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February 27, 2008

Utah State Senate  
320 State Capitol PO Box 145115  
Salt Lake City, Utah 84114

Re: Senate Bill 210, "Proof of Citizenship Required to Vote"

Dear Senator,

On behalf of the American Civil Liberties Union of Utah, we urge you to oppose Senate Bill 210, "Proof of Citizenship Required to Vote." This bill is unnecessary and will only serve to create barriers to voter participation by those who are lawfully entitled to vote in this state. As even the sponsor of this bill has indicated, SB 210 is merely "precautionary," as there is no evidence to support the practice of voting by undocumented immigrants in Utah. Unfortunately, the lesson learned by Arizona after enacting similar legislation is that large numbers of voter registration forms from U.S. citizens were rejected because they lacked the documents needed to prove their citizenship. The right to vote of Utahns is too fundamental to be sacrificed in the name of a hypothetical harm.

Our particular concerns surrounding Senate Bill 210 are as follows:

1. **There is no evidence that voting by undocumented immigrants is a problem within the state of Utah.** While the bill sponsor maintains that a state audit establishes that undocumented immigrants are fraudulently voting, the audit in question does not substantiate this claim.<sup>1</sup> There is however reliable evidence that making the right to vote more difficult will dissuade lawful U.S. citizens from exercising their fundamental right to vote.
2. **Senate Bill 210 runs contrary to the mandates of the National Voting Registration Act (NVRA).**
  - The NVRA requires that states use and accept the Federal Mail Voter Registration Form. States are obligated to accept this form as full satisfaction of registration requirements for federal elections. **SB 210's requirement that registrants provide additional information pertaining to citizenship violates the NVRA.**

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<sup>1</sup> In February of 2005, the legislative Auditor General conducted an audit for the Utah Senate on driver license use by undocumented aliens. With respect to voting by undocumented aliens, the audit concluded only that 14 individuals in the state of Utah voted who may or may not have been citizens. See [http://le.utah.gov/audit/05\\_01ilr.pdf](http://le.utah.gov/audit/05_01ilr.pdf).

3. **Senate Bill 210 is largely unnecessary and does nothing to protect the integrity of the election process or assure the right of citizens to vote.**
  - Existing state and federal laws already prohibit voting by non-citizens, and provide for severe penalties when violated.
  - Registering to vote in the state of Utah already requires registrants to sign an oath of citizenship.
  - SB 210 succeeds in erecting unnecessary barriers to voter participation.
4. **Many Utah citizens do not possess the documents needed to satisfy Senate Bill 210's requirements to prove citizenship. These documents can be difficult and costly to obtain and may constitute a form of poll tax, which is unconstitutional under the 24<sup>th</sup> Amendment to the U.S. Constitution.**
  - The elderly, disabled people, minorities, and citizens born at home or out of the country are less likely to have birth certificates, driver's licenses or other documentation establishing citizenship.
  - For example, in 2005, the American Association of People with Disabilities estimated that **more than 3 million Americans with disabilities do not possess a driver's license or state-issued photo ID**. Likewise, According to the American Association of Retired People (AARP), as many as **18 percent of Americans over age 65 do not have any photo ID, such as a driver's license or passport**. Many of these same people also lack a birth certificate or other document that would satisfy SB 210.
  - The cost of obtaining documents establishing citizenship can be prohibitive and will discourage voter participation. For example, the cost to obtain a U.S. passport is \$100, a certified birth certificate from \$10-15, and the cost to replace lost naturalization documents can be upward of \$200.
  - A federal court in Georgia held that the **\$10 fee necessary to obtain a birth certificate to get a picture ID for voting purposes was in the nature of a poll tax**, and thus was enjoined. *Common Cause v. Billups*, 406 F.Supp. 2d 1326 (N.D. Ga. 2005).

Additionally, while this bill may be well intentioned, this body should be aware of the real consequences that flow from this type of legislation. Only one other state, Arizona, has enacted this type of law, and its experience is instructive. The most noticeable effect of Arizona's law has been to prevent eligible U.S. citizens from registering to vote. Since 2006, some 37,000 registration applicants have had their applications rejected for lack of citizenship proof.<sup>2</sup> Since there were only 20 suspected instances of non-citizens voting in the previous 10 years, it is highly likely that the Arizona law is barring citizens from registering who simply lacked access to a passport, birth certificate or other required document.

One such individual is a 57 year-old disabled American named Eva Steele. She is the mother of an Army reservist serving a tour of duty in Iraq, and she moved to an assisted living facility in Arizona in 2006. Because she moved, she needed to register at her new address. But, because of Arizona's proof of citizenship requirements, she was unable to register to vote even though she is a U.S. citizen who has been voting all her life. As she testified before the U.S. House Committee on Administration, she does not have

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<sup>2</sup> See discovery material in *Gonzales v. State of Arizona*, No. 2:06-CV-1268 (D. Ariz.)

the economic means to pay the fees associated with obtaining the documents necessary to prove citizenship. In her words, **“It feels as though I am being punished for having the misfortune of being disabled with a low income.”** This soldier’s mother lost the right to vote in her country of birth because of Arizona’s unnecessarily stringent voting requirements.

We thus urge you to vote against Senate Bill 210. We hope that the Senate will not choose to sacrifice the constitutional right of lawful Utahns to vote for a law that seeks to prevent an unconfirmed problem.

Please feel free to contact us should you have any questions or if you need any further assistance. We can be reached at 801-521-9862.

Sincerely yours,

Karen McCreary  
Executive Director

Marina Lowe  
Staff Attorney