



June 4, 2007

United States Senate  
Washington, DC 20510

**Re: Oppose Senator McConnell's Amendment No. 1170 to S. 1348**

Dear Senator:

Senator Mitch McConnell (R-KY) has proposed Amendment No. 1170 to S. 1348, which may be voted on by the full Senate as soon as this Tuesday. On behalf of the American Civil Liberties Union (ACLU), and its hundreds of thousands of members, activists, and fifty-three affiliates nationwide, we write to urge you to oppose this amendment. Amendment 1170 would require voters to present a government-issued photo ID in order to vote in federal elections. This requirement imposes an unnecessary and undue burden on the exercise of the fundamental right to vote for millions of Americans who are eligible, registered, and qualified to vote.

**Photo identification requirements amount to a poll tax.** As with the other methods of disfranchisement in American history, such as literacy tests and poll taxes, the photo identification requirement would present substantial barriers to voting and have a chilling effect on voter participation. As a significant number of racial and ethnic minority voters, voters with disabilities, rural and Native voters, the homeless, the elderly, and low-income people do not have photo identification nor the financial means to acquire it, the burden of this requirement would fall disproportionately and unfairly upon them. Requiring voters to purchase photo identification, or the supporting documents needed to obtain a photo ID, would be tantamount to requiring them to pay a poll tax, and therefore be suspect under the Voting Rights Act.<sup>1</sup> While the cost of identification documents may seem negligible to some, it represents a significant cost to many Americans. No citizen should have to pay to vote.

**Identification requirements pose a substantial hardship for some citizens.** Attempts to cover the cost of ID for voters who cannot afford them does not cure the disproportionate burden such a requirement would have on these voters. Certainly, our most cherished civil right should never depend on annual appropriations decisions. But even if the IDs themselves are “free,” the documents required to get an ID are not. While Amendment 1170 makes a feeble attempt to cover the costs for the photo ID, there are many practical considerations that are overlooked, which pose a significant hardship for voters – such as lost wages, travel time, transportation expenses, locations of photo ID facilities, hours of operation, and costs for the back-up documentation necessary to receive a photo ID.

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<sup>1</sup> See 42 U.S.C §1973 *et seq.*

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Additionally, many U.S. citizens either do not have or cannot easily access the back-up documents that prove their identity such as a passport or birth certificate. It was not uncommon in many parts of the country for children to be born at home without an official birth certificate. In such instances, these citizens may be unable to vote because they would be unable to produce the requisite documentation for a photo ID.

**Photo ID laws will disfranchise millions of citizens.** The Department of Justice (DOJ) has consistently raised objections to imposing photo identification as a prerequisite for voting because such requirements are likely to have an adverse impact on black voters and will lessen their political participation. In 1994, DOJ found that African Americans in Louisiana were four to five times less likely than whites to have driver's licenses or other picture identification cards.<sup>2</sup> In addition, the Federal Elections Commission noted in its 1997 report to Congress that photo identification entails major expenses, both initially and in maintenance, and presents an undue and potentially discriminatory burden on citizens in exercising their basic right to vote.<sup>3</sup> Finally, a recent New York Times article noted that imposition of identification requirements on voters had reduced turnout in the 2004 election by about 3%, but disproportionately reduced turnout for minorities by two to three times as much.<sup>4</sup>

**Photo ID requirements build in too much discretion and uncertainty into the voting process.** These requirements would build in an enormous amount of discretion into the balloting process, thus creating opportunities for discrimination at the polls against racial, ethnic, and language minority voters. Deciding whether a voter matches the photo in an ID card is a very subjective process – one that is easily prone to mistake or much worse. In addition, if an ID does not contain the voter's current address or name, which is true of countless Americans who move or marry, he or she will likely be turned away from the polls. A photo ID amendment would only serve to distort election results by removing countless eligible voters from the process.

**The McConnell amendment is overreaching and amounts to a solution in search of a problem.** While supporters of ID requirements argue that it is necessary to require photo IDs in order to combat efforts to skew elections, recent evidence clearly establishes that there is virtually no evidence of any organized voter fraud.<sup>5</sup> While there are incidences of election misconduct, including, for example, improper purges of voters and distributing false information about when and where to vote, none of these issues are addressed or can be resolved by a photo ID requirement.

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<sup>2</sup> Letter from Deval L. Patrick, Assistant Attorney General, Civil Rights Division of the U.S. Department of Justice, to Sheri Morris, Assistant Attorney General for the State of Louisiana (Nov. 21, 1994).

<sup>3</sup> Letter from L. Anthony Sutin, Acting Assistant Attorney General, Department of Justice to Congress on amendments to the Bi-partisan Campaign Integrity Act of 1997.

<sup>4</sup> Christopher Drew, *Lower Voter Turnout Is Seen in States That Require ID*, NEW YORK TIMES, Feb. 21, 2007, at A16.

<sup>5</sup> Eric Lipton and Ian Urbina, *In 5-Year Effort, Scant Evidence of Voter Fraud*, NEW YORK TIMES, Apr. 12, 2007, at A1.


The right to vote, and to have your vote counted, is the most important civil right of all. Congress should be in the business of encouraging full participation of our citizenry, not developing ways to limit the right to vote. Proposals like the McConnell amendment are one of the greatest threats to fair and equal voting rights today. **For the reasons indicated above, we urge you to oppose Amendment 1170 on S. 1348.**

If you have any questions, please contact Deborah J. Vagins at (202) 715-0816.

Sincerely,



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Director



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