorists who attacked the World Trade Center and the Pentagon not only exploited our country's generous immigration system, but also its permissive scheme of issuing drivers' licenses and IDs.

To examine the intelligence failures leading up to the vicious attacks, Congress appointed the 9/11 Commission, chaired by former New Jersey Governor Thomas Kean. In 2004, the Commission released a report detailing its findings. Remarkably, the 9/11 Commission uncovered that between them, the nineteen 9/11 terrorists possessed thirty state-issued driver's licenses and IDs. As the Commission's report pointed out:

> All but one of the 9/11 hijackers acquired some form of U.S. identification document, some by fraud. Acquisition of these forms of identification would have assisted them in boarding commercial flights, renting cars, and other necessary activities.

Moreover, though the hijackers entered the country lawfully, several had overstayed their visas, making them unlawfully present at the time of the attacks. Nonetheless, because of the apparent legitimacy of their presence resulting from the possession of driver's licenses and other identification documentation, law enforcement and other officials did not question their presence when encountered (reports indicate that several of the hijackers had been stopped by police for traffic violations prior to the attacks).

Recognizing that a lack of secure identity documentation helped facilitate the 9/11 attacks, in its recommendations, the 9/11 Commission's report concluded, "[t]he federal government should set standards for the issuance of ... sources of identification, such as drivers licenses." To fulfill this recommendation, Congress passed the REAL ID Act in 2005.

Real ID set minimum security standards for state driver's license and ID issuance and production, establishing criteria that such documentation must meet in order to be accepted for federal

identification purposes. Among other things, these minimum requirements consist of ensuring that drivers' licenses and IDs are tamper-resistant, include a digital photograph, and are only granted to individuals with certain types of lawful status. The REAL ID Act makes clear the federal government is not to accept documents not meeting these standards for "official purposes" including accessing certain federal buildings, nuclear facilities, or boarding commercial aircraft. Thus, to enhance national security and reduce instances of identity fraud, REAL ID was crafted to prohibit federal agencies from accepting driver's licenses or IDs as proof of identity from states with lax security standards that allow individuals without lawful presence to receive them.

To get around REAL ID's intent to prevent illegal aliens from receiving driver's licenses or IDs, many lawmakers and illegal alien lobbyists began to craft legislation by exploiting a loophole in the law. By creating a "tiered" driver's license system, which allows state residents to choose whether to receive a REAL ID compliant license or non-REAL ID compliant license, a handful of lawmakers have been able to grant driving privileges or IDs to illegal aliens while allowing citizens and legal residents to receive driver's licenses that would be deemed acceptable by the federal government. Although these second-tier driver's license and IDs include distinguishing markings to clarify that they may not be used for federal identification purposes, they nonetheless undermine federal law and represent bad public policy.

Granting Driver's Licenses to Illegal Aliens Conflicts with and Frustrates the Purposes and Objectives of Federal Immigration Law.

Federal law clearly states under what circumstances a person may legally reside in the United States. An illegal alien, by definition, does not possess lawful presence and is subject to immediate removal. Granting driver's licenses to illegal aliens treats them as if they are lawfully present and facilitates illegal conduct. A driver's license is one of the most useful single items of identification for creating an appearance of lawful presence. Providing identification and driving privileges to illegal aliens only enables the illegal aliens to continue to live, work, and vote in states unlawfully in contradiction to federal law.

Federal law further provides that no one may "encourage" or "induce" illegal aliens to enter, remain, or work in the United States.[1] To do so is a federal crime.[2] Yet for a state to offer drivers' licenses or similar benefits to illegal aliens is clearly such an encouragement or inducement.

Indeed, multiple lawsuits against the State of New York, which recently authorized drivers' licenses for illegal aliens in a bill similar to SB 3229, argue exactly this: namely that such legislation is preempted by federal law, and could require state personnel to engage in conduct prohibited by federal law.

Granting Driver's Licenses to Illegal Aliens Facilitates Identity Theft and Fraud.

States that grant driver's licenses and IDs to illegal aliens have repeatedly experienced high rates of identity fraud. Because illegal aliens often do not have documents to prove their identities from domestic sources, DMVs in states that issue driver's licenses and IDs to illegal aliens are often forced to accept hard-to-verify foreign documentation or easily-forged documentation to establish proof of identity.

For instance, New Mexico residents have long experienced high rates of identity fraud and human trafficking issues associated with their laws that allow illegal aliens driving privileges and IDs. During an audit between August 2010 and April 2011, investigators found that as much as 75 percent of foreign national license applications in New Mexico were in some way fraudulent. In that same period, investigators also discovered 37 percent of foreign national requests for appointments came from out of state, most from Arizona, Georgia, and Texas, despite state law limiting driver's license eligibility to New Mexico residents.

Additionally, in 2015, the Vermont Department of Motor Vehicles announced it had discovered that many out-of-state aliens had been fraudulently applying for driver's licenses in the months following the implementation of its illegal alien driver's license law. The

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[1] *See* 8 U.S.C. § 1324(a)(1)(A)(iv).

[2] This crime is punishable by up to five years in federal prison without any additional enhancements. *See* 8 U.S.C. § 1324(a)(1)(B)(ii). If it is "done for the purpose of commercial advantage or private financial gain," 8 U.S.C. § 1324(a)(1)(B)(i), it is punishable by up to ten years.

Vermont DMV made this announcement after it discovered that over a hundred applications at just one of its offices in one month were submitted using false addresses. When applicants later arrived in person to take the driving portion of the test, investigators learned that many of these applicants were illegal aliens who had paid $2,000 to individuals in New York for help to obtain Vermont driver's licenses.

Tennessee, which also passed a law to grant driver's licenses to illegal aliens in 2004, similarly experienced high instances of fraud in the driver's license application process. The state ultimately repealed the law in 2007 after it became apparent to officials that granting driver's licenses to illegal aliens contributed to "an excess of fraudulent resident documents."

Lawmakers in other states must similarly learn to make identity security a priority. Over 15.4 million Americans, or one in every sixteen adults, were victimized by identity theft in 2016 alone, according to a report by Javelin Strategy & Research, with fraud losses exceeding $16 billion. States that issue drivers' licenses and IDs to illegal aliens only make it easier for such crimes to occur.

Granting Driver's Licenses to Illegal Aliens Sends the Wrong Message to Legal and Prospective Immigrants.

Federal law clearly states under what circumstances a person may legally reside in the United States. Allowing illegal aliens who are unlawfully present in the United States to receive drivers' licenses and IDs only rewards illegal behavior and tells the world that the United States does not adhere to the rule of law.

Additionally, granting drivers' licenses and IDs to illegal aliens insults those legal immigrants who have patiently waited for months and years for the U.S. State Department and DHS to approve their applications for admission or adjustment of status, and paid thousands of dollars in travel, legal, medical and other fees to abide by entry, employment, health and processing laws and regulations in order to come the right way.

Granting Driver's Licenses to Illegal Aliens Encourages Additional Illegal Immigration.

States that offer driving privileges and other benefits to illegal aliens become priority destinations and magnets for illegal immigration.

They make living and working in the United States in violation of the law easy. When combined with sanctuary policies, taxpayer-funded public benefits, and lax employment laws (including failure to mandate E-Verify usage among employers), laws that grant driver's licenses or IDs become an important part of a de facto state-authorized amnesty.

Despite what illegal alien advocates claim, mass illegal immigration is proven to have a depressing effect on the wages and employment rates of American workers. A 2013 study by Harvard University's George Borjas found that illegal immigration reduced wages for the most economically vulnerable Americans, who primarily work lower-wage jobs that require minimal levels of education. The study concluded that illegal immigration reduces the wages of native-born workers by an estimated $99 to $118 billion a year, and that any benefits of illegal labor are redistributed to business owners rather than workers.

In addition to making it harder for many Americans to make a living, illegal immigration drains public schools, welfare programs, and delicate state and local budgets, which leads to a higher cost of living for everyone. Aside from illegal aliens themselves, the only groups that really benefit from laws that promote illegal immigration are profit-collectors that want to keep labor costs low and politicians that rely on these industry leaders for their donations or hope to benefit from future votes from illegal aliens, in the event of a future amnesty, and their children, who if born in the United States are born citizens.

<u>Granting Driver's Licenses to Illegal Aliens Will Not Significantly Impact Road Safety or Guarantee More Insured Drivers.</u>

In 2011, the AAA Foundation for Traffic Safety released a report that analyzed traffic accident data collected by the National Highway Traffic Safety Administration's Fatality Analysis Reporting System database. The AAA report reveals that from 2007-2009 less than five percent of the drivers involved in fatal car accidents nationwide were unlicensed drivers. More than 95 percent of all drivers involved in fatal car accidents were licensed drivers or driver's whose licenses were suspended, revoked, expired, cancelled, or denied. As a result, any correlation asserted by advocates of illegal alien driver's licenses between road safety and unlicensed illegal alien drivers is tenuous at best.

By the same token, it defies common sense to contend that the best way to combat accidents by illegal aliens is to give them all drivers' licenses. If states really want to prevent crashes by unlicensed drivers, the state would discourage them from driving in the first place. This could be done in a variety of ways, but certainly not by lowering standards for drivers' licenses.

Granting drivers' licenses to illegal aliens does not guarantee that they will purchase auto insurance. While many states' laws require all motorists to have auto insurance, there is no reason to think that illegal aliens, having disregarded so many other laws, would obey this one.

What is mistakenly assumed is that illegal aliens, who generally are low-income, have the cash available to acquire auto insurance plus the incentive to buy it in order to protect what little assets they have. While a few illegal aliens may be willing and able to buy insurance, on the whole it will not significantly reduce the number of uninsured drivers. For instance, New Mexico, which issues illegal alien drivers' licenses, is also home to the nation's second highest percentage of uninsured drivers.

<u>Granting Driver's Licenses to Illegal Aliens Is Fiscally Unwise.</u>

It is not fair to constituents to continue to increase taxes, cut their benefits and mortgage against their children's futures while expanding benefits for illegal aliens. Providing driving privileges to illegal aliens will only encourage illegal aliens to remain in the state and continue to work in the underground economy for lower wages – severely undercutting American workers and yielding little to no tax revenue for the state. States must not invite illegal immigration to their state and place the fiscal burden of providing education, health care and other services to illegal aliens on the backs of taxpayers.

Legislators should not spend scarce resources by granting driver's licenses to illegal aliens who are subject to immediate deportation. States have a legitimate interest in restricting licenses to those who are citizens or legal residents because of the concern that persons subject to immediate deportation will not be financially responsible for property damage or personal injury due to automobile accidents.

In summary, the arguments against granting drivers' licenses to illegal aliens, both legal and practical, are fairly overwhelming, and for all those reasons, FAIR strongly opposes SB 3229.

I thank you for the opportunity to provide our input. Please do not hesitate to reach out if we may be of assistance. I may be reached via email at djaroslav@fairus.org or by phone at 202-328-7004.

Sincerely,

David L. Jaroslav, Esq.
State and Local Legislative Manager