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

Re: Senate Bill 69, "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 69, "Proof of Citizenship Required to Vote". This bill is unnecessary and will create barriers to voter participation by those who are lawfully entitled to vote in Utah. As even the sponsor acknowledges, SB 69 is simply "precautionary" as there is no evidence to support the practice of voting by undocumented immigrants in Utah. Unfortunately, American citizens in Arizona, under a similar statute, learned that their right to vote was foreclosed when their registration forms 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 69 are as follows:

1. There is no evidence that voting by undocumented immigrants is a problem within the state of Utah.

Although there has been some discussion about a state audit showing that undocumented immigrants are fraudulently voting, the audit in question does not substantiate this claim.¹ 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 69 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 69's requirement that registrants provide additional information pertaining to citizenship violates the NVRA.

3. Senate Bill 69 is unnecessary as current laws already protect the integrity of the election process.

Existing state and federal laws already prohibit voting by non-citizens, and provide for severe penalties when violated. Under federal law it is a deportable offense for a non-citizen to vote. 8 U.S.C. § 237(a)(3)(D)(i).

¹ 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**. There was no prosecution for voter fraud. See http://le.utah.gov/audit/05_01ilr.pdf

Registering to vote in the state of Utah already requires registrants to sign an oath of citizenship. SB 69 succeeds in erecting unnecessary barriers to voter participation.

4. Many Utah citizens do not possess the documents needed to satisfy Senate Bill 69'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 24th 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 69.

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 to \$15, and the cost to replace lost naturalization documents can be in excess of \$200.

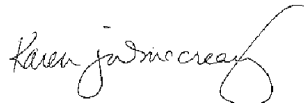
A federal court in Georgia held that the \$10 fee necessary to obtain a birth certificate to get a picture ID for voting purposes was in the nature of a poll tax, and thus was enjoined. *Common Cause v. Billups*, 406 F. Supp.2d 1326 (N.D. Ga.2005).

Additionally, while this bill may be well intentioned, the Senate should be aware of the real consequences that flow from this type of legislation. Only one other state, Arizona, has experiences from enacting this type of law. Its experience is instructive. The most noticeable effect of Arizona's law has been to prevent eligible U.S. citizens from registering to vote. In the years between 2006 and 2008, some 37,000 applicants had their voter registration applications rejected for lack of proof of citizenship.² Contrast this with the fact that there were only 20 suspected instances of non-citizens voting in the past 10 years. It is highly likely then that the Arizona law merely barred from voting, legal citizens who lacked access to a passport, birth certificate or other required document.

We thus urge you to vote against Senate Bill 69. We hope that the Senate will not choose to sacrifice the constitutional right of lawful Utah citizens to vote for a law that seeks to prevent an unconfirmed, hypothetical problem.

Thank you. Please feel free to contact me if you have any questions or need further information.

Sincerely yours.



Karen McCreary
Executive Director

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