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**REPARED REMARKS ON S. B. 60 “PILOT ACCOUNTABILITY PERMIT  
PROGRAM AND IDENTITY RELATED AMENDMENTS”**

**PRESENTED BY MARINA LOWE, LEGISLATIVE & POLICY COUNSEL  
AMERICAN CIVIL LIBERTIES UNION OF UTAH  
SENATE JUDICIARY, LAW ENFORCEMENT AND CRIMINAL DEFENSE  
FEBRUARY 123, 2011  
SALT LAKE CITY**

Mr. Chairman and members of the committee, for the record, my name is Marina Lowe. I am the Legislative & Policy Counsel for the ACLU of Utah. At the outset, I would like to express our appreciation for the efforts that have gone into this legislation, to attempt to address immigration issues in a manner more consistent with the principles embodied in the Utah Compact. Nonetheless, the ACLU of Utah has significant concerns with the unavoidable constitutional flaws inherent in this bill.

First, because the federal government has exclusive jurisdiction over immigration matters, in order for undocumented immigrants to be granted a state worker’s permit, the state has to obtain a federal waiver. Unfortunately, the path or procedure by which such a waiver would be granted is unclear and does not appear to be realistically attainable. If the state moves forward with implementation in the absence of a waiver, Utah leaves itself open to the very real threat of litigation. Hypothetically speaking, if the state were granted a waiver, the worker permits provided in this bill would be valid ONLY for employment purposes, and ONLY in the state of Utah. A permit holder would not be employable outside the state of Utah. In addition, permit holders would not be granted any protection from deportation in Utah or anywhere else in the U.S.

Second, SB 60 implicates both the 4<sup>th</sup> and 5<sup>th</sup> Amendments to the US Constitution. This bill would require undocumented immigrants to self-report in a state database without any guarantee that the information provided will not be used in a federal deportation proceeding against them, or that state criminal charges will not be filed against them. Undocumented immigrants do enjoy rights under the constitution, despite common misperceptions to the contrary; specifically the U.S. Constitution protects ALL people in this country against compelled self-incrimination and unreasonable searches and seizures, as well as guarantees the rights of due process and equal protection.

Finally, and perhaps most notably, the Identity Enforcement Act incorporated in SB 60 poses serious constitutional concerns for citizens and permit holders alike. This provision requires law enforcement to ask for photo ID in the course of a lawful stop, even for the enforcement of local ordinances. If no ID is provided, an officer must take fingerprints and photographs, which are then loaded into a state database. This would impose a huge financial and logistical burden on law enforcement and on the constitutional rights of ALL individuals living or traveling through the state of Utah. The fourth amendment right to be free from unreasonable searches and seizures and the right of due process and equal protection would be put at risk with this type of practice.

While we understand the frustration that comes from federal inaction in failing to address immigration reform; we must stress that state solutions that undermine constitutional principles are not the answer.

Thank you for your time.