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IN THE SUPREME COURT OF THE STATE OF IDAHO

**RECLAIM IDAHO, and the
COMMITTEE TO PROTECT
AND PRESERVE THE IDAHO
CONSTITUTION, INC.,**

Petitioners,

v.

**LAWRENCE DENNEY, in his official
capacity as the Idaho Secretary of
State, and the STATE OF IDAHO,**

Respondents.

Case No.

**VERIFIED PETITION FOR WRIT OF
PROHIBITION AND APPLICATION
FOR DECLARATORY JUDGMENT**

INTRODUCTION

Reclaim Idaho and the Committee to Protect and Preserve the Idaho Constitution bring this original action seeking a declaration that provisions of Idaho Code § 34-

1805(2) and Idaho Code § 34-1813(2)(a), pertaining to initiatives and referendums, violate Article III, § 1 of the Idaho Constitution. They further seek a peremptory writ of prohibition from this Court prohibiting the Secretary of State or any other state official from enforcing these unconstitutional provisions.

JURISDICTION

1. The Court has “original jurisdiction to issue writs of mandamus, certiorari, prohibition, and habeas corpus, and all writs necessary or proper to the complete exercise of its appellate jurisdiction.” Idaho Const., art. V, § 9; Idaho Code § 1-203; Idaho Code § 7-402.

2. The Court exercises its original jurisdiction when petitioners have alleged sufficient facts concerning a possible constitutional violation of an urgent nature.

3. This Petition challenges the constitutionality of two Idaho statutory provisions that infringe on the people’s constitutional right to initiate or repeal legislation, set out in Article III, § 1 of the Idaho Constitution.

4. The issue is one of statewide importance. Petitioners have no other adequate remedy at law, and the people need clarity from this Court as to the constitutionality of these statutory provisions. The matter is urgent and calls for the Court’s review.

PARTIES

5. Petitioner Reclaim Idaho is an Idaho based political action committee, registered with the Idaho Secretary of State. Reclaim Idaho is a grassroots organization designed to protect and improve the lives of working Idahoans. It advocates for candidates and initiatives that strengthen public schools, protect public lands, and extend healthcare to working families. Reclaim Idaho alleges a distinct and palpable injury that is fairly traceable to the new requirements in Idaho Code § 34-1805(2) and § 34-1813(2). It successfully qualified an initiative for the ballot in 2018 and is actively pursuing two initiatives for the 2022 election cycle. These new provisions unreasonably burden its ability to exercise its constitutional right under Article III, § 1. Reclaim Idaho is also pursuing this case on behalf of the people statewide to protect their fundamental constitutional right to the initiative and the referendum.

6. Petitioner Committee to Protect and Preserve the Idaho Constitution, Inc., is an Idaho non-profit corporation registered with the Idaho Secretary of State. The Committee's President is a former attorney general of Idaho, and its membership includes a former Secretary of State, and other distinguished Idaho jurists and lawyers, who have formed to protect the Idaho Constitution from the legislature's attempts to weaken it. The Committee alleges a distinct and palpable injury that is fairly traceable to the requirements of Idaho Code § 34-1805(2). It is actively pursuing a referendum for the 2022 election cycle. The new statutory requirements unreasonably burden its ability

to exercise its constitutional right under Article III, § 1. The Committee is also pursuing this case on behalf of the people statewide to protect their fundamental constitutional right to the initiative and the referendum.

7. Respondent Lawrence Denney is named in his official capacity as the duly elected Secretary of State of Idaho. Secretary Denney is the Chief Elections Officer in the state as set forth in Idaho Code § 34-201. It is his responsibility to obtain and maintain uniformity in the application, operation, and interpretation of the election laws. *Id.* Initiative or referendum petitions must be filed with the Secretary of State for his compliance review after county clerks have reviewed and verified signatures. Idaho Code §§ 34-1802, 1803. Pursuant to Idaho Code § 34-1807 county clerks prepare certificates for the Secretary of State indicating the number of signatures from each legislative district they have verified. Before placing them on the ballot, the Secretary of State has a duty to ensure that signatures supporting the petitions comply with the percentage and geographical distribution requirements set by Idaho Code in § 34-1805(2), now set at 6% of registered voters in each of Idaho's 35 legislative districts.

8. The state of Idaho is a separate sovereign and one of the fifty United States. It has an obligation to ensure that the people's rights in the Idaho Constitution are enforced.

FACTS COMMON TO ALL CLAIMS

History of the People's Right to Initiate and Repeal Laws

9. The people are the source of all political power in Idaho: “[a]ll political power is inherent in the people. Government is instituted for their equal protection and benefit, and they have the right to alter, reform or abolish the same whenever they may deem it necessary; and no special privileges or immunities shall ever be granted that may not be altered, revoked, or repealed by the legislature.” Idaho Const., art. I, § 2.

10. In 1912, the people amended the Idaho Constitution to reserve for themselves the right to make law (the initiative) or to repeal law (the referendum). Idaho Const. art. III, § 1. This right is “independent of the legislature.” *Id.*

11. The people conferred on the legislature a duty to enact reasonable “conditions” and a “manner” by which the right would be exercised without infringing upon it. *Id.*

12. This Court has held that the people’s and the legislature’s right to enact or repeal legislation stand on “equal footing.” *Westerberg v. Andrus*, 114 Idaho 401, 404, 757 P.2d 664, 667 (1988) (citing *Luker v. Curtis*, 64 Idaho 703, 136 P.2d 978 (1943)).

13. Yet, almost immediately after the people reserved this right, the legislature attempted to use its limited power to enact procedures as a pretext to restrict the people’s core right to make and repeal law.

14. In 1915, the legislature passed a bill that set the signature threshold at 15%, required signatures from each of all the counties in the State, and made it a crime for volunteers to carry petitions for signatures. The bill further required that petitions remain in the offices of state officials and be signed in the presence of a judge or other state official. *See* Exhibit 1, Declaration of Ben Ysursa, ¶ 15.

15. Governor Alexander vetoed the bill, stating that it would have been fatal to the people's constitutional right to use the initiative or referendum. He noted that no other state had such harsh restrictions. *Ysursa Decl.*, ¶ 15.

16. For nearly two decades, the legislature simply chose not to enact any procedure by which the people could exercise their right, so it lay dormant.

17. In 1933, the legislature finally passed enabling legislation. The legislation required petitioners to get valid signatures of 10% of the number of voters in the preceding gubernatorial election. There was no requirement of geographical distribution of the signatures. *Ysursa Decl.*, ¶ 16.

18. This remained the law for 64 years, from 1933 to 1997.

19. In 1984, the legislature tried again to make it harder to qualify petitions for the ballot. It passed a bill increasing the signature threshold from 10% to 20%. Governor Evans vetoed that bill, noting that if he had signed it, the initiative and referendum would be a "dead letter" in Idaho. *Ysursa Decl.*, ¶ 17.

20. In 1994, the people approved an initiative setting term limits for legislators. The legislature responded by repealing the law and, in 1997, increasing the number of signatures needed. It did so through a sleight of hand: it decreased the percentage from 10% to 6%, but it pegged that percentage to the number of *registered* voters rather than based on the number of voters in the last general election. The total number of registered voters far exceeds the number of voters in the prior election. Exhibit 3, Declaration of Dr. Gary Moncrief, ¶ 6. Also, proponents must gather far more signatures than the bare 6%, as 30% or more of raw signatures collected might be rejected as invalid by the county clerks. Exhibit 2, Declaration of Luke Mayville, ¶ 14.

21. For the first time, the legislature also enacted a geographical distribution requirement. To qualify for the ballot, proponents now needed also to get the signatures of 6% of the registered voters in at least 22 of Idaho's 44 counties. 1997 Session Laws, ch. 266, sec. 5, p. 759.

22. The federal courts struck down the geographical distribution requirement on equal protection grounds because, as the population of the counties varied widely, it diluted the vote in the more populous counties. *Idaho Coalition United for Bears v. Cenarrusa*, 342 F.3d 1073 (9th Cir. 2003).

23. For the next ten years, there was no geographical distribution requirement.

24. But in 2013, in response to successful referendums the previous year that had repealed education legislation (the “Luna Laws”), the legislature enacted a requirement that proponents must obtain valid signatures of 6% of the registered voters in at least 18 legislative districts. 2013 Idaho Session Laws, ch. 214, sec. 3, p. 504. That was in addition to receiving valid signatures totaling more than 6% of the registered voters statewide.

Reclaim Idaho’s Difficult Yet Successful Initiative Campaign to Expand Medicaid in 2018, and the Legislature’s Response

25. It was under that state of the law that Reclaim Idaho mounted what was possibly the largest grassroots campaign in Idaho’s history to qualify an initiative expanding Medicaid coverage in Idaho. The initiative qualified for the ballot in 2018 and passed by a wide margin, enjoying urban, rural, conservative, and liberal support. Mayville Decl., ¶ 61.

26. Reclaim Idaho relied on passionate volunteers to canvass for the initiative. Those volunteers worked tirelessly, evenings and weekends, even in depths of winter. *See, e.g.*, Exhibit 6, Declaration of Karen Lansing, ¶ 6; Exhibit 7, Declaration of Linda Larson, ¶¶ 4-5; Exhibit 8, Declaration of Jessica Mahuron, ¶ 4.

27. Still, it was exceedingly difficult to comply with the requirement to get valid signatures from 6% of the registered voters in 18 legislative districts. Mayville Decl., ¶¶ 22, 39; Mahuron Decl., ¶¶ 4-5.

28. Grassroots groups like the petitioners in this case typically have limited funds at their disposal. Mayville Decl., ¶ 21. The success of their campaigns will rise or fall on their ability to organize volunteers in enough legislative districts to meet the geographical distribution requirement by the deadlines in the statute. *Id.* at ¶ 17.

29. During the Medicaid expansion campaign, the leaders of Reclaim Idaho understood that they needed to prioritize their resources based on the organizational potential of the legislative districts. Mayville Decl., ¶ 17. The districts with the highest potential were those where Reclaim Idaho's founders and core volunteers lived or had a strong network of contacts from which they could recruit. *Id.* at ¶¶ 25-26. The districts with the lowest organizational potential were those in which contacts were limited. *Id.* at ¶ 42.

30. Reclaim Idaho had success in the districts that had high organizational potential. Mayville Decl., ¶¶ 26-28. Middle tier districts were harder. *Id.* at ¶ 36. And it needed to flood volunteers into a few districts with lower organizational potential in the waning weeks before the deadline. *Id.* at ¶ 44. There was no time to spare.

31. Successfully qualifying an initiative or a referendum, then, is not necessarily a reflection of voter support in a district. It is instead a function of the organizational *potential* and organizational *strength* of the proponents in each district so that the support that otherwise may be latent there can be captured. Mayville Decl., ¶¶ 17-44.

32. After the Medicaid expansion became law, the legislature tried to tighten the screws yet again. In the 2019 session, it passed a bill that shortened the time in which to gather signatures and increased both the total percentage of signatures and the number of districts that were needed. Ysursa Decl., ¶ 18.

33. Governor Little vetoed the bill, expressing serious concern about its constitutionality. Ysursa Decl., ¶ 18.

34. In 2020, the legislature quietly amended Idaho Code § 34-1813(2)(a). That provision now prohibits any citizens' initiative from taking effect sooner than July 1 of the year following the general election. This gives the legislature an opportunity to repeal any initiated statute before the law has taken effect.

35. In 2021, the legislature passed Senate Bill 1110, which now requires signature gatherers to get valid signatures from at least 6% of registered voters in each of Idaho's 35 legislative districts.

36. It is the Secretary of State's obligation to enforce the statewide geographical distribution requirement after the county clerks have verified the signatures in support of a petition.

37. Governor Little signed Senate Bill 1110 into law, amending Idaho Code § 18-1805(2). In his signing statement, he invited the "Idaho judiciary" to address its constitutionality. *See* April 17, 2021 Letter from Bradley Little to Honorable Janice McGeachin, at <https://tinyurl.com/ymkcbz6y>.

38. Idaho now has the most restrictive conditions for proponents to qualify initiatives and referendums in the nation. Moncrief Decl., ¶ 7; Exhibit 4, Declaration of David Daley, ¶ 9.

An Excessive and Unreasonable Burden on the Right

39. Reclaim Idaho has begun two initiative drives for the 2022 election cycle. It filed one on April 7, 2021, called the “Initiative Rights Act,” in which it seeks to put to the voters whether to eliminate the geographical distribution requirement in Idaho Code § 18-1805(2). Mayville Decl., ¶ 6. It filed the second initiative on April 28, 2021, called the “Quality Education Act,” in which it seeks to place on the ballot an initiative that would increase funding for K-12 education in Idaho. *Id.* at ¶ 7.

40. It is actively pursuing these initiatives and is moving forward with a signature drive and campaign. The office of the Idaho Attorney General informed Reclaim Idaho on April 29th, 2021 that the Initiative Rights Act will not be “grandfathered in” under the old signature requirements, and that it will be required to collect valid signatures from 6% of registered voters in all 35 legislative districts in order to qualify the Initiative Rights Act for the ballot. Mayville Decl., ¶ 6.

41. The Committee to Protect and Preserve the Idaho Constitution has filed a referendum to repeal SB1110 and is waiting for the Attorney General’s certificate of review.

42. If the law stands, neither Reclaim Idaho nor the Committee will be able to qualify their petitions for the ballot, even with extraordinary effort, because it is not possible for grassroots organizations like theirs to meet the current geographical distribution requirement. Mayville Decl., ¶¶ 45, 51.

43. With volunteer-driven campaigns, each additional district is progressively more difficult to qualify because districts vary widely as to their potential for acquiring organizational strength over the course of a signature drive. Mayville Decl., ¶ 18.

44. If Senate Bill 1110 had been in effect in 2018, Reclaim Idaho would not have been able to qualify Medicaid expansion, despite that initiative eventually passing with approximately 60% of the popular vote statewide. Mayville Decl., ¶ 45.

45. It could not have met the geographical distribution requirement because it would have needed to qualify 15 additional districts where it lacked the organizational strength to canvass and get the signatures needed. Mayville Decl., ¶ 44. This would be true even though its initiative likely had the requisite voter support in those districts.

46. Therefore, even when an initiative or referendum will have broad popular support across the state, volunteer and grassroots groups, like the petitioners before the Court, simply cannot muster the organizational strength needed in every single legislative district to meet the 6% percent threshold.

47. This burden is particularly acute on proponents of referendums, like the Committee to Protect and Preserve the Idaho Constitution, which must acquire all valid

signatures within 60 *days* rather than the 18 *months* that initiative proponents have.

Compare Idaho Code § 34-1802(1) and § 34-1803.

48. It is impossible to comply with a 35-district requirement within 60 days.

49. The only referendums to qualify for the ballot in the last 19 years were the propositions that repealed the “Luna Laws,” and there was *no* geographical distribution requirement at that time. Ysursa Decl., ¶ 12.

50. One of the leaders of that immensely popular referendum drive offers testimony here that if the current law were in effect, the all-district requirement would have been “overly burdensome” and it would not have been possible to qualify the Luna Laws referendums for the ballot. Exhibit 5, Declaration of Robin Nettinga, ¶ 31.

51. By requiring the unanimity of districts, the legislature has burdened the people’s right in yet another way. It has created an opportunity for voters in any one legislative district to hold a veto over petitions that are otherwise popularly supported throughout the state. Daley Decl., ¶ 17.

52. A tiny sliver of voters are empowered to thwart the will of a majority in contradiction of basic republican principles of majority rule.

53. It further creates an opportunity for well-financed opponents to focus their anti-petition campaigns in one legislative district while proponents must compete in all 35 districts. Ysursa Decl., ¶23; Daley Decl., 17.

54. The legislature has also made it easier to remove signatures by empowering voters who have signed a petition to remove their signatures through a simple email to the county clerk. Idaho Code § 34-1803B(2); Daley Decl., ¶ 16. Electronic signature gathering, however, is explicitly prohibited. Idaho Code § 34-1807(5). All signatories in support of a petition must physically sign a petition in the presence of a collector and their signatures must be verified by a county clerk. Idaho Code § 34-1807.

55. Based on Luke Mayville's experience in organizing a successful initiative drive under the previous standard, he testifies that "[i]t is beyond unreasonable to expect a volunteer-driven signature drive with limited financial resources to collect valid signatures from at least registered voters in each of 35 districts, including those districts with very little organizational potential." Mayville Decl., ¶ 51

56. According to Professor Moncrief, "Senate Bill 1110 destroys an essential right of the citizens of Idaho," and it "will make the popular referendum virtually obsolete because it will make it almost impossible to qualify for the ballot." Moncrief Decl., ¶¶ 8, 12.

57. Former Secretary of State Ben Ysursa testifies that Senate Bill 1110 "makes the likelihood that voters will consider, discuss and vote on initiatives and referendums very remote, as these near impossible requirements will prevent any initiatives or referendums from qualifying for the ballot." Ysursa Decl., ¶ 21.

CLAIMS FOR RELIEF

I.

The requirement in Idaho Code § 34-1805(2) that initiative and referendum proponents must first get valid signatures of 6% of registered voters in all 35 of Idaho's legislative districts to qualify a petition for the ballot violates Article III, § 1 of the Idaho Constitution.

58. Petitioners incorporate the preceding paragraphs.

59. The legislature has exceeded its limited procedural power to enact reasonable conditions and the manner by which the people can exercise their fundamental right to make or repeal law enshrined in Article III, § 1.

60. By passing Senate Bill 1110, now codified as Idaho Code § 34-1805(2), the legislature has effectively taken away the people's right to make or repeal law.

61. Demanding that petitioners qualify all 35 legislative districts is not necessary to serve a purported state interest in requiring a modicum of diverse geographical support.

62. Demanding petitioners to qualify all 35 legislative districts is not narrowly tailored to serve a purported state interest in requiring a modicum of diverse geographical support.

63. The all-district requirement imposes an excessive burden on the people's right to make or repeal law under Article III, § 1.

64. The all-district requirement is unreasonable.

65. The all-district requirement renders the people's right to make and repeal law unworkable.

66. The chapter in the Idaho Code governing initiatives and referendums contains a severability clause: "In the event that any part of chapter 18, title 34, Idaho Code, shall for any reason be determined void or unenforceable in any part thereof, the remainder thereof shall remain in full force and effect." Idaho Code § 34-1823.

67. As a remedy, the Court should declare that the following phrase in Idaho Code § 34-1805(2) is unconstitutional and cannot be enforced: "in each of the thirty-five (35) legislative districts."

68. The Court should declare that Idaho Code 34-1805(2) is otherwise constitutional and enforceable when read with the unconstitutional portion stricken, as follows: "Before such petitions shall be entitled to final filing and consideration by the secretary of state, there shall be affixed thereto the signatures of legal voters equal in number to not less than six percent (6%) of the qualified electors at the time of the last general election."

II.

The requirement in Idaho Code § 34-1813(2)(a) that no initiative may take effect before July 1 of the year following its passage violates Article III, § 1 of the Idaho Constitution.

69. Petitioners incorporate the preceding paragraphs.

70. The people's right to make law by initiative is "independent of the legislature." Idaho Const., art. III, § 1.

71. The right of the legislature and the people to make law stands on "equal footing."

72. The legislature has no authority to restrict when the people may choose an initiative that has become law to take effect.

73. The people retain the right to determine the urgency of the laws passed by initiative.

74. By dictating an effective date for any law passed by initiative, the legislature has exceeded its limited procedural power to enact reasonable conditions and the manner by which the people can exercise their Article III, § 1 constitutional right.

75. The Court should declare Idaho Code § 34-1813(2) unconstitutional and unenforceable.

PRAYER FOR RELIEF

Petitioners respectfully request that this Court:

(a) Declare that the requirement of Idaho Code § 34-1805(2) that initiative and referendum petitions must be supported by the valid signatures of 6% of the registered voters in each of Idaho's 35 legislative districts is an unconstitutional restriction on the people's right under Article III, § 1.

(b) Declare that Idaho Code § 34-1805(2) is constitutional and enforceable only to the extent that it reads: "Before such petitions shall be entitled to final filing and consideration by the secretary of state, there shall be affixed thereto the signatures of legal voters equal in number to not less than six percent (6%) of the qualified electors at the time of the last general election."

(c) Declare that the prohibition in Idaho Code § 34-1813(2) on an effective date for legislation passed by initiative before July 1 of the year following its passage is an unconstitutional restriction on the people's right under Article III, § 1.

(d) Issue a peremptory writ of prohibition to the Idaho Secretary of State permanently and absolutely prohibiting him from enforcing the requirement in Idaho Code § 34-1805(2) that initiative and referendum petitions be supported by 6% of the registered voters in each of Idaho's 35 legislative districts.

(e) For a show cause or other hearing as the Court may require pursuant to Idaho Appellate Rule 5(d).

(f) For an award of attorney fees and costs of this action pursuant the private attorney general doctrine, Idaho Code § 12-117, § 12-121, or as otherwise provided by law.

(g) Any other relief that the Court deems just and equitable under the circumstances.

Filed on this 7th day of May, 2021.

/s/Deborah A. Ferguson

Deborah A. Ferguson

/s/Craig H. Durham

Craig H. Durham

FERGUSON DURHAM, PLLC

Attorneys for Petitioners

VERIFICATION

STATE OF IDAHO)
)
) ss.
)
COUNTY OF ADA)

I, Luke Mayville, co-founder of Reclaim Idaho, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing petition; that I know the contents thereof; and that the matters and allegations therein set forth are true to be best of my knowledge and belief.

Signature of Petitioner

SUBSCRIBED and SWORN to before me this 6th day of May 2021.

Notary Public: Deborah A. Ferguson

Residing at Boise, Idaho



VERIFICATION

STATE OF IDAHO)
)
) ss.
)
COUNTY OF ADA)

I, Anthony Park, an Officer of the Committee to Protect and Preserve the Idaho Constitution, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing petition; that I know the contents thereof; and that the matters and allegations therein set forth are true to the best of my knowledge and belief.

W. Anthony Park

Signature of Petitioner

SUBSCRIBED and SWORN to before me this 6th day of May 2021.



Notary Public: *Deborah A. Ferguson*
Residing at *Baise, Idaho*

My commission expires:

CERTIFICATE OF SERVICE

This Petition and all attached Declarations have been served on the following
on this 7th day of May, 2021, by filing through the Court's e-filing and serve
system, and separately by email, to:

Brian Kane
Deputy Attorney General
Idaho Attorney General's Office
brian.kane@ag.idaho.gov
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Attorney for Respondents

Also hand delivered on this date to:

Lawrence Denney
Secretary of State
Idaho Secretary of State's Office

/s/Deborah A. Ferguson
Deborah A. Ferguson

SUMMARY OF EXHIBITS IN SUPPORT OF THE VERIFIED PETITION

1. Ben Ysursa, a former three term Idaho Secretary of State, testifies to the institutional bias of the Idaho legislature against direct democracy.
2. Luke Mayville, the co-founder of Reclaim Idaho, testifies to the extraordinary effort to place the Medicaid initiative on Idaho's 2018 ballot and the impossible standard created by Senate Bill 1110 on a volunteer group such as Reclaim Idaho.
3. Gary Moncrief, a Boise State University professor of political science, testifies that Senate Bill 1110 destroys initiative and referendum rights in Idaho.
4. David Daley, a national journalist and author, testifies that Senate Bill 1110 imposes the most difficult standard in America for initiatives and referendums.
5. Robin Nettinga, an organizer of the successful repeal of the "Luna Laws", testifies that repeal would not have been possible with Senate Bill 1110's all-district rule.
6. Karen Lansing, a former Idaho appellate judge, testifies to the extraordinary effort to qualify an initiative under the former 18-district requirement.

7. Linda Larson, a dedicated Reclaim Idaho volunteer, testifies to the demoralizing impact Senate Bill 1110 has on their participation in future initiatives and other citizens who want to exercise this constitutional right.
8. Jessica Mahuron, Kootenai County volunteer leader for Reclaim Idaho's the Medicaid signature drive, offers similar testimony.

EXHIBIT 1

DECLARATION OF BEN YSURSA

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IN THE SUPREME COURT FOR THE STATE OF IDAHO

**RECLAIM IDAHO, and the
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v.

**LAWRENCE DENNEY, in his official
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the STATE OF IDAHO,**

Respondents.

Case No.

**DECLARATION OF
BEN YSURSA IN SUPPORT
OF PETITION FOR A WRIT
OF PROHIBITION**

I, Ben Yusura, having first been duly sworn upon oath, declare as follows:

My name is Ben Yusura, and I am a member of the Committee to Protect and Preserve the Idaho Constitution, Inc. a Petitioner in this case.

1. I was elected to serve for three terms as Idaho's Secretary of State and served 12 years from November 5, 2002 until January 5, 2015.

2. I am a 1971 graduate of Gonzaga University and earned my law degree at St. Louis University Law School in 1974 and was admitted to the Idaho State Bar in October 1974.

3. I started my professional career serving first as Deputy Secretary of State from 1974 to 1976 and then as Chief Deputy Secretary of State from 1976 to 2002.

4. The facts and opinions I state in this declaration are based upon my 41 years of service to the State of Idaho which included supervision of all Idaho elections, including initiatives, referendums and constitutional amendments.

5. Article I Section 2 of the Idaho Constitution flatly states that "All political power is inherent in the people" and the people have "the right to alter, reform or abolish" the government "whenever they may deem it necessary."

6. Article III Section 1 of the Idaho Constitution provides that "the people reserve to themselves the power to propose laws, and enact the same at the polls independent of the legislature." Likewise it provides that "the people reserve to themselves the power

to approve or reject at the polls any act or measure passed by the legislature. This power is known as the referendum...”

7. Senate Bill 1110 was recently enacted into law. It amends Idaho Code § 34-1805 and changes the geographical signature gathering requirement for the initiative and referendum in Idaho from 6% of the qualified electors at the time of the last general election in 18 legislative districts to 6% of those signatures in each and every one of Idaho’s 35 legislative districts.

8. In my opinion, Senate Bill 1110’s dramatic increase in the geographical signature requirement makes it near impossible, if not impossible for the people of Idaho to exercise their sacred power to put an initiative or a referendum up for election.

9. The onerous signature requirement effectively kills the referendum and initiative in Idaho.

10. If the legislature wants to strip the people of these powers which the citizens have explicitly reserved to themselves, there is a lawful mechanism to do it. The legislature could put the question before the people by proposing a constitutional amendment. This would let the people of Idaho vote on these crucial constitutional issues. The people of Idaho could then decide if they want to forfeit their initiative and referendum powers that they have reserved for themselves for the past 109 years.

11. In my opinion as a former three term Secretary of State, the initiative and referendum power has not been abused in Idaho. Nor have proposed initiatives and referendums cluttered Idaho ballots. On the contrary, under the 18 district geographical requirement adopted by the legislature in 2013, only two initiatives have qualified for the ballot in the past nine years, and only one has passed.

12. Likewise the referendum power is very rarely used by Idaho citizens. Since the Idaho Constitution was amended in 1912, citizens have exercised this power and put referendums on the ballot only five times in 109 years- in 1936, 1966, 1986, 2002 and 2012, or on average, once every generation.

13. Since the 18 district geographical requirement was adopted by the legislature in 2013, no referendums have been brought by the citizens of Idaho. This would have required the collection of signatures from 6% of the qualified electors at the time of the last general election in 18 legislative districts within 60 days of the close of the legislative session. Now this exceedingly onerous standard has been increased to 6% of those signatures in all 35 districts in a 60 day time frame. In my opinion the constitutionally guaranteed right of the referendum is in effect nullified by Senate Bill 1110.

14. In my opinion, the Idaho legislature has demonstrated a strong institutional bias against the citizen's constitutional right to the initiative and referendum. This is

reflected in the fact that on three occasions Idaho Governors have vetoed overreaching, unduly restrictive and unconstitutional bills that sought to nullify these powers reserved to Idaho citizens.

15. The first veto occurred in 1915 issued by Gov. Alexander of House Bill 95 which is attached to my declaration as Exhibit A, along with a copy of that bill. This was the legislature's first attempt to define "the conditions and manner" or the procedures surrounding the initiative and referendum. Among the restrictions the legislature sought to impose in House Bill 95 was to make it a crime for any volunteer to carry a petition for signatures, and require that petitions only be signed in the presence of a judge or other state official. It would have required signatures from 15% of the voters in each of Idaho's 44 counties in the last gubernatorial election for an initiative and 10% for a referendum. In his message to the House of Representatives, Gov. Alexander found that the proposed regulations would make it impossible for any initiative measure to appear on the ballot, and would be "fatal" to the right.

16. After this 1915 veto, the legislature waited 18 years to pass any enabling legislation. In 1933 signature requirements went into effect and from 1933 to 1997- a 64 year period- the rules required 10% of the votes cast, with no geographical requirement.

17. It was during this period, in 1984 that Gov. Evans vetoed House Bill 748. In this bill the legislature attempted to double the number of signatures required to put an

initiative on the ballot from 10% to 20%. A copy of the veto message and House Bill 748 is attached as Exhibit B. According to the Idaho legislative archives, the bill was introduced without a hearing, voted on, and sent to the Gov. Evan's desk within 24 hours. In his veto letter Gov. Evans noted that the bill would make Idaho's initiative requirement more restrictive than any other state in the nation. He stated further that "the legislature's authority to regulate the 'conditions' and 'manner' of the exercise of the people's power to initiate legislation does not extend to emasculating the people's initiative power. Idaho should not have the dubious distinction of enacting the nation's most restrictive initiative procedure."

18. The third veto occurred in 2019 when Gov. Little vetoed Senate Bill 1159. A copy of the veto letter is attached to my declaration as Exhibit C, along with the Senate Bill 1159. In his veto letter Gov. Little expressed concerns about the constitutionality of Senate Bill 1159. Instead of having to gather signatures from more than 6% of voters in each of 18 of Idaho's 35 legislative districts, proponents would have to get the signatures of at least 10% of voters in each of 32 legislative districts. The statewide total of voter signatures would be increased from 6% to 10%. And, the signatures would have to be gathered in 180 days, rather than the current 18 months.

19. Senate Bill 1110's Statement of Purpose, attached as Exhibit D to my declaration, states: "the purpose of this legislation is to increase voter involvement and inclusivity in

the voter initiative/referendum process. This will be accomplished by ensuring signatures are gathered from each of the 35 legislative districts, so that every part of Idaho is included in this process.”

20. There is an important distinction between signing a petition to support an effort for an initiative or referendum to appear on a ballot (and in the process have the subject become the focus of a statewide discussion) and an actual vote cast. Regardless of whether a voter signs a petition, it has no bearing on their ability to vote on those matters that do in fact qualify for the ballot.

21. Signing a petition in support of an initiative or referendum is a voter’s prerogative, not a duty. Under the guise of increasing rural voter involvement and inclusivity, Senate Bill 1100 actually does the opposite. It makes the likelihood that voters will consider, discuss and vote on initiatives and referendums very remote, as these near impossible requirements will prevent any initiatives or referendums from qualifying for the ballot. Legislative requirements concerning “such conditions and in such manner” in Article III, § 1 of the Idaho Constitution should serve a reasonable gatekeeping function to the ballot but instead Senate Bill 1110 is a brick wall barrier.

22. Further, the requirement that an initiative contain 6% of the voters from all legislative districts puts an initiative enacted law on unequal footing with a law enacted

by the legislature. A bill originating in the legislature is not required to garner support from each and every legislative district before it can be introduced for consideration.

23. Another fatal flaw of Senate Bill 1110 is that it gives a veto power to any one of the 35 legislative districts, and could allow a single district to veto the qualification of an initiative or referendum for the ballot that might otherwise enjoy overwhelming support throughout the state.

24. It is also my opinion that Idaho Code § 34-1813(2)(a)'s prohibition on any initiative taking effect before July 1 of the year following its passage in the general election violates the right of the people, "independent of the legislature", to propose and enact laws in Article III, § 1 of the Idaho Constitution. This limitation restricts the ability of the citizens of Idaho to determine the effective date of an initiative, and creates the opportunity for the legislature to repeal a successful initiative in the next legislative session before it is ever allowed to take effect.

25. I declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

EXECUTED ON this 5th day of May 2021.

/s/Ben Ysursa
Ben Ysursa

EXHIBIT A TO YSURSA DECLARATION

530

HOUSE JOURNAL.

[March 5.

portions of Section 15 of Article 3 of the Constitution of the State of Idaho, requiring all bills to be read on three several days, be dispensed with, this being a case of urgency, and that House Bill No. 140 as amended, be read the first time by title, second time by title and the third time at length, section by section, and be put upon its final passage. Seconded by Johnston.

The question being, "Shall the rules be suspended?"

The roll was called with the following result:

Ayes—Albrethsen, Allard, Anderson (Bonneville), Bohman, Carratt, Clark (Custer), Clark (Fremont), Clark (Lincoln), Coughlin, Davis, Dils, Edelblute, Elrod, Evans, Faris, Findlay, Gilchrist, Gray, Grice, Harchelrode, Hicks, Holland, Hull, Hunter, Ingard, Johnston, King (Blaine), King (Lewis), Kribs, Lau, Linder, Magee, Miles, Monson, McMurray, Nichols, Northrop, Shattuck, Siddoway, Sweet, Taylor, Thraikill, Trotter, Waters, York, Mr. Speaker. Total 46.

Nays—Anderson (Canyon), Bales, Webb, Woodward. Total 4.

Absent and not voting—Cannon, Cruikshank, Hunsinger, Hunt, Kiger, Koelsch, LaForest, Meyer, McGowan, Randall, Tyler. Total 11.

Whereupon, the Speaker declared the rules suspended and House Bill No. 140 having been read the first time by title, second time by title and the third time at length, section by section, was put upon its final passage.

The question being, "Shall the bill pass?"

The roll was called with the following result:

Ayes—Albrethsen, Allard, Anderson (Bonneville), Anderson (Canyon), Bales, Bohman, Carratt, Clark (Custer), Clark (Fremont), Clark (Lincoln), Coughlin, Cruikshank, Davis, Dils, Edelblute, Elrod, Evans, Faris, Findlay, Gilchrist, Gray, Grice, Harchelrode, Hicks, Holland, Hull, Hunter, Ingard, Johnston, King (Blaine), King (Lewis), Kribs, Lau, Linder, Magee, Miles, Monson, McMurray, Nichols, Northrop, Shattuck, Siddoway, Sweet, Taylor, Thraikill, Trotter, Waters, Webb, Woodward, York, Mr. Speaker. Total 51.

Nays—None.

Absent and not voting—Cannon, Hunsinger, Hunt, Kiger, Koelsch, LaForest, Meyer, McGowan, Randall, Tyler. Total 10.

Whereupon, the Speaker declared the bill passed and House Bill No. 140 was referred to the Committee on Engrossed and Enrolled Bills.

Consideration of Messages From the Governor and the Senate.

To the Speaker and members of the House of Representatives:

I am returning to you herewith House Bill No. 95 without Executive approval.

This bill is entitled: "An Act Giving Force and Effect to the Initiative and Referendum and Recall Provisions heretofore adopted and made a part of the Constitution of this State."

The Constitutional Amendment providing for the Initiative in itself renders this principle of direct legislation inoperative in this State and it would be impossible for any measure, however favorably devised, to render this principle effective except in a very few unusual cases of great moment to the entire State. It would be possible, under the amendments adopted to make the Referendum and Recall provisions effective.

This measure, however, instead of making these principles effective, would in reality, if it should become a law, make them as ineffective as the Constitutional Amendment now makes the Initiative principle ineffective.

This measure would also make ineffective the Initiative principle in those few cases in which the Constitutional amendment would permit of its becoming effective.

In fixing the percentage of voters required for petitions in applying these measures, the bill under consideration adopts a course directly opposite to that which experience has demonstrated should be adopted.

This experience, as acquired from the application of the principles of direct legislation in those states of the Union which have adopted them, shows that there should be a low percentage required for the Initiative and Referendum and a high percentage for the Recall. This measure fixes a high percentage for the Initiative and Referendum and a low percentage for the Recall. In addition to that, this measure requires the high percentage for the Initiative and Referendum in each of all of the counties of the State, a provision, so far as I am able to ascertain, that is not required in any of the twelve States which have secured working Statewide Initiative and Referendum Amendments.

It is the united opinion of all the friends of the direct legislation principle, who have given the subject most study, that this provision alone, even upon a percentage requirement of only one-half that specified in this bill, would render the principles inoperative.

This bill, if it becomes a law, would also prevent citizens of the State from showing their patriotism and devotion to measures that they consider of importance by voluntarily circulating the petitions required. This is likewise regarded by all advocates of the principles sought to be made effective in this State as hostile to such principles, so much so that, in their opinion, it would prove fatal. I can find that no other State has any such requirement. I do find that those opposed to the direct legislative principle demand that such provisions be embodied in the laws providing for these measures.

These are not all the objections that are urged to this measure by advocates of direct legislation, but they are sufficient to convince me that it is my duty to withhold my approval from the measure. It would be better to have no law seeking to make these valuable principles effective than to have one whose apparent effectiveness is not real and which would rather bring the principles into disrepute.

M. ALEXANDER,
Governor

Boise, March 5, 1915.

The question is "Shall the bill pass notwithstanding the objections of the Governor?"

Moved by Johnston that House Bill No. 95 together with the objections of the Governor be laid upon the table. Seconded by Sweet.

Motion carried.

To the Speaker and Members of the House of Representatives:

I am returning to you herewith House Bill No. 54, by York, without approval.

The bill provides for the appointment of an unlimited number of Inspectors of Aparies, who shall be paid at the expense of the State of Idaho at the rate of five dollars per day, and not even the number of days which they may be employed in any one year is designated.

In addition to this, the bill provides that only such deputies may be appointed as may be designated and recommended by the President and Secretary of the Bee Keepers Association.

It provides that they may be removed from office for failure to perform their duties in a thorough and competent manner and to the best interests of the industry, only upon the approval of the President and Secretary of such Bee Keepers Association.

In other words, this bill provides for the employment of an unlim-

HOUSE Bill No. 95
By JOHNSTON

AN ACT

GIVING FORCE AND EFFECT TO THE INITIATIVE, REFERENDUM AND RECALL PROVISIONS HERETOFORE ADOPTED AND MADE A PART OF THE CONSTITUTION OF THIS STATE.

Be it enacted by the Legislature of the State of Idaho:

Section 1. This Act shall be known as the Initiative, Referendum and Recall Act, and its purpose is to give force and effect to the constitutional provisions authorizing the use of these powers on the part of the people.

Section 2. The exercise of the right of the initiative, the referendum, or the recall shall be based upon a petition made in substance and form and signed by ~~the~~ electors of the State of Idaho in such numbers as hereinafter prescribed. Such petitions when properly prepared may be placed for signature in the hands of any county clerk, probate judge, justice of the peace or notary public, but they may be signed only at the office of any one of these officials, and in his presence or that of a regularly appointed and acting deputy. As many petitions may be used as may be required, and these may be written or printed, but all petitions relating to the same subject matter must be in substantially the same form. No fees shall be allowed for procuring or witnessing signatures to any such petition or for any service rendered in connection therewith.

Section 3. It shall be lawful for the sponsors of any movement to invoke the initiative, the referendum or the recall, to publish the fact either by newspaper articles, newspaper advertising or personal canvas, that a given petition has been prepared for signature and the place or places where the said

petition may be signed, but it shall be unlawful for any person to carry such a petition about and solicit signatures thereto, or to permit such a petition to be signed at any place or in any manner other than herein designated. Any violation of this section shall constitute a misdemeanor, and, upon conviction, shall be punishable as such.

Section 4. If any person signs an initiative, a referendum or a recall petition with any other name than his own, or knowingly signs his own name more than once for the same measure, or signs any such petition when he is not a legal voter, he shall be guilty of a felony and upon conviction shall be punished therefor by imprisonment in the state penitentiary for not less than six months nor more than five years.

Section 5. No petition prepared under the terms of this act shall be considered sufficient or legal unless there is attached thereto a certificate of the officer in whose office the same was signed, in form substantially as follows:

"I certify that the signatures appearing on this certificate were attached thereto in my office and that I have no reason to believe that any signature hereon is not that of the person whose name it purports to be."

Section 6. An initiative petition must be addressed to the Secretary of State or to a city, town or village clerk, as the case may be, and must be in substantially the following form:

"To the Honorable (Name) (Official designation)
We, the undersigned citizens and legal voters of the State
of Idaho, residing in the of, do hereby
join in a petition that the following proposed
shall be submitted to the legal voters of
for their approval or rejection at the general election to be held
on the day of, A.D. 19...., and each

for himself says: 'I am a legal voter of the State of Idaho, and my residence and post office address are correctly written after my name'.

Name of Petitioner Street and Number Post Office."

Following the petition herein prescribed and preceding the names and addresses of petitioners, there must be set out in printed form the proposed measure in full.

This form of initiative petition may be used with the necessary substitutions in initiating either a state law or a city, town or village ordinance.

Section 7. If any initiative petition shall have for its purpose the enactment by direct legislation of a state law, it must, in order to be sufficient, be signed in the manner above prescribed in each and every county of the State by a number of electors equal to at least fifteen per cent of the total vote cast in such county for the office of Governor at the last preceding general election. If such petition for the enactment of a State law shall be signed by the prescribed number of voters, and the said petition, together with the full text of the measure which it is proposed to enact, shall be filed with the Secretary of ~~Secretary of~~ State not fewer than seventy (70) days preceding the general election at which the same is to be voted upon, it shall be the duty of the Secretary of State to cause to be printed and distributed as nearly as may be, one copy of the said proposed measure to each legal voter of the State. The County Auditor of each county shall also cause the same to be printed in the manner now provided by law for the submission of questions, on the official ballot to be used at the next succeeding general election in his county; and the expenses of such printing shall be a charge against the county as other election charges now are. Immediately following the proposed

enactment, there shall be printed on the ballot in heavy black-faced type the following:

"For the above proposed bill? Yes

For the above proposed bill? No."

Immediately after each of said lines there shall be printed ^{a square or bracket} _^, and the voter shall vote for or against the proposed measure by making a cross (x) in the proper square. If not less than fifty per cent of the electors voting for Governor at the general election at which any proposed measure shall be submitted, shall vote in favor of such measure it shall, thirty days after the said vote shall have been finally canvassed and determined, become a valid law of the State without the signature or approval of the Governor, otherwise it shall be rejected.

Section 8. If the initiative petition has for its object the enactment by direct legislation of a city, town or village ordinance, such petition must, in order to be sufficient, be signed by a number of electors residing in such city, town or village, and being not less than twenty-five per cent of the total vote cast in such city, town or village at the last preceding general city or village election therein. When petitions so signed have been filed with the clerk of any city, town or village not fewer than forty days preceding the general election at which the same is to be voted upon, he shall cause the proposed measure to be published, as herein provided in case of a proposal for a state law, and a copy mailed, as nearly as may be, to each elector of the said city, town or village. The method prescribed for printing a proposed measure on the ballot at a state election shall apply to a city, town or village election, and if not less than fifty per cent of the electors voting at the general election at which any proposed ordinance shall be submitted shall vote in favor of such ordinance

the same shall, thirty days after the said vote if finally canvassed and determined, become a legal and valid ordinance of said city, town or village without the signature or approval of the mayor thereof, otherwise it shall be rejected.

Section 9. A referendum petition must be addressed to the Secretary of State, or to a city, town or village clerk as the case may be, and must be in substantially the following form:

"To the Honorable (Name) (Official position).

We, the undersigned citizens and legal voters of the State of Idaho, residing at, do hereby join in a petition that the bill (or ordinance) No., entitled, the above bill (or ordinance) having been passed by of at the session of said on the day of, 19....., be referred to the legal voters of for their approval or rejection at the general election to be held on the day of, 19....., and each for himself says: 'I am a legal voter of the State of Idaho, and my residence and post office address are correctly written after my name.'

Name of Petitioner Street and Number Postoffice."

Section 10. A petition asking for a referendum vote on any measure passed by the Legislature must, in order to be sufficient, be signed as above prescribed in each and every county of the State by a number of electors equal to at least ten per cent of the total vote cast in such county for the office of Governor at the last preceding general election. If a petition so signed shall be filed with the Secretary of State, asking for a referendum vote on any measure passed by the Legislature, prior to the time the same becomes effective, the said Act shall not become a law until after the measure has been passed upon at the next general election. If at such general election the majority of votes cast on the said measure shall be opposed thereto the law

in question shall be defeated and shall not be a law of the State unless again passed by the Legislature, or enacted by direct vote of the people, otherwise it shall be a law from the date on which said vote is finally canvassed and determined. The *method* to be followed in placing the measure on the ballot at the general election, and in voting thereon shall be analogous to that prescribed in the case of the initiative.

Section 11. If any given petition has for its object the securing of a referendum vote on any city, town or village ordinance, it must, in order to be sufficient, be signed as herein prescribed by a number of electors equal to at least thirty per cent of the total vote cast in the said city, town or village at the last preceding general election therein. If such a petition so signed, be presented to the clerk of any city, town or village, within thirty days after the ordinance in question shall have passed, the said ordinance shall be suspended until after the next general city, town or village election. If at such general election a majority of all those voting on the proposition vote against the same, and such majority be not less than forty per cent of the total vote cast at said election, it shall defeat the ordinance in question, and the same shall not again be enacted by the village council either in the same or substantially the same form within a period of one year; otherwise it shall be a valid ordinance from the day on which the said vote is finally canvassed and determined.

Section 12. A petition for the recall of any official must be addressed to the Secretary of State, or to a city, town or village clerk, as the case may be, and must be in substantially the form following:

"To the Honorable (Name) Official position).
 We, the undersigned citizens and legal voters of Idaho
 residing in, do hereby join in a petition
 that a special election be held for the purpose of voting upon the
 recall of, who now holds the office
 of, and each for himself says: 'I am a
 legal voter of the State of Idaho, and my residence and post office
 address are correctly written after my name'.

Name of Petitioner. Street and Number Postoffice."

If the recall pertains to any state officer, the petition therefor must, in order to be sufficient, be signed as above prescribed in each and every county of the State by a number of electors at least equal to ten per cent of the total vote cast in such county for Governor at the last preceding general election; and if it pertains to a county, city, town or village officer, it shall be signed by not less than thirty per cent of the total vote cast in the said county, city, town or village at the last preceding general election. If a petition asking for the recall of a particular officer is signed in form and number as required, and a general election for the office in question shall not ensue within six months of the time such petition is filed a special election shall be called by the Governor, by the board of county commissioners, or by the mayor of a city, town or village, according as the question of recall pertains to a state, a county or a city, town or village officer. If the recall pertains to a state officer the special election must be held within twenty days after a sufficient petition therefor has been filed, if to a county officer within fifteen days, and if to a city, town or village officer, ten days.

Section 13. At any recall election there may be printed upon the recall ballot in not more than two hundred words the reasons assigned by those asking for such recall election why the particular

officer should be recalled, and in not more than two hundred words the said officer, or someone in his behalf may make opposing argument. Immediately following such printed matter as is herein authorized to be printed on the ballot, there shall appear in heavy black-faced type the following:

"For the recall of	? Yes
	(Name) (Official position)	
For the recall of	? No.
	(Name) (Official position)	

and immediately after each of said lines there shall be placed a square and the voter shall vote for or against the recall of the officer in question by making a cross (x) in the proper square.

Section 14. If *at* any recall elections held under the provisions of this Act a majority of all those voting vote in favor of the recall of the officer in question, the said officer shall be considered recalled, and a vacancy shall exist in his office from and after the date on which the said vote shall be finally canvassed and determined.

Section 15. Whenever any officer is recalled under the provisions of this Act and a vacancy is created in his office, it shall be filled by appointment, or otherwise, for the remainder of the term in the manner now provided by law for the filling of a vacancy in the said office.

Section 16. The provisions of law relating to the holding of general elections, the furnishing of supplies, the payment of the cost thereof and of holding the said election, and of all other matters properly pertaining thereto shall apply to recall elections under this Act with the same force and effect as to general elections.

Original

HOUSE RECORD OF House Bill

No. 95

By JOHNSON

An Act GIVING FORCE AND EFFECT TO THE INITIATIVE, REFERENDUM AND RECALL PROVISIONS HERETOFORE ADOPTED AND MADE A PART OF THE CONSTITUTION OF THIS STATE.

Jan. 21, 1915 Introduced

Feb. 1, 1915 Read first time. Referred to Reference Com.

Feb. 1, 1915 Referred to Com. on *Legislation*

Jan. 22, 1915 Ordered printed

Feb. 7, 1915 Reported printed

Feb. 8, 1915 Reported with *recommenda- tion* that Bill do. pass—*as amended*—go to Com.—*ohs*

Jan. 18, 1915 Spt. Order for Feb. 15, at *A. P. m.*

1915 Referred to Committee of the Whole

1915 Reported with recommendation that it do. pass—*as amended*

1915 Amendments ordered printed

1915 Amendments reported printed

Feb. 15, 1915 Read first time as amended

Feb. 15, 1915 Read second time as amended

HOUSE RECORD—Continued

1915 Read as amended the first and second time under Suspension of Rules

Jan. 9, 1915 Read second time

1915 Referred for engrossment

1915 Reported engrossed

Feb. 10, 1915 *Special Order for Feb. 11*

Feb. 17, 1915 Read third time in full

1915 Read the first and second time by title as engrossed, under Suspension of Rules—with printed amendments attached

1915 Read third time—by title—in full as engrossed—with printed amendments there- to

Feb. 17, 1915 Passed—*lost*—by the following vote:

Ayes 45

Nays 7

Absent or not voting 9

Excused

Feb. 17, 1915 Title approved

1915 Transmitted to the Senate

Feb. 18, 1915 Returned from the Senate unchanged—*amended—lost—passed*

1915 House concurred in Senate amend- ments

1915 Conference committee appointed

1915 Reported with recommendation that Bill do. pass—*as amended*

1915 Conference report adopted—*rejected*—

Feb. 17, 1915 Bill referred for enrollment

Feb. 17, 1915 Signed by the Speaker of the House

Feb. 17, 1915 Reported enrolled, signed by the President of the Senate, and delivered to the Governor at 12:30 a. m.—*p. m.* on Feb. 27, 1915

1915 Signed—*vetoed*—by Governor

Chief Clerk of the House

SENATE RECORD OF

House Bill

No.

An Act

1915 Read first and second time by title, third time in full as amended, under suspension of rules

1915 Read third time in full

1915 Passed—*lost*—by the following vote:

Ayes 19

Nays 12

Absent or not voting 3

Excused

Feb. 23, 1915 Title approved

Feb. 23, 1915 Returned to House—*unchanged—amended—lost*

1915 Received

Feb. 18, 1915 Read first time

1915 Read second time

1915 Read first and second time by title

Feb. 18, 1915 Referred on Committee on *State Affairs*

1915 Reported with *recommenda- tion* that Bill do. pass—*as amended*—*1915 Order for 3:30 at p. m.*

1915 Spt. Order for 3:30 at p. m.

1915 Placed on General Calendar

1915 Referred to Committee of the Whole

1915 Reported with recommendation that Bill do. pass—*as amended*

1915 Amendments ordered printed

1915 Amendments reported printed

1915 Read first time as amended

1915 Read second time as amended

1915 Read as amended the first and second time under Suspension of Rules

SENATE RECORD—Continued

1915 Filled for Third Reading

1915 Read the first and second time by title, third time in full as amended, under suspension of rules

1915 Read third time in full

1915 Passed—*lost*—by the following vote:

Ayes 19

Nays 12

Absent or not voting 3

Excused

Feb. 23, 1915 Title approved

Feb. 23, 1915 Returned to House—*unchanged—amended—lost*

Secretary of the Senate

EXHIBIT B TO YSURSA DECLARATION

304

HOUSE JOURNAL

March 31]

OFFICE OF THE GOVERNOR
Boise

April 5, 1984

The Honorable T.W. Stivers
Speaker of the House

Dear Mr. Speaker:

I have the honor to inform you that I have signed and am transmitting to the Secretary of State the following signed House Bill, to wit:

H 612

Sincerely,
/s/ JOHN V. EVANS
Governor

OFFICE OF THE GOVERNOR
Boise

April 6, 1984

The Honorable T.W. Stivers
Speaker of the House

Dear Mr. Speaker:

I have the honor to inform you that I have signed and am transmitting to the Secretary of State the following signed House Bill, to wit:

H 520

Sincerely,
/s/ JOHN V. EVANS
Governor

OFFICE OF THE GOVERNOR
Boise

April 6, 1984

The Honorable T.W. Stivers
Speaker of the House

Dear Mr. Speaker:

I have the honor to inform you that I have signed and am transmitting to the Secretary of State the following signed House Bills, to wit:

H 475
H 699, as amended

Sincerely,
/s/ JOHN V. EVANS
Governor

OFFICE OF THE GOVERNOR
Boise

April 6, 1984

The Honorable T.W. Stivers
Speaker of the House

Dear Mr. Speaker:

I have the honor to advise you that I have transmitted to the Office of the Secretary of State herewith, without my approval, disapproved and vetoed:

HOUSE BILL NO. 748

within the time limited by law, the same having arrived in the Office of the Governor at the hour of 8:55 a.m. on April 3, 1984.

This bill would double the number of signatures required on initiative petitions to qualify the initiative measure for the ballot. Under current law, the required minimum number of signatures equals 10% of the aggregate number of votes cast for Governor in the last election. This bill would raise the minimum to 20% of the votes cast for Governor. Based on the 1982 returns, the current requirement is 32,653 signatures. This bill would require 65,304 signatures.

According to statistics provided by the League of Women Voters, this bill would make Idaho's initiative requirement more restrictive than any other state in the nation. In fact, only one state requires more than 10% of the voters to sign initiative petitions. That state—Wyoming—has a 15% requirement. As a result, no initiatives have qualified in Wyoming in the 16 years this law has been in effect. For this reason, Wyoming legislators will be debating lowering the initiative threshold during their next legislative session.

Whether one agrees with the wisdom of the initiatives passed in recent years or with initiatives proposed for the current year is wholly beside the point. Article 3, Section 1 of the Idaho Constitution provides:

"The people reserve to themselves the power to propose laws, and enact the same at the polls independent of the legislature. This power is known as the initiative, and legal voters may, under such conditions and in such manner as may be provided by acts of the legislature, initiate any desired legislation and cause the same to be submitted to the vote of the people at a general election for their approval or rejection."

The Legislature's authority to regulate the "conditions" and "manner" of the exercise of the people's power to initiate legislation does not extend to emasculating the people's initiative power. Idaho should not have the dubious distinction of enacting the nation's most restrictive initiative procedure—else the initiative become a dead letter here as it has apparently become in our neighboring state of Wyoming.

For these reasons, I have withheld my approval, disapproved and vetoed House Bill No. 748.

Sincerely,
/s/ JOHN V. EVANS
Governor

OFFICE OF THE GOVERNOR
Boise

April 6, 1984

The Honorable T.W. Stivers
Speaker of the House

Dear Mr. Speaker:

I have the honor to advise you that I have transmitted to the Office of the Secretary of State herewith, without my approval, disapproved and vetoed:

HOUSE BILL NO. 734

within the time limited by law, the same having arrived in the Office of the Governor at the hour of 8:55 a.m. on April 3, 1984.

The extensive legislative struggle with the issue of water rights on the Snake River has left many participants with the

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 748

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO INITIATIVE AND REFERENDUM PETITIONS; AMENDING SECTION 34-1805,
2 IDAHO CODE, TO INCREASE THE NUMBER OF SIGNATURES REQUIRED ON AN INITIA-
3 TIVE OR REFERENDUM PETITION; AND DECLARING AN EMERGENCY.
4

5 Be It Enacted by the Legislature of the State of Idaho:

6 SECTION 1. That Section 34-1805, Idaho Code, be, and the same is
7 hereby amended to read as follows:

8 34-1805. SPONSORS TO PRINT PETITION -- NUMBER OF SIGNERS REQUIRED.
9 After the form of the initiative or referendum petition has been approved
10 by the secretary of state as provided in sections 34-1801--34-1822
11 provided, Idaho Code, the same shall be printed by the person or persons or
12 organization or organizations under whose authority the measure is to be
13 referred or initiated and circulated in the several counties of the state
14 for the signatures of legal voters. Before such petitions shall be entitled
15 to final filing and consideration by the secretary of state there shall be
16 affixed thereto the signatures of legal voters equal in number to not less
17 than ~~ten~~ twenty per cent (±20%) of the electors of the state based upon the
18 aggregate vote cast for governor at the general election next preceding the
19 filing of such initiative or referendum petition.

20 SECTION 2. An emergency existing therefor, which emergency is hereby
21 declared to exist, this act shall be in full force and effect on and after
22 its passage and approval.

Watkins.

Title apvd - to House
3/31 To enrol - rpt enrol - Sp signed
4/3 Pres signed - to Governor
4/4 Governor signed
Session Law Chapter 249
Effective: 4-4-84

H748..... By Ways & Means
INITIATIVE, REFERENDUM PETITIONS - Amends existing law to
increase the number of signatures required on an initiative
or referendum petition to 20% of the legal voters of the
State based upon the aggregate vote cast for governor at the
general election preceding the filing of the initiative or
referendum.

3/30 House intro - 1st rdg - to printing
3/31 Rpt prt - rules susp (51-16-3) - PASSED - 38-30-2
NAYS -- Adams, Bengson, Bunting, Crane, Crow, Dean,
Deckard, Edwards, Findlay, Forrey, Fry, Gilbert,
Golder, Gurnsey, Hale, Harris, Hooper, Horvath,
Infanger, Keeton, Kennevick, Loveland, Montgomery,
Reynolds, Strasser, Sutton, Trillhaase, Tucker, Win-
chester, Wood.
Absent and excused -- Hammond, Stoicheff.
Title apvd - to Senate
3/31 Senate intro - rules susp (24-7-4) - PASSED - 18-14-3
NAYS -- Beitelspacher, Bilyeu, Bray, Carlson, Chapman,
Dobler, Lannen, Marley, Peavey, Reilly, Ringert,
Risch, Sweeney, Wellard.
Absent and excused - Moore, Smyser, Sverdsten.
Title apvd - to House
3/31 To enrol - rpt enrol - Sp signed
4/3 Pres signed - to Governor
4/6 Governor VETOED

H749..... By Ways & Means
APPROPRIATIONS - An act appropriating moneys to the Legis-
lative Council for fiscal year 1985 for the Legislative Man-
agement Program.

3/31 House intro - 1st rdg - to printing
3/31 Rpt prt - rules susp (64-1-4) - PASSED - 44-24-2
NAYS -- Black, Bunting, Crow, Deckard, Dewey,
EchoHawk, Edwards, Findlay, Geddes, Gurnsey, Harris,
Kelly, Knigge, Larson, Loveland, Lucas, McCann,
McDermott, Montgomery, Neibaur, Scates, Stucki,
Tucker, Winchester.
Absent and excused -- Hammond, Stoicheff.
Title apvd - to Senate
3/31 Senate received

H750..... By Ways & Means
REAPPORTIONMENT - Amending H.B. No. 746 of this Session of
the Legislature to move precinct No. 69 from Legislative
District No. 18 to Legislative District No. 19.

3/31 House intro - 1st rdg - to printing
3/31 Rpt prt - rules susp (65-1-4) - PASSED - 61-7-2
NAYS -- EchoHawk, Findlay, Geddes, McCann, McDermott,
Neibaur, Tucker.
Absent and excused -- Hammond, Stoicherr.
Title apvd - to Senate
3/31 Senate intro - rules susp (30-2-3) - PASSED - 27-5-3
NAYS -- Bilyeu, Bray, Budge, Marley, Wetherell.
Absent and excused -- Moore, Smyser, Sverdsten.
Title apvd - to House
3/31 To enrol - rpt enrol - Sp signed
4/3 Pres signed - to Governor
4/4 Governor signed
Session Law Chapter 250
Effective: 11-1-83

EXHIBIT C TO YSURSA DECLARATION



BRAD LITTLE
GOVERNOR

April 5, 2019

The Honorable Janice McGeachin
President of the Senate
Idaho Legislature
Boise, ID 83720

VIA HAND DELIVERY

Dear Madam President,

I hereby advise you that I have returned without my approval, disapproved and vetoed, the following Senate Bill, to wit:

S 1159

within the time limited by law, the same having arrived in the Office of the Governor at the hour of 4:35p.m. on 4/2/19.

I reluctantly vetoed S 1159 and plan to veto H 296 because I question the constitutional sufficiency of the bills and the unintended consequences of their passage. The bills invite legal challenges that likely will result in the Idaho initiative process being determined by the liberal Ninth Circuit Court of Appeals – the same Circuit that recently decided Idaho should pay for gender reassignment surgery for a transgender inmate serving time for molesting a child. We need to do all we can to control the rules of our initiative process.

I have lived in rural Idaho my whole life. I appreciate and support our Legislature seeking ways to ensure the rights of all Idahoans – not just those in urban areas – have a voice in Idaho's initiative process. Just because you live in a rural area does not mean your view should be ignored.

Although S 1159 and its companion, H 296, attempt to give rural Idahoans a greater voice in the initiative process, I believe these bills could give a lone federal judge the only voice in defining our initiative process. I cannot in good conscience let that happen.

I agree with the goals and the vision of S 1159 and H 296. Idaho cannot become like California and other states that have adopted liberal initiative rules that result in excessive regulation and often conflicting laws. I also agree with many legislators that as technology and communications accelerate initiative efforts, we should prudently assure we do not have an initiative process that hamstrings and replaces our representative system of government.

I appreciate the enormous outpouring of opinion from both sides of this issue. I have done the best I can to listen to my fellow Idahoans – those vocal and those generally quiet.

I look forward to working with the Idaho Legislature to more closely examine these issues moving forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Brad Little". The signature is fluid and cursive, with a large initial "B" and "L".

Brad Little
Governor of Idaho

EXHIBIT D TO YSURSA DECLARATION

STATEMENT OF PURPOSE

RS28454 / S1110

The purpose of this legislation is to increase voter involvement and inclusivity in the voter initiative/referendum process. This will be accomplished by ensuring signatures are gathered from each of the 35 legislative districts, so every part of Idaho is included in this process.

FISCAL NOTE

There will be no effect on the general fund.

Under existing law, county clerks already verify initiative/referendum signatures in every legislative district where they are gathered. This bill would increase the number of districts where signatures are gathered, but would not raise the total number of signatures gathered, so the existing work load would be more evenly spread out amongst county clerks, rather than concentrating it into a few counties.

Contact:

Senator Steve Vick
Representative Jim Addis
(208) 332-1000

DISCLAIMER: This statement of purpose and fiscal note are a mere attachment to this bill and prepared by a proponent of the bill. It is neither intended as an expression of legislative intent nor intended for any use outside of the legislative process, including judicial review (Joint Rule 18).

EXHIBIT 2

DECLARATION OF LUKE MAYVILLE

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Attorneys for Petitioners

IN THE SUPREME COURT FOR THE STATE OF IDAHO

**RECLAIM IDAHO, and the
COMMITTEE TO PROTECT AND
PRESERVE THE IDAHO
CONSTITUTION, INC.,**

Petitioners,

v.

**LAWERENCE DENNEY, in his official
capacity as Idaho Secretary of State, and
the STATE OF IDAHO,**

Respondents.

Case No.

**DECLARATION OF LUKE
MAYVILLE IN SUPPORT
OF PETITION FOR A WRIT
OF PROHIBITION**

I, Luke Mayville, having first been duly sworn upon oath, declare as follows:

1. My name is Luke Mayville, and I am a Co-founder of Reclaim Idaho, a Petitioner in this case.

DECLARATION OF LUKE MAYVILLE IN SUPPORT OF PETITION FOR A WRIT OF PROHIBITION- 1

2. I have served as a volunteer leader and organizer for Reclaim Idaho since spring 2017, when I co-founded the organization in my hometown of Sandpoint. My role with Reclaim Idaho includes setting strategic priorities for the organization, fundraising, communicating with media, writing opinion columns, drafting initiative proposals, and traveling the state to recruit volunteers and leaders.

3. I attended North Idaho College and graduated summa cum laude with a bachelor's degree from the University of Oregon in 2008. I received the McNair Scholarship and I studied at Middle East Technical University in Ankara, Turkey, as a recipient of the U.S. Department of State's Gilman Scholarship. I earned my Ph.D. in political science from Yale University in 2014.

4. I am an academic by training and was most recently employed in an adjunct faculty member at Boise State University Honors College, teaching a seminar entitled Democracy and Its Critics. I have also held teaching and research positions at Yale University, American University, and Columbia University. In 2016, I published a book on the political thought of President John Adams.

5. Reclaim Idaho is a grassroots organization designed to protect and improve the quality of life of working Idahoans. Reclaim Idaho organizes to pass citizens' initiatives and engage in advocacy efforts to build an Idaho where all have access to affordable healthcare, protected public lands, and strong public schools.

6. Reclaim Idaho recently filed two initiatives with the Idaho Secretary of State. On April 7th, 2021, we filed the Initiative Rights Act. This initiative would eliminate the 35-district distribution requirement for the qualification of initiatives and referendums. If the initiative were to pass, future initiatives and referendums could qualify for the ballot by collecting valid signatures from 6% of registered voters statewide. The office of the Idaho Attorney General informed Reclaim Idaho on April 29th, 2021 that the Initiative Rights Act will not be “grandfathered in” under the old signature requirements, and that we will be required to collect valid signatures from 6% of registered voters in all 35 legislative districts in order to qualify the Initiative Rights Act for the ballot.

7. On April 28th, 2021, we filed the Quality Education Act. This is an initiative that would increase funding for Idaho K-12 education by modestly increasing the income tax rate for corporations and Idahoans earning over \$250,000 per year. This initiative is nearly identical in form to the initiative we attempted to qualify for the ballot in 2020, prior to our signature drive being cut short by the outbreak of COVID-19.

8. This lawsuit is creating a significant financial burden for Reclaim Idaho, as we are fundraising and directing resources towards legal fees that we would much rather direct towards the mission of our organization. We are bringing this lawsuit with the Committee to Protect and Preserve the Idaho Constitution nonetheless because we

believe it is necessary for the protection of the initiative and referendum rights of all the people of Idaho, and we do not believe that any government agency or public entity is willing to mount this legal challenge.

9. Proponents of Senate Bill 1110 (SB 1110) have argued that the new legislation does not make qualifying an initiative unreasonably difficult. A key assumption undergirding their argument is that *the ability of a signature drive to collect valid signatures from at least 6% of registered voters in a given district is a function of voter support in that district.*

10. In the following paragraphs I will demonstrate this assumption is false, and I will ground my argument in facts from our 2017-2018 Medicaid Expansion signature drive.

11. It is important to note that several important arguments made by proponents of SB 1110 flow directly from the assumption I have laid out above. Proponents of SB 1110 insist that if a future initiative fails to collect the required signatures from all 35 districts, this will not be due to unreasonably restrictive rules. They argue that it will be due, instead, to the fact that the initiative in question does not enjoy even a modicum of voter support in each of Idaho's 35 districts.

12. And according to proponents, the 35-district requirement is not substantially more difficult than the previous signature rules that required signatures from 6% of

registered voters in each of at least 18 districts and 6% of registered voters statewide.

Proponents emphasize that the new rules require the same number of total signatures as the old rules, and assert that qualifying an initiative under the new rules does not require a great deal more work on behalf of signature gatherers; it merely requires that the work of signature gatherers be distributed more evenly across the state. This is not correct.

13. This entire line of reasoning by proponents of SB 1110 rests on a false assumption that a signature drive's success or failure in a given district is a function of voter support in that district. The experience of our Medicaid Expansion signature drive provides ample evidence that the key factor determining whether a volunteer-driven campaign will succeed in qualifying a district is *not* the number of voters in that district who support the initiative or who are willing to sign. Instead, the key factor determining whether a volunteer-driven signature drive qualifies a district is what I will call *organizational strength*.

14. It is important to keep in mind the difficulties that signature drives face in meeting the requirement to collect valid signatures from 6% of registered voters. A successful signature drive requires that "raw," unverified signatures be collected from *far more* than 6% of registered voters. This is because a large portion of signatures are inevitably deemed invalid during the verification process for a host of reasons,

including that signers are not always registered to vote; signers might be registered at a different address than the one provided; a signer's name or other information might not be written legibly, etc. Of the total number of signatures collected for the Medicaid Expansion initiative, for example, only 66% were deemed valid by county clerks. The rest were deemed invalid. With a 66% validity rate, the Medicaid Expansion initiative needed raw signatures from over 9% of registered voters in order to qualify for the ballot.

15. One thing the proponents of SB 1110 overlook when they speak of voter support for a ballot measure is that a petition is a public document. This means that people can discover the identity of signers. It is quite possible, for example, that many people expressed support for Medicaid expansion but did not want to publicly say so by signing an initiative. This is likely to be especially common in tight-knit communities. Voting for a measure in the secrecy of the voting booth is more secure than publicly expressing support that may invite disapproval from friends and neighbors.

16. Reclaim Idaho's volunteer-driven signature drive collected the vast majority of the signatures needed to meet the statewide total and also collected valid signatures from at least 6% of registered voters in 20 of Idaho's 35 districts. The Medicaid Expansion signature drive was placed on the ballot almost entirely due to the hard work and dedication of its volunteers. Other groups and individuals who supported

the Medicaid initiative joined in the effort and also gathered signatures independently of Reclaim Idaho, especially during the final weeks of the signature drive.

17. For volunteer-driven signature drives, the key factor determining whether a district qualifies for the ballot is not voter support in that district but instead the presence of *organizational strength* among volunteers in that district. The main work of the leaders of a statewide volunteer-driven signature drive is to build organizational strength in localities across the state. My extensive experience as a leader of such signature drives tells me there are three key features that contribute to the organizational strength of a locality: 1. Volunteers must be *motivated* to spend the time and energy required, 2. They must be *well-trained* so that their time and energy is spent effectively, and 3. They must be *well-networked*. They must have strong working relationships with one another and with leaders of the statewide signature drive.

18. As I will convey below with detailed reference to the facts of our 2017-2018 Medicaid Expansion signature drive, the concept of organizational strength helps explain why the 35-district rule will make it virtually impossible for volunteer-driven initiatives to qualify for the ballot, even in cases when those initiatives enjoy broad and deep support from voters in all 35 districts. The key point is this: For volunteer-driven campaigns, each additional district is progressively more difficult to qualify because districts vary widely in what I will call their *organizational potential*, by which I mean

their built-in potential for acquiring organizational strength over the course of a signature drive.

19. In what follows, I will describe different districts in accordance with the following tiers of organizational potential:

Tier 1: high organizational potential

Tier 2: significant organizational potential

Tier 3: low organizational potential

20. Importantly, our experience revealed that the less organizational potential in a district, the more difficult that district is to qualify. This is because a district with relatively little organizational potential requires relatively more of what I will call *organizing hours*, or time spent by leaders recruiting, motivating, and training volunteers and local leaders; and also time spent strengthening relationships with those volunteers and local leaders. To put it differently, *organizing hours* refers to time spent building organizational strength in districts.

21. For volunteer-driven campaigns with very limited funds, organizing hours are a strictly limited resource. For the duration of the signature drive, Reclaim Idaho was only able to hire a single full-time organizer. This meant our signature drive had one paid organizer in addition to the three original leaders of the signature drive (including myself) who worked as volunteers. Of the four of us who put in extensive organizing

hours, two of us (including myself) had day jobs apart from our volunteer leadership and one was a full-time student in medical school. With these constraints, and without the funds to hire more organizers, the organizing hours at our disposal were strictly limited.

22. Reclaim Idaho just barely had the organizing hours at our disposal to surpass the 18-district requirement. In the end we were able to qualify just 20 districts. There is simply no way our volunteer-driven signature drive could have qualified 35 districts. Likewise, I think this is true of any volunteer-driven campaign in Idaho.

23. An example of a locality with *high organizational potential* in the context of our Medicaid Expansion signature drive is Bonner County, where our organization was founded and where our signature drive began.

24. It is relevant to note here that Bonner County is hardly a large urban metropolis. The county's largest city is Sandpoint, and the population of the entire county is about 45,000. The proponents of SB 1110 appear to assume that the organizational potential of a locality is simply a function of urban density. But the fact that a great number of voters are packed into a given locality is of little value if there is not a well-trained and well-motivated team of volunteers to collect valid signatures from those voters.

25. Well-funded signature drives that use only paid signature gatherers can choose to hire and deploy signature gatherers wherever they wish, and so they will most often

choose to focus on densely populated urban centers. But volunteer-driven signature drives face very different strategic imperatives. When signature drives are driven by volunteer signature gatherers, the organizational potential of a locality is not a function of urban density but is instead a function of those features of organizational strength that I have mentioned above. Are there large numbers of people in the locality who are willing and able to volunteer? Is there a pre-existing network of relationships among those volunteers? Do volunteers have working relationships with the statewide organization?

26. Bonner County exhibited a great deal of organizational potential from day one. First and foremost, the county was where our organization's founding leaders—including myself—had grown up. This meant that from the outset, our organization had a rich network of pre-existing relationships with members of the community. For example, many of our first volunteers were our retired former teachers and retired parents of our childhood friends. Our volunteer co-leader for Bonner County, Linda Larson, had lived upstairs from me in the fourplex apartment where I lived as a child.

27. In addition to being well-networked, those volunteers had some degree of training in the type of voter engagement that is necessary for a successful signature drive. Before we formed the Reclaim Idaho organization in the summer of 2017, our first foray into local organizing was a local door-knocking campaign to help pass a property-

tax levy for the local school district. Many of the first volunteers for our Medicaid Expansion signature drive had been involved with our school levy campaign and had begun to gain important voter-engagement skills.

28. Finally, there were a large number of people in Bonner County who were uniquely well-motivated to join the Medicaid Expansion campaign. In the two months prior to the official launch of our organization, we held local meetings in living rooms, backyards, and cafes all across the county in an effort to inspire people to join our organization. All of these efforts culminated in an event attended by several hundred people in downtown Sandpoint. The event included an inspirational speech by Marilynne Robinson, a Pulitzer Prize-winning novelist who herself grew up in Bonner County and who flew back to Idaho on her own dime to help launch the organization. It was at that event that I first introduced our intention to tour around the state in an old RV motorhome to advocate for Medicaid Expansion.

29. The high organizational potential in Bonner County gave us a unique opportunity to build organizational strength in Legislative District 1, Idaho's northernmost district. By the end of our signature drive, we would have over 150 active volunteer signature gatherers in that district alone.

30. As we moved beyond Bonner County and started building a statewide organization, we found that there were about 6 other legislative districts in the state with a comparably high level of organizational potential. These were:

District 4 (Coeur d'Alene)

District 5 (Latah & Benewah Counties)

District 16 (Garden City)

District 17 (Boise Bench)

District 18 (East Boise)

District 19 (Downtown Boise & North Boise)

31. I do not mean to say that these districts are the ones with the highest organizational potential for *any* signature drive. My assumption, drawn from experience and observation of several statewide signature drives, is that the group of districts with the highest organizational potential will vary depending on the issue and the organization.

32. The reason why these six additional districts had the highest organizational potential for our Medicaid Expansion drive was that the key factors of organizational strength that I have identified above were already latent in these districts. Most notably, these were the six districts outside of Bonner County where I and other campaign leaders had strong relationships with local residents. Drawing on these relationships,

we were able to motivate local residents to participate in our signature drive early on. For example, in the lead-up to the kick-off event in Sandpoint that I mentioned above, I made several visits to friends and friends-of-friends in Coeur d'Alene and was able to get the word out about the event. This led to several Coeur d'Alene residents attending the Sandpoint event. One of those CDA residents was Jessica Mahuron, who would become an indispensable volunteer leader for our Kootenai County signature drive.

33. In both Moscow and Boise, I and other campaign leaders had strong relationships with Sandpoint-area natives who had since moved to those places. Drawing on those relationships, we were able to set up early events in Moscow and Boise with the goal of motivating local residents to join our organization.

34. Notably, we found relatively little organizational potential in most of the Treasure Valley beyond those districts of Boise where we had pre-existing relationships. Proponents of SB 1110 appear to assume that signature drives will prioritize the 13 districts contained within Ada and Canyon counties. This may indeed be true for money-driven signature drives that rely exclusively on paid signature gatherers. For such drives, it may be the most efficient use of funds to prioritize Idaho's two most populous counties. But to repeat, volunteer-driven campaigns have an incentive to prioritize districts with the most organizational potential, regardless of population density. Our campaign found high organizational potential in only 3 of the 13 districts

in Ada and Canyon counties. We found least significant organizational potential in six additional districts in Ada and Canyon counties and we eventually qualified 9 districts total in those counties. But when the deadline arrived to turn in signatures, 4 of the 13 districts in Ada and Canyon counties remained unqualified, even though we'd qualified eleven districts outside of those high-population counties.

35. A similar dynamic took place in Kootenai County, one of Idaho's fastest growing counties and a county where the that is growing increasingly urban. In spite of the fact that we had a strong volunteer team in Coeur d'Alene, we ultimately only had the organizational strength in the county to qualify 1 only of the county's 3 districts.

Meanwhile, we were able to qualify 3 districts surrounding Kootenai County that are much more rural.

36. In addition to the seven districts listed above where we discovered high organizational potential, there was a second group of districts that proved to have less organizational potential than the first group but still had significant potential. These were the following:

District 7 (Shoshone, Clearwater, Idaho counties and part of Bonner county)

District 15 (West Boise)

District 26 (Blaine, Lincoln, Gooding, and Camas counties)

District 28 (Bannock and Power counties)

District 29 (Pocatello)

District 30 (Bonneville County)

District 33 (Bonneville County)

District 32 (Teton, Bear Lake, Franklin, Caribou, and Oneida counties; and part of Bonneville County)

37. In all of these districts, we were able to quickly identify volunteers and volunteer leaders who were willing and able to spend their time collecting signatures in their communities. However, an important factor that led to these districts having significantly less organizational potential than the Tier 1 districts listed above was that our organization did not have pre-existing relationships or bonds of trust within any of these districts. As native North Idahoans, we had very little knowledge or experience of Eastern Idaho or Central Idaho when we launched our organization. This meant that we needed to build relationships from scratch. Even though we were able to quickly identify enthusiastic and capable volunteers in these districts, the numbers of volunteers tended to be much smaller.

38. The relative disadvantage we faced in these districts was evident at the very outset of our signature drive, when I and other leaders visited districts across the state and held “kick-off” events that we had planned in coordination with local teams of volunteers. Our Boise kick-off event was the best attended with over 200 people. But it

is important here to highlight that events in Sandpoint and Coeur d'Alene—areas where we found high organizational potential—our kick-off events were also very well attended, each with well over 100 attendees. In contrast, events in Hailey, Pocatello, Idaho Falls, and Driggs each were attended by 20-30 people. We considered these events to be great successes, especially so early on in our signature drive, but the relatively low attendance was a sign that we did not have quite as much organizational potential in those districts, and that building organizational strength in those districts would require a great deal more organizing work.

39. All eight of these districts eventually succeeded in qualifying for the ballot. But notably, limited organizational strength meant that qualifying these districts required extraordinary efforts on the part of a relatively small number of volunteers. Attached as Exhibit A is a *Post Register* article about the volunteer work of Amy Pratt, who was a core member of our relatively small but very committed team of volunteers in Idaho Falls. Amy was a school bus driver in Idaho Falls who spent every weekend for nearly four months straight walking door-to-door collecting signatures. In my experience, volunteers who are willing and able to put in the sheer number of hours that Amy expended are extremely rare. But when organizational strength in a district is limited, it takes such extraordinary exertions by individuals to collect the required number of valid signatures.

40. So far, I have listed seven districts with high organizational potential and eight more districts with less but still significant organizational potential. In addition to these 15 districts, there were another five districts that we eventually qualified with valid signatures from over 6% of registered voters, but that proved to have only very low organizational potential. These were:

District 6 (Nez Perce County)

District 10 (Caldwell)

District 12 (Nampa)

Districts 20 and 21 (Meridian)

41. We would eventually surpass the 6% threshold in each of these districts, but not without great difficulty. In all five, we weren't able to confirm that we'd collected the required signatures until the final weeks before the signature turn-in deadline.

42. In each of these districts, there were important factors—observable early on—that led them to have significantly less organizational potential than the Tier 1 and Tier 2 districts listed above. Like the Eastern and Central Idaho districts where we organized, these districts were places where our organization did not have pre-existing relationships or strong bonds of trust with local residents. But there was a further disadvantage we encountered in this third tier of districts that we did not encounter in districts with greater organizational potential. In these Tier 3 districts, unlike in such

places as Bonneville, Bannock, and Teton counties, we were not successful in our early efforts to recruit committed volunteer *leaders*. All of my experience leading volunteer signature drives has led me to believe that strong local leadership is the single most important factor of organizational strength in a district. This is especially true for districts that do not have strong pre-existing relationships and bonds of trust with the statewide organization. Where there is no local “face” of the signature drive and the statewide organization is almost completely unknown in the community, it is extremely difficult to recruit committed local volunteers.

43. An illustrative case is that of Canyon County, Idaho’s second most populous county. We made extensive efforts there to recruit volunteer leaders but had very limited success. On at least four occasions that I can recall, different local residents committed to help us build a local team but then had to back out due to personal issues related to work, family, or health. In one case, a local resident was highly committed to the cause and continued to help when she could, but simply had too many demands on her time to expend significant volunteer hours on the signature drive. Our lack of success solidifying a volunteer local leader meant that we struggled to recruit new volunteers. In spite of multiple visits to different localities in the county and many hours spent on the phone talking with potential recruits, we were unable to build organizational strength in the county.

44. In the final stretch, we lacked significant organizational strength in Canyon County and also in Meridian. In order to qualify four districts in these areas, we resorted to a tactic of last resort: During the six weeks of our signature drive, a large portion of our organizing hours were spent mobilizing volunteers from the Boise area to drive to Meridian and Canyon County in order to collect signatures and qualify districts 10, 12, 20, and 21. Similarly, in the final stretch we mobilized volunteers from the Moscow area to travel to Lewiston in order to qualify district 6. Over the course of our campaign, this tactic proved very limited in its usefulness. It was generally very difficult to recruit volunteers to travel and collect signatures from a community outside of their own. An exception to this rule was during the final stretch, when a heightened sense of urgency motivated large numbers of volunteers to travel to neighboring districts. But ultimately this tactic only enabled us to qualify five districts: 6, 10, 12, 20, and 21. Had we needed to qualify many additional districts where we lacked organizational strength, we would not have been able to mobilize the volunteer hours needed to succeed.

45. If SB 1110 had been in place in 2018, our Medicaid Expansion campaign would have needed to build organizational strength in approximately 15 districts with low organizational potential. With the limited organizing hours at our disposal, this feat would have been impossible.

46. Proponents of SB 1110 asserted that the 35-district requirement does not significantly increase the difficulty of qualifying an initiative, at least not to an unreasonable degree, because the new legislation does not require more total signatures. Proponents stress that the total signatures required are the same as before, and that the legislation merely requires that the same total number be distributed evenly across 35 districts.

47. Senator Jim Rice made this argument in his debate in favor of SB 1110 on the Senate Floor. In response to debate against SB 1110 by Senator Michelle Stennett, who pointed out that the Medicaid Expansion signature drive did not qualify anywhere close to all 35 legislative districts, Senator Rice said:

“It is...not particularly applicable to look at the number of districts that the Medicaid Expansion initiative had 6% of the signatures of registered voters in...because those were the rules. If you change the rules, you’re going to do it a little differently. That’s not a big change. Six percent is a very small number, but you show that you have at least some support across the entire state. That’s the principle.”

48. Proponents of SB 1110 insist that if there are future initiative attempts that would have qualified under the old rules but fail to qualify under the new rules, this is not due to an unreasonable burden but is instead due to inadequate statewide support for those initiatives.

49. However facially reasonable this line of reasoning may appear in the abstract, it collapses under the weight of the empirical evidence. The argument clearly fails to take seriously the organizational dynamics of volunteer-driven signature drives. In the case of volunteer drives, organizational potential will vary widely across districts. The critical task of building organizational strength will therefore be much, much harder in some districts than in others.

50. In the case of Medicaid Expansion, we were able to qualify over 18 districts by prioritizing those districts where we found at least a significant amount of organizational potential. In those districts, we were able to build some degree of organizational strength. In districts where we succeeded in building organizational strength, it was much less challenging not only to qualify those districts, but to contribute to the statewide total by collecting signatures over and above the 6% required in that district. The experience of our Medicaid Expansion signature drive provides ample evidence that it is much, much less challenging for a volunteer-signature drive to collect a large statewide total if those signatures can be disproportionately collected in districts with higher organizational potential.

51. It is beyond unreasonable to expect a volunteer-driven signature drive with limited financial resources to collect valid signatures from at least 6% of registered

voters in each of 35 districts, including those districts with very little organizational potential.

52. In the paragraphs that follow, I will place SB 1110 within the context of the efforts of the Idaho Legislature over the past quarter-century to clamp down on the initiative and referendum rights of the Idaho citizen.

53. SB1110 has the following stated purpose: “to increase voter involvement and inclusivity in the voter initiative/referendum process.” In public statements, the legislation’s co-sponsor Senator Steve Vick made clear that those at risk of exclusion from the process are rural Idahoans of conservative political leanings, and that there is a serious danger of the process being dominated by liberal voters in large cities.

54. “The last thing we want is for Idaho to turn into another California, Oregon or Washington, where a few populous liberal cities effectively dictate policy to the rest of the state,” wrote Senator Vick in a column published by *Idaho Dispatch*.¹

55. Proponents of the legislation suggest that the Idaho Legislature has merely carried out its responsibility to protect rural Idahoans from being put upon by liberal voters in Idaho’s largest cities. However, a review of legislative behavior over the past quarter-century demonstrates that a different dynamic is in play. Each time the Idaho

¹ Steve Vick, “Let’s Make Sure Idaho’s Initiative Process Is Inclusive and Doesn’t Favor Special Interests,” *Idaho Dispatch*, February 27, 2021.

Legislature has attempted to restrict the initiative process, it has done so in the wake of successful initiative/referendum campaigns that enjoyed the broad, bi-partisan support of Idahoans in both rural and urban communities.

56. The first time in Idaho history that the Legislature successfully added significant restrictions to the initiative process was in 1997, in the wake of the success of the 1994 term limits initiative. The term limits initiative won resoundingly in urban and rural communities alike, carrying a majority of the vote in 36 of Idaho's 44 counties and 59% of the vote statewide. Term limits was hardly a cause embraced solely by liberal voters. Indeed, it was most common in the 1990s for term-limit campaigns to be spearheaded by conservative organizations and conservative donors.²

57. Following the success of the term limits initiative, the Idaho Legislature enacted a law in 1997 requiring that campaigns collect signatures not just from 6% of registered voters statewide, but also from 6% of registered voters in each of 22 Idaho counties. This law remained in place until 2001, when the federal court for the District of Idaho found the 22-county rule unconstitutional and struck it down.

58. In 2013, the Idaho Legislature once again added significant restrictions to the initiative and referendum process in the wake of a successful use of that process by the people of Idaho. In 2012, Idaho voters used the referendum process to vote down three

² Scott W. Reed, "How and Why Idaho Terminated Term Limits," *Idaho Law Review* 50, no. 3 (2014): 6-7.
DECLARATION OF LUKE MAYVILLE IN SUPPORT OF PETITION FOR A WRIT OF PROHIBITION- 23

education laws popularly known as the “Luna Laws.” All three propositions were voted down by large margins. The biggest landslide was for Proposition 3, which voters defeated by a 34-point margin. All three propositions carried the majority of the vote in the vast majority of Idaho counties—urban and rural alike. Proposition 1 was defeated with the smallest margin, with 57% voting “no” and 43% voting “yes.” But even Prop. 1 was defeated in 36 of Idaho’s 44 counties.

59. In the wake of the Idaho citizenry’s successful use of the referendum process to defeat the Luna Laws, the Idaho Legislature enacted a law requiring that signatures must be collected from 6% of voters in each of 18 legislative districts. In spite of the fact that the Luna Laws were defeated by a broad coalition of urban and rural voters spanning every region of the state, proponents of the new initiative restrictions argued that the process must be made more inclusive in order to protect the interests of rural voters. Signing the legislation into law, Governor Otter said he didn’t want the initiative and referendum process to be driven by “the great state of Ada.”³ This is a false narrative.

60. In 2021, the Idaho Legislature successfully enacted further restrictions that require initiative and referendum campaigns to collect signatures from 6% of registered voters in all 35 of Idaho’s legislative districts. The legislative push to enact this

³ Betsy Z. Russell, “Idaho Governor Signs Bill Tightening Initiative Rules,” *Spokesman-Review*, April 3, 2013.

restriction came after the failed attempt to enact similar restrictions in 2019, just after the people of Idaho successfully used the initiative process to enact Medicaid Expansion.

61. Much like the term limits initiative and the anti-Luna Laws referendums, Medicaid Expansion succeeded with a broad coalition of voters in urban and rural communities across the state.

62. As I have discussed above in detail, the Medicaid Expansion signature drive began in rural Bonner County eventually succeeded in part due to the incredibly hard work of passionate volunteer teams in rural communities across the state. The initiative won 61% of the statewide vote and it won a majority of the vote in 35 of Idaho's 44 counties and 29 of Idaho's 35 legislative districts. These voters were quite obviously not all urban, and nor were they all liberal in political orientation. To give just one example, the majority of voters in Bear Lake County voted in favor of the initiative. In the 2016 presidential election, just 9% of voters in that county voted for Democratic candidate Hillary Clinton.

63. The legislative history makes clear that for the past quarter-century, the Idaho Legislature has not protected rural Idahoans from the overreach of big-city liberals. Instead, the Idaho Legislature has sought to restrict the citizen and referendum process

in reaction to the successful use of that process by broad coalitions of urban and rural Idahoans of all political persuasions.

64. In response to a public records request, Governor Little's office indicated it had received over 4,000 citizen comments on SB 1110 after it was sent to his desk, with over 97% of Idahoans requesting that Governor Little veto the bill.

65. A coalition of organizations including Reclaim Idaho and the Committee to Protect and Preserve the Idaho Constitution presented to the Governor's Office thousands of signatures calling on the Governor to veto SB 1110. This included signatures from Idahoans in all 44 counties and over 200 towns.

66. As SB 1110 moved through the Idaho Legislature, the bill's proponents circulated a map of Idaho that shaded over Idaho's 4 most populous counties: Ada, Canyon, Kootenai, and Bonneville. A copy of the map is attached as Exhibit B. The point of the map was to highlight that over 18 districts can be found in these counties alone, which together make up only 5.83% of Idaho's land area. The suggestion was that signature drives for initiatives under the 18-district rule have tended to concentrate their signature-gathering efforts in just 4 counties, and that this tendency would continue in the future if SB 1110 were not enacted.

67. Prior to the floor debate in the House, Representative Colin Nash—who opposed SB 1110—circulated a map showing broad urban and rural support for recent initiatives

and referendums among Idaho voters in the general election. In response, Representative Ron Nate—a proponent of the bill—said on the floor of the House that he would prefer to see a map not of where the votes came from but of where the signatures came from:

“What would be...interesting is to see a handout showing where the signatures came from...we would see the signatures coming predominately from a few big counties and the other counties all left out.”

68. In the case of Medicaid Expansion, at least, Representative Nate and other proponents of SB 1110 were grossly incorrect in their assumptions about where signatures have come from. I am including as Exhibits the following three maps:

- First, the map of Idaho counties circulated by proponents of SB 1110. This map shades just those 4 Idaho counties that are falsely assumed to be the counties where signature drives have narrowly focused their efforts. (Exhibit B)
- Second, a map of Idaho that shades those legislative districts where over 6% of registered voters signed the Medicaid Expansion initiative. These districts overlap with 26 of Idaho’s 44 counties. (Exhibit C).
- Third, a map of Idaho that shades those legislative districts where at least 2% of registered voters signed the Medicaid Expansion initiative. (Exhibit D). These districts cover nearly the entire map and overlap with 37 of Idaho’s 44 counties.

Considering that an incessantly repeated goal of proponents of SB 1110 was to ensure that initiatives enjoy at least “a modicum of statewide support,” it is relevant to highlight that a substantial number of voters (2%) in nearly every Idaho district signed the Medicaid Expansion initiative.

69. In my view, the fact-based analysis I have provided in paragraphs 9 through 49 demonstrates that even a 24-district requirement (such as the one included in HB 296, passed by the Idaho Legislature in 2019 as a “trailer bill” to SB 1159 and then vetoed by Governor Little) would impose an unreasonable burden on volunteer-driven signature drives. Indeed, any significant increase above the 18-district requirement that existed prior to the enactment of SB 1110 would make volunteer-driven initiatives virtually impossible to qualify for the ballot by requiring initiative campaigns to qualify a large number of districts with low organizational potential.

70. But there is a uniquely severe harm to initiative and referendum rights brought about by the all-districts requirement contained in SB 1110.

71. Let us assume that, by some miracle, a volunteer-driven signature drive is well on its way to collecting valid signatures from 6% of registered voters in each of Idaho’s 35 districts. In such a scenario, the all-districts requirement grants enormous power to any opposition group (even those motivated by the narrowest special interest) to

prevent an initiative from making the ballot and thereby to negate the will of the majority.

72. As we have witnessed in states across the country, opposition groups have engaged in signature-blocking campaigns by hiring paid “blockers.” These blockers might attempt to distract signature gatherers by starting verbal disputes, or they might physically stand in between signature gatherers and potential signers. In addition to blocking efforts, opposition groups have engaged in signature-removal campaigns by contacting signers and persuading them to remove their signature.

73. Under Idaho’s new 35-district requirement, a well-funded opposition campaign can start by identifying the 10-15 districts where the initiative campaign has exhibited the least organizational strength. The opposition campaign can then deploy paid signature blockers and fund a concerted signature-removal removal campaign in those districts. Even if, in any randomly selected district, the probability were low that these tactics would block that district from qualifying, the probability would increase dramatically if the opposition campaign were to have 15-20 attempts. With an all-districts requirement, the opposition only needs to block one district in order to block the entire statewide initiative.

74. To summarize, Idaho's 35-district requirement empowers the most determined and well-funded minority interests to frustrate and subvert the right of the majority to propose and reject legislation.

75. Apart from my work organizing initiative campaigns, I am a scholar of the constitutional thought of founding-era America. In this capacity, I wish to highlight that majority rule is a core principle of our country's constitutional tradition.

76. When James Madison warned of the tyrannical power that majorities could wield, the danger he identified did not emanate so much from a tyrannical majority of voters as from a tyrannical majority of elected officials. Indeed, when Madison referred to real-world examples of tyrannical majorities, his primary references were to unchecked majorities of elected officials in state legislatures.

77. Debating on the Senate floor in favor of Senate Bill 1110, President Pro Tem Chuck Winder put forth a truncated view of our constitutional heritage when he said, "I believe constitutions are set up to protect the minority from the majority." If this were all constitutions were for, the evisceration of citizen power brought about by SB 1110 would not be a constitutional issue. But this is not all that constitutions are for.

78. As much as our constitutional system exists to protect the rights of the minority, it also exists to institutionalize the power of the majority. The checks and balances in our federal and state constitutions exist to moderate the will of the majority, not to

negate it. As Madison famously wrote, “the vital principle of republican government is the *lex majoris partis*, the will of the majority.”

79. I declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

EXECUTED ON this 5th day of May 2021.

/s/Luke Mayville

Luke Mayville

Post Register

LOCAL • PROVEN • ESSENTIAL

'I did it because everybody else needed it': Reclaim volunteer reflects on Medicaid campaign

By NATHAN BROWN nbrown@postregister.com Nov 17, 2019



Amy Pratt poses for a photo at her home on Thursday, Nov. 14th, 2019. Pratt volunteered to help gather signatures to get Medicaid expansion on the ballot; shortly after she was diagnosed with an inoperable brain tumor.

John Roark | jroark@postregister.com

When Amy Pratt found out about Reclaim Idaho's effort to get Medicaid expansion on the ballot in Idaho, she knew she wanted to help.

"I went out every Saturday through Sunday, from sunup until sundown, from the day I started until the day I finished," she said.

Pratt worked from the beginning of January 2018 until the signature-gathering deadline at the end of April that year. She had health insurance at the time, having recently gotten a job as a bus driver for Idaho Falls School District 91. But she knew what it was like not to have it. For 11 years before, she had worked as the kitchen manager at Holy Rosary Catholic School, a job didn't offer coverage.

"I did it because everybody else needed it," she said.

Pratt knocked on doors in Idaho Falls all day every weekend, and sometimes on weekdays when she could, wearing her green "Idahoans for Healthcare" shirt and braving the often bitter cold of an eastern Idaho winter.

"I was shocked at how many people believed in it, who knew somebody who (needed) help," she said.

Many of the people she talked to, she said, had close family members who fell into the "Medicaid gap," or the group of people who didn't qualify for Medicaid but also didn't make enough to qualify for tax credits to buy insurance on the state exchange. These stories, she said, inspired her to keep working.

"Republicans, Democrats, everybody wanted insurance for somebody who needed it," she said. "It was so rare to even come across anybody who wasn't interested in it."

Pratt said on her own block, she had just one person who refused to sign the petition. Many of her neighbors, even if they were personally unsure about Medicaid expansion, at least thought it should be on the ballot for the public to decide.

"I knocked on every single door and the majority of them said yes," she said.

Medicaid expansion made it on the ballot, with a big assist from Pratt, who gathered more than 1,000 signatures. Even before expansion made the ballot, Reclaim Idaho's effort started to get national attention from media outlets curious that an expansion of the Affordable Care Act seemed to be garnering such support in a state as Republican as Idaho. Pratt was featured in a [March 2018 Huffington Post article](#) about the effort, and [again in a Boise State Public Radio story](#) about Reclaim Idaho's canvassing efforts in the run-up to the November 2018 vote.

Within months of the end of signature-gathering, Pratt started to feel unwell. At first, she thought she had a problem with her hip. She stopped driving the school bus, fearing she wasn't well enough to do so, and started to work in the school district garage instead. One day, one of her colleagues noticed the bottom of her face drooping and worried she was having a stroke. Pratt went to the hospital and found out she has an inoperable brain tumor.

Pratt had to leave her job due to the cancer and is now covered by Medicaid herself. (She would have qualified for Medicaid without expansion due to her illness.) She is in a wheelchair, and one side of her body is paralyzed. The tumor has affected her speech somewhat, but she lights up and speaks as eloquently as ever when Medicaid expansion comes up.

“This is very important to me,” she said. “I just think that it’s something we got. I feel so good that we got this done.”



Amy Pratt is wheeled to her bedroom by her aunt, Amy Diamond, on Thursday, Nov. 14, 2019.

As she spoke to the Post Register in mid-November, Pratt marveled at how more than 30,000 people have already signed up. An estimated 91,000 Idahoans are expected to be eligible for Medicaid expansion coverage. One of them is Pratt’s sister, who lives in Boise.

“It’s going to make all the difference in the world for her,” Pratt said. “She refused to go to the doctor’s for so many years.”

Sixty-one percent of Idaho voters approved Medicaid expansion in November 2018, ending a yearslong debate over what, if anything, the state should do to extend coverage to the gap population. Although many Republican lawmakers had opposed expansion, they approved funding for it this year while also

passing a bill that Reclaim Idaho opposed asking federal permission to make several changes to the program such as adding work requirements.

Whatever happens to Pratt in the future, she is glad she will see Medicaid expansion implemented on Jan. 1, 2020.

“This is the very first time I’ve ever been able to really, really help somebody,” she said.

EXHIBIT B TO MAYVILLE DECLARATION

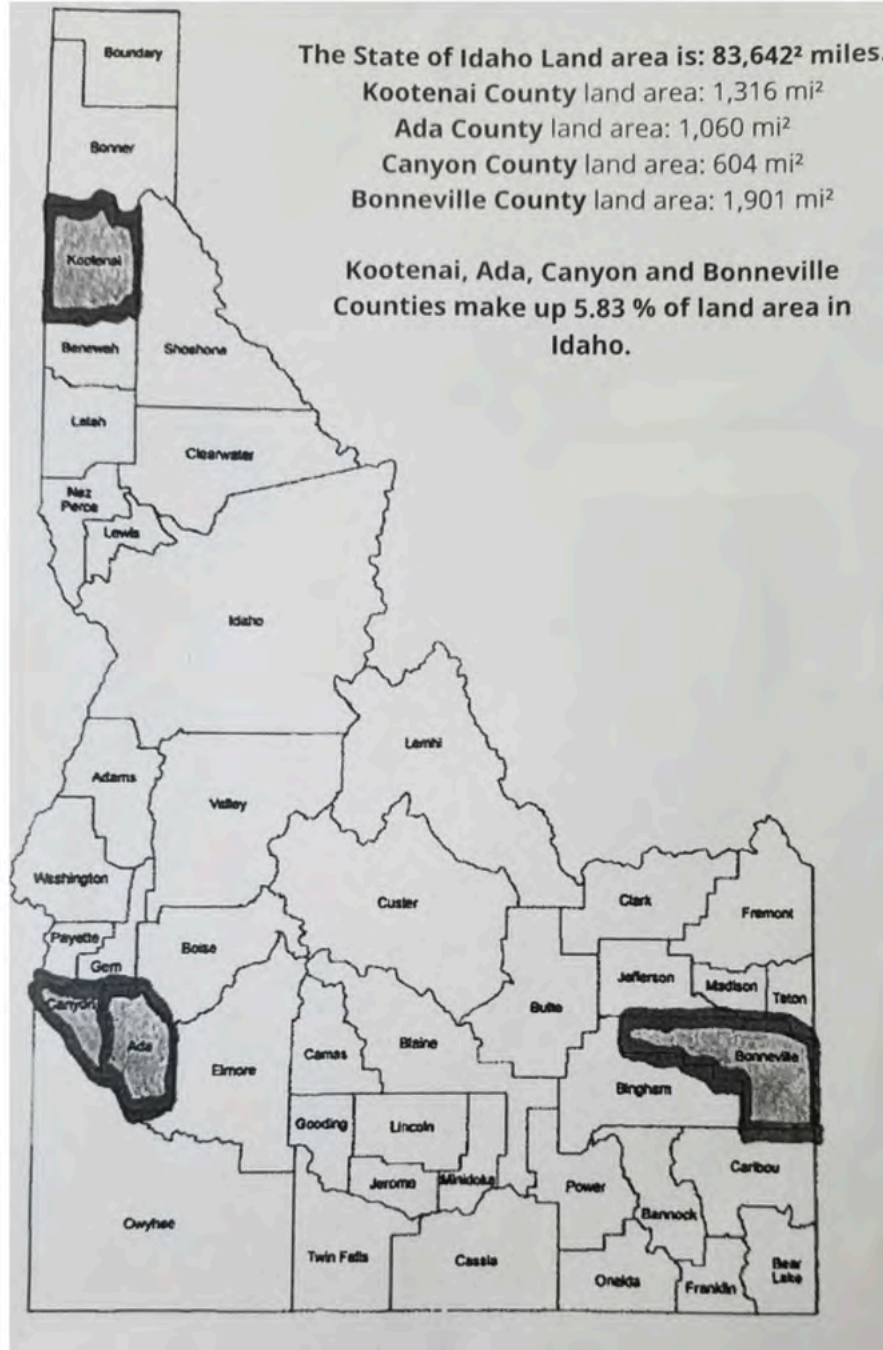


EXHIBIT C TO MAYVILLE DECLARATION



EXHIBIT D TO MAYVILLE DECLARATION



EXHIBIT 3

DECLARATION OF DR. GARY MONCRIEF

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IN THE SUPREME COURT FOR THE STATE OF IDAHO

**RECLAIM IDAHO, and the
COMMITTEE TO PROTECT AND
PRESERVE THE IDAHO
CONSTITUTION, INC.,**

Petitioners,

v.

**LAWERENCE DENNEY, in his official
capacity as Idaho Secretary of State, and
the STATE OF IDAHO,**

Respondents.

Case No.

**DECLARATION OF GARY
MONCRIEF IN SUPPORT
OF PETITION FOR A WRIT
OF PROHIBITION**

I, Dr. Gary Moncrief, having first been duly sworn upon oath, declare as follows:

1. My name is Dr. Gary Moncrief and I write in support of this Writ.

2. I hold a Ph.D. in Political Science from the University of Kentucky (1977). Until my retirement, I was a Professor at Boise State University for over forty years, specializing in comparative state politics and policymaking. I also taught courses in electoral systems and voting behavior.

3. I am editor or co-author of six books, including WHY STATES MATTER, now in its 3rd edition (2020), STATE LEGISLATURES TODAY (3rd edition, 2019) and REAPPORTIONMENT AND REDISTRICTING IN THE WEST (2011). For twenty years, I served on the training faculty at the Council of State Governments, conducting workshops for state legislators. I have also served as a consultant to the National Conference of State Legislatures and the State Legislative Leaders Foundation.

4. Senate Bill 1110 creates an extraordinarily difficult standard for any citizen-initiated measure to attain ballot status. In fact, the standard is so high as to effectively eliminate citizens' rights in this regard. There are 24 states that permit some form of citizen-initiated policymaking. The rules vary by state. For our purposes, the most important variables pertain to the following questions:

(i) can the popular initiative be used to put forth on the ballot a proposed statute, a proposed constitutional amendment, or both?

(ii) What is the standard for the number of signatures that must be gathered to achieve ballot status?

(iii) Are there geographic distribution requirements for signatures?

5. Most initiative states permit its use by the public to enact both statute and constitutional amendment. Idaho only permits statutory changes through the initiative process, so it is already a limited right in Idaho.

6. States differ in the total petition signature requirements to qualify the initiative for the ballot. Most states require a certain percentage of votes cast in the previous gubernatorial election. Idaho is one of only six states that require a percentage of “qualified electors”, or registered voters. Since the number of registered voters/qualified electors is always greater than the number of actual voters, a rule that requires 6 percent of qualified electors is a more difficult standard than 6 percent of gubernatorial voters. In other words, the total signature requirement in Idaho is more stringent than the requirements in most other initiative states. In most instances, 6 percent of registered voters (qualified electors) is a number greater than 10 percent of gubernatorial votes, which was the number required in Idaho from 1933 to 1997.

7. Of the 24 initiative states, 14 require some measure of geographic distribution of the signatures, across some portion of electoral units. For example, Alaska requires

signatures from 3/4 of house districts, Arkansas from 15 different counties and Florida from one-half of the congressional districts in the state. Senate Bill 1110 requires signatures equal to 6% of qualified electors in ALL 35 legislative districts. This rule would make Idaho's the most stringent geographic requirement in the U.S. for statutory initiatives. **No state requires a specified percentage of signatures from all districts in the state for statutory initiatives.** During the Senate State Affairs Committee hearing on Senate Bill 1110 it was stated that Colorado requires signatures from all districts. That is not entirely accurate; the current Colorado law applies only to constitutional amendment initiatives. For statutory initiatives there is no geographic distribution requirement. Idaho's is a statutory initiative, so the Colorado analogy is not applicable. Moreover, the Colorado law as it applies to constitutional initiatives is currently under litigation.

8. To summarize, Idaho limits the citizen right to policymaking by excluding the right to propose constitutional amendments; citizens can only bring initiative statutory proposals. Even with this limited initiative power, citizens are further hampered by a more difficult standard for total signatures required than is the case in most initiative states. Finally, the geographic distribution requirement in Senate Bill 1110 would be the most onerous of any statutory initiative standard in the U.S. For these reasons, I believe Senate Bill 1110 destroys an essential right of the citizens of Idaho.

9. An important point about Senate Bill 1110 is that the standards it imposes apply to the statutory initiative process and to the popular referendum process. The popular referendum process (also known as the “public veto”) is an essential protection for the citizens of Idaho. As one text states, “Granting the right of approval or rejection through a referendum vote is an important form of direct democracy that does not exist at the federal level. In this sense, state governments afford their citizens the opportunity to exert a direct impact on public policy in a way the national government does not.”¹

10. The popular veto is especially important at the state level because legislative supermajorities are common. The nature of our American electoral system is such that it often over-represents the majority party. In other words, the American electoral system often results in a higher percentage of seats for the majority party than they ‘deserve.’ In California, for example, the “normal” statewide vote for Democrats is about 60%, but Democrats usually control about 75% of the legislative seats. In Idaho, the average Republican vote in a contested statewide race (governor, secretary of state, etc.) is about 60-62%. But the Republicans control at least 80% of the legislative seats.

¹ Gary Moncrief and Peverill Squire, *WHY STATES MATTER*, 3rd edition (Lanham, MD: Rowman & Littlefield, 2021), p.206

In essence, the American electoral system often creates “manufactured supermajorities.”

11. Such supermajorities occasionally overreach in terms of policymaking. For whatever reason—a sense of mandate, groupthink, an inability to recognize legitimate alternative points of view—it does occasionally lead to a misreading of public preferences. And when this happens, the citizens **must** have a recourse to clearly express their policy preferences. The popular referendum provides that recourse. It is an essential instrument to counter what we might call, in the Madisonian sense, “the occasional tyranny of the supermajority.”

12. Senate Bill 1110 will make the popular referendum virtually obsolete because it will make it almost impossible to qualify for the ballot.

13. I declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

EXECUTED ON this 4th day of May 2021.

/s/Dr. Gary Moncrief

Dr. Gary Moncrief

EXHIBIT 4

DECLARATION OF DAVID DALEY

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IN THE SUPREME COURT FOR THE STATE OF IDAHO

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**LAWERENCE DENNEY, in his official
capacity as Idaho Secretary of State, and
the STATE OF IDAHO,**

Respondents.

Case No.

**DECLARATION OF DAVID
DALEY IN SUPPORT OF
PETITION FOR A WRIT OF
PROHIBITION**

I, David Daley, having first been duly sworn upon oath, declare as follows:

DECLARATION OF DAVID DALEY IN SUPPORT OF PETITION FOR A WRIT
OF PROHIBITION- 1

1. My name is David Daley and I am a journalist and author who covers voting rights, citizen activism, and the state of American democracy.

2. I have chronicled the stories of citizen initiative efforts nationwide, and the response to those efforts from legislatures, in two books and many articles that have been published in the *New York Times*, *The Atlantic*, *The Guardian* and many other top publications. My reporting has brought me to Idaho, Utah, Michigan, Colorado, Florida, Maine and many other states to view these campaigns up close and speak with the organizers, the volunteers, and political leaders on all sides of these issues. My 2020 book "*Unrigged: How Americans Are Battling Back to Save Democracy*," published by W.W. Norton/Liveright, includes chapters on Reclaim Idaho's Medicaid expansion campaign, efforts in Florida to end felony disenfranchisement, in Maine to adopt ranked choice voting, and covers citizen initiatives to reform redistricting in Colorado, Utah, Michigan, Ohio, Missouri and Arkansas. I am regularly invited to discuss these issues on national media programs, asked to lecture on college campuses, and serve as a senior fellow with a national, nonpartisan voting-rights think tank.

3. Ballot initiatives and state constitutional amendments have become an increasingly popular and effective method for majorities of citizens to enact popular policies that their state legislatures, often insulated from the will of the people either through gerrymandering, closed primaries, or the politics of a one-party state, refuse to

DECLARATION OF DAVID DALEY IN SUPPORT OF PETITION FOR A WRIT OF

PROHIBITION- 2

adopt. The history of the initiative begins with citizens demanding it as a check against, or a means to side-step, the power of state legislatures. It arises from the Progressive Era but has been used to hold legislatures of all political parties accountable. As one of its earliest proponents, President Theodore Roosevelt once said, "I believe in the initiative and referendum, which should be used not to destroy representative government, but to correct it whenever it becomes misrepresentative."

4. The initiative process is necessary, in part, because most voters do not see every issue along strict ideological lines that perfectly correspond to the governing party's platform, and reflects the truth that not every lawmaker perfectly represents their constituents. It has become a vehicle for action on Medicaid expansion, raising the minimum wage, ending partisan gerrymandering, increasing transparency in state capitals, and enacting campaign finance reform. In 2018, sixteen states faced ballot questions on democracy reform topics; 15 of them won, most with the kind of supermajority support that's only possible when voters who are Republicans, Democrats and independents all come together on an issue. In 2017 and 2018, voters in four states, Maine, Nebraska, Idaho and Utah, used the ballot initiative to expand Medicaid. Citizens in Oklahoma and Missouri followed in 2020.

6. These victories, however, have often been met with backlashes by state legislatures. In Florida, despite more than 62 percent of voters backing felony

reinfranchisement, the legislature decided to add an additional pre-condition: The payment of all fines and fees related to a sentence, a number that the state was often unable to provide, and which one nonpartisan research group suggested could amount to hundreds of thousands of dollars per person. Florida voters also supported raising the state's minimum wage; the legislature restricted who could receive it. Idaho's legislature added additional work requirements onto the passage of Medicaid expansion. Missouri lawmakers waited only mere weeks before they began working to unravel a package of reforms that included restrictions on gifts from lobbyists and independent redistricting. When citizens there also told the legislature to expand Medicaid, the people's own representatives refused to fund it. Michigan lawmakers worked to deny funding to the state's new independent commission, then filed litigation against it in court.

7. Then, after working to undercut the successful initiatives, lawmakers in many of these states, and others, have endeavored to make future initiatives more onerous. In Idaho, Missouri, Florida and Arizona – all states where citizens have successfully used ballot initiatives to pass popular reforms – legislatures have advanced proposals that would place multiple new roadblocks before initiatives at nearly every point in the process. In total, throughout the first three months of 2021 alone, lawmakers in 24 states

have introduced bills that would make it tougher for citizens to push initiatives to the ballot, according to the Ballot Initiative Strategy Center.

7. These new restrictions take many forms, but follow the same general approach. They increase the number of signatures necessary to qualify an initiative, or the number of counties or congressional districts in which names must be gathered. Then, they require majorities greater than 60%, even two-thirds, to pass – and even after that, sometimes require final approval by the legislature. Sometimes, they demand that a winning initiative have support from a majority of registered voters, not simply a majority of those casting a ballot in any given election.

8. Florida lawmakers are looking to raise the state’s already high bar for passage of an initiative. Right now, a 60 percent supermajority is necessary to win, no easy feat in this state of nail-biters. Legislators, however, have fast-tracked an effort to increase that number to 67%. Arizona Republicans want to increase the approval threshold from a simple majority up to a 60% supermajority, as do Republican lawmakers in North Dakota, South Dakota and Arkansas. Similar efforts are under way in Missouri, where citizens won victories for independent redistricting and medical marijuana in 2018, and expanded Medicaid in 2020. Right now, citizens need to collect signatures from 8% of voters in six of the state’s eight congressional districts. Bills pushed by House Republicans would increase that threshold to either 10 or 15%, and in all of the eight

congressional districts. Missouri initiatives currently win with a simple majority.

Various proposals would change that to either 60 or 67% approval to pass, or mandate a number equal to 50% of all registered voters, rather than a majority of voters who cast ballots. Arkansas tried an even more imaginative approach to derail citizen initiatives as several gained traction there. The legislature passed a statute requiring that signature-gatherers pass a state and national background check, as performed by the Arkansas state police. The Arkansas state police, however, is not authorized to perform national checks under state or federal law. That technicality was enough for the state supreme court, however, to knock two political reform initiatives having to do with redistricting and open primaries off the 2020 ballot.

9. Even in this national climate, however, the new law enacted in Idaho create the most restrictive initiative laws in America. It would require that any initiative first receive signatures from 6 percent of registered voters in all 35 of Idaho's legislative districts. There isn't another state in the nation that currently requires a minimum number of signatures in every state-legislative district.

10. Idaho's legislature has a history of making initiatives more difficult after citizens use them successfully. When lawmakers last altered the process, in 2013, also increasing the number of signatures and the number of districts, it followed the use of the referendum to repeal three school reform laws that were a priority of the legislature, but decisively not backed by the people of the state.

11. Idaho's lawmakers suggest two reasons for this change. They did not want a culture in which the ballot was overrun by initiatives. They also wanted to protect rural interests and ensure that all parts of the state had equal voice in putting an initiative on the ballot. Neither stated purpose stands up to scrutiny of the facts. Indeed, these new rules are so restrictive that they all-but relegate the initiative -- enshrined in the state's constitution -- to a mere right "on paper" that cannot actually be used in reality. This is an extreme and deeply burdensome set of restrictions that will make it nearly impossible for Idaho voters to, in Roosevelt's words, "provide a check" when the government becomes "misrepresentative." That seems to be the actual purpose.

12. First, Idaho's previous rules were already among the most restrictive in the nation. It was not easy to make the ballot, and there was not an excessive amount of initiatives. Indeed, under those former regulations, only two of 15 attempted initiatives succeeded in making the ballot.

13. The Medicaid expansion initiative, meanwhile, did have deep support throughout rural Idaho. The previous initiative laws required signatures to be gathered in all corners of the state. Medicaid expansion not only earned signatures from voters in

each of Idaho's 44 counties, but it won in November 2020 with majorities in 35 of those 44 counties, including dozens of rural counties.

14. Idaho's new initiative regulations go so far as to be the most stringent in the nation. Utah's ballot access provisions would be the closest comparison. Utah sets a high bar to qualify: Any initiative needs to earn 8 percent of the votes cast in the most recent election from 26 of the state's 29 districts. Idaho, however, now requires signatures to be gathered in 100 percent of districts. And while the requirement is only 6 percent, it's 6 percent of *all registered voters* -- that's almost certainly a much higher number than 8 percent of active voters.

15. That means Idaho requires more signatures per capita, and from a higher percentage of districts, than Utah, the state that comes closest with the most difficult laws for qualifying an initiative.

16. Once signatures have been collected, the Idaho law also provides an opportunity for voters to remove their name electronically from the petitions any time before verification.

17. The combination of this significant period of name removal, along with the requirement for every district to reach challenging total numbers of signatures, creates an additional burden that gives well-funded initiative opponents large advantages. A special interest group could simply pour millions of dollars into a small number of

districts in an aggressive campaign to confuse voters and relentlessly urge them to take their names off the list. They would only have to flip one district in this way, with the use of dark money, to subvert the entire citizen effort and the will of every other district in the state. This, too, is truly uncharted territory for initiatives.

18. Colorado does require proponents of a constitutional amendment to generate signatures in every district. But let's be clear. Idaho's initiative has to do with statutes. It is not an amendment to the state constitution. It is certainly more reasonable to expect a constitutional amendment to pass a higher threshold. Nevertheless: Colorado only requires that 2 percent of registered voters sign the petition, not the 6 percent required by the new Idaho provision. Requiring just 2 percent in all districts is a sign that lawmakers in Colorado understood just how difficult it is to reach that threshold in every district in the state. And that's still a lower bar for a constitutional amendment than what Idaho now requires for passage of a statute via initiative.

19. When Chief Justice John Roberts called partisan gerrymandering a nonjusticiable political issue in *Common Cause v Rucho*, 588 U.S. --- (2019) he pointed to the success of citizen reformers in many states who used the initiative to generate effective reforms. The danger now is that the success of these initiatives has spurred a backlash from legislatures determined to block any check on their power. In the 24 states that allow the popular initiative, citizens have the means to create change. But Idaho is now at the

vanguard of states that are working hard to ensure that citizens have a much harder path -- and sometimes only the most unlikely path -- to make their voices heard and ensure that lawmakers represent them fairly and fully.

20. These decisions portend a grim future in many states: One where voters are unable to make themselves heard at all, and their “representatives” rule unchecked and unreformed.

21. I declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

EXECUTED ON this 5th day of May 2021.

/s/ David Daley
David Daley

EXHIBIT 5

DECLARATION OF ROBIN NETTINGA

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OF PETITION FOR A WRIT
OF PROHIBITION**

I, , having first been duly sworn upon oath, declare as follows:

I, Robin Nettinga, having first been duly sworn upon oath, declare as follows:

1. My name is Robin Nettinga, and I am a retired citizen of the state of Idaho.

DECLARATION OF ROBIN NETTINGA, IN SUPPORT OF PETITION FOR A WRIT OF
PROHIBITION- 1

2. I formerly held numerous positions with the Idaho Education Association (IEA) from 1997 to 2017.

3. I was elected and served as IEA President from 1997-2001. During those four years, I served as one of the two chief legislative lobbyists for the organization.

4. I was hired by the IEA and served as the Director of School Innovation from 2001-2003.

5. Following a reorganization of various staff positions, I served as the Director of Public Policy. I held this position from 2003-2008. My chief responsibilities included daily lobbying of the legislature, when they were in session and overseeing the organization of various campaigns at the local and state levels.

6. I served as the IEA Executive Director from 2008 and until my retirement in 2017. My chief responsibilities included overseeing the hiring of permanent and occasional staff for the organization and for various additional programs and activities, including internal and external campaigns. I also was the chief lobbyist for the IEA and responsible for all legal paperwork related to campaign finance reporting to the Secretary of State.

7. I was serving as the IEA Executive Director during the 2011 legislative session, and was directly involved in all aspects of lobbying and testimony on all pieces of education-related legislation that directly affected the IEA and its members.

8. During the 2011 session, then-State Superintendent of Public Instruction Tom Luna, introduced a piece of omnibus "education reform" legislation that was ultimately broken into three pieces and entitled "Students Come First."

9. The three specific bills were:

- a. SB 1108. The first piece of legislation eviscerated teacher collective bargaining rights and eliminated continuing contract status;

- b. SB 1110. The second piece of legislation established a complicated, unproven and unfunded bonus pay scheme based chiefly on student test scores; and
- c. SB 1184. The third piece of legislation mandated that high school students be provided with “individual mobile computing devices” and also established online course requirements for graduation.

10. Throughout the 2011 session, under IEA’s direction, members and citizens across the state held protests and vigils all designed to draw attention to the poorly-crafted legislation and encourage citizens to urge their lawmakers to oppose the three bills.

11. Ultimately, the House and Senate passed the legislation, and Governor Otter signed each of them into law.

12. As a result of our efforts to closely monitor all activity regarding the bills, we knew it was highly unlikely that we would be able to stop the legislation from being passed and signed into law. At the same time as our lobbying and community organizing efforts were taking place, we also undertook the development of a campaign to run three referenda to overturn the laws.

13. We knew we were entering into a rarely used, and frequently unsuccessful, process in Idaho. Our research into the referendum process indicated that Idaho had only used the referendum process four times: In 1936, an effort to confirm Idaho’s 2% sales tax failed. In 1966, a referendum to set Idaho’s sales tax at 3% passed. In 1986, a challenge to Idaho’s Right to Work law failed, and in 2003, an attempt to reinstate term limits for certain elected officials; however, that voter-led referendum was later overturned by the Idaho legislature.

14. Research and discussions with the Idaho Attorney General’s office and the Secretary of State’s office verified that we would have 60 days from the adjournment of

the legislature to collect, verify with county clerks, and deliver on state-approved petitions, the signatures of 47,432 qualified Idaho electors to the Secretary of State's office for each individual law. There were no geographical requirements.

15. Because the IEA had previously run an initiative process in 2006, we knew how important it was to create a highly-organized campaign plan, if we hoped to effectively qualify the three questions for the ballot.

16. Even though it appeared that public opinion at the time was on our side, we also knew that it would require a huge amount of effort, momentum, and public support to be successful. Further, Idaho law required that we qualify each individual piece of legislation through the referendum process outlined in Idaho Code as a separate referendum.

17. We had thousands of specially-numbered ballots printed.

18. We built a special electronic system to track the following: the number of signatures on each petition, the county from which the signatures were gathered, and the number of signatures on the petition that were ultimately verified by the county clerk.

19. In preparation for our work, we registered all IEA associate (clerical) staff members and every interested professional staff member as notaries, so that we could quickly and easily notarize petitions as they were returned to one of our regional offices or were collected in the field by IEA staff members.

20. We worked with the IEA staff in our various offices (Coeur d'Alene, Lewiston, Boise, Twin Falls, Pocatello, Idaho Falls), our elected leaders of our nearly 100 local associations throughout every Idaho public school district, and our nearly 13,000 members at the time, to identify as many public events as possible that would be occurring throughout their communities between April 7, the day the legislature

adjourned sine die and June 6, the 60th, and final, day to submit petitions in order to qualify the measures for the ballot.

21. We continuously held phone banks at IEA regional offices throughout the state during the 60-day timeframe. At these phone banks, members volunteered to call other members to encourage them to volunteer to collect signatures on petitions at one or more of the previously-identified public events.

22. Throughout the 60-day signature-gathering window, we set up regularly-scheduled petition collections and ensured there was a notary available at those events.

23. Once petitions were notarized, they were returned to one of the IEA regional offices and information from the petitions was put into the electronic petition tracking system.

24. Once tracked, petitions were delivered to the appropriate county clerk for verification. At least once weekly, verified petitions were collected from the county clerks.

25. Upon receipt of the verified petitions, an IEA staff person was responsible to update information in the electronic petition tracking system to ensure accurate counts of verified signatures.

26. All verified petitions were boxed by county and IEA staff members were identified and charged with the safe and secure delivery of all verified petitions to the IEA headquarters in Boise.

27. Once verified petitions were delivered to Boise, they were secured in a safe storage room to await delivery to the Secretary of State's office.

28. With the help of 4,439 individual volunteers, consisting of educators, parents, and public-education supporters from across the state, we were able to collect the 47,432

signatures needed for each of the three measures. We had significant public support, even in rural areas.

29. The IEA delivered 125 boxes of verified petitions to the Secretary of State in time to ensure the measures appeared on the 2012 General Election ballot.

30. The referendum process is exceedingly difficult in Idaho. Because of the very short timeline and signature requirement of 6% of the qualified Idaho electors, the work is all-consuming and highly stressful. Additionally, ensuring the greatest possibility of success is expensive.

31. Had we needed to meet the geographical requirement in Senate Bill 1110 requiring that 6% of signatures must come from every single one of Idaho's 35 legislative districts, it would have been overly burdensome and our path to success would have certainly been vastly more difficult. And even with the highly organized system of our campaign which was able to activate an existing organizational structure, effective use of technology and an army of volunteers and staff, based upon my personal experience, I do not think it would have been possible.

32. All three of the extremely unpopular "Luna Laws" were repealed by the citizens of Idaho in the 2012 General Election. Every voter in the State who participated in the election had the ability to vote on these measures.

33. I declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

EXECUTED ON this 5th day of May 2021.

/s/Robin Nettinga
Robin Nettinga

EXHIBIT 6

DECLARATION OF KAREN LANSING

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Attorneys for Petitioners

IN THE SUPREME COURT FOR THE STATE OF IDAHO

**RECLAIM IDAHO, and the
COMMITTEE TO PROTECT AND
PRESERVE THE IDAHO
CONSTITUTION, INC.,**

Petitioners,

v.

**LAWERENCE DENNEY, in his official
capacity as Idaho Secretary of State, and
the STATE OF IDAHO,**

Respondents.

Case No.

**DECLARATION OF KAREN
LANSING IN SUPPORT OF
PETITION FOR A WRIT OF
PROHIBITION**

I, Karen Lansing, having first been duly sworn upon oath, declare as follows:

DECLARATION OF KAREN LANSING, IN SUPPORT OF PETITION FOR A WRIT OF
PROHIBITION- 1

1. My name is Karen Lansing, and I am an active volunteer of Reclaim Idaho, a Petitioner in this case.
2. I formerly sat as a judge on Idaho Court of Appeals from 1993 to 2015.
3. I became associated with Reclaim Idaho in January 2018 when I volunteered to gather signatures on the initiative petition to expand Medicaid in Idaho. When the organization launched its second initiative petition effort in October 2019 to increase state funding for public schools, I again participated. I simultaneously gathered signatures for a separate, unrelated initiative to raise the minimum wage in Idaho.
4. I gathered petition signatures in a number of ways. These included going door-to-door in residential neighborhoods in Boise, Nampa, Caldwell, and Eagle; standing in the vicinity of polling places on election days in November 2019 and March 2020 to solicit signatures from voters, approaching people attending rallies and other political events; standing near entrances to public libraries and other public buildings in Boise and Nampa; and requesting signatures of passers-by on public sidewalks.
5. Based on this experience, I can say with conviction that obtaining large numbers of signatures on an initiative petition is no simple task. To the contrary, it is extremely difficult and time-consuming.

6. I found that the biggest difficulty in soliciting signatures at residences was in finding people at home. Because most people work during the weekdays, I did nearly all of my door-to-door signature gathering on weekends or after 5:30 p.m. on weekdays during daylight hours. Despite focusing on those time frames when people were most likely to be at home, I estimate that there were answers to my knock at only about one out of every five homes that I approached.

7. To maximize the efficiency of door-to-door signature gathering, Reclaim Idaho supplied lists of addresses where it was believed one or more residents were registered voters who would be willing to sign the petition. Thus, instead of simply knocking on every door on a particular street, volunteers were assigned "turfs" with the designated addresses, and maps of their location, in order to avoid spending unproductive time at residences where occupants were less likely to sign or to be registered voters. Even with the aid of this system, I estimate that I was able to obtain a signature from only about one out of every three houses where someone answered the door. People often said they would decline to sign the petition because they were not sufficiently knowledgeable about the subject matter. Thus, because people were often not home, or at least not answering the door, and because those who did answer often did not sign, I commonly would knock on eight to ten doors to obtain a single signature. In suburban

subdivisions with large lots and in more rural areas, the addresses on the list were often far apart, so I sometimes would walk a mile or more to gain that one signature.

8. During the winter, obtaining signatures is especially challenging because of the weather. Operating in rain or snow isn't practical because the petitions will get wet. When there is no precipitation, it is nevertheless difficult due to the temperature. Wearing gloves is not an option when you need to manipulate pens, flip pages of petitions and maps, and record actions on a cell phone app. I found that during the winter I often could stay outside no longer than about an hour before I my hands became too cold to continue.

9. From the standpoint of the ratio between time spent and the number of signatures obtained, it is obviously significantly more time-intensive to acquire signatures in rural areas than in cities for at least three reasons. First, it takes less time to knock on many doors in relatively compact urban residential neighborhoods than in more rural areas where one must drive from house to house to house. Having spent a great deal of time in very rural Clearwater County, where I grew up, I can add that in rural areas there is often the added obstacle of resident dogs discouraging visitors from even exiting their vehicle! Second, in urban communities there are far more large public gatherings, such as political rallies, concerts, or street fairs, where one can obtain

signatures more quickly. Third, in urban areas people stream into public facilities, like libraries and county motor vehicles offices, where one can quickly contact many people, whereas rural counties' public offices generate very little traffic.

10. Considering the difficulty of collecting large numbers of signatures in rural areas, I find it truly remarkable that Reclaim Idaho's Medicaid Expansion signature drive was able to collect signatures from over 6% of registered voters in rural districts such as districts 1 and 7 in northern Idaho and district 32 in southeastern Idaho. This undoubtedly required an enormous amount of work on the part of extraordinarily dedicated volunteers. In my view, it would be practically impossible for volunteers to collect signatures from 6% of registered voters in all of Idaho's 35 state-legislative districts.

11. I declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

EXECUTED ON this 5th day of May 2021.

/s/ Karen Lansing

Karen Lansing

EXHIBIT 7

DECLARATION OF LINDA LARSON

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IN THE SUPREME COURT FOR THE STATE OF IDAHO

**RECLAIM IDAHO, and the
COMMITTEE TO PROTECT AND
PRESERVE THE IDAHO
CONSTITUTION, INC.,**

Petitioners,

v.

**LAWERENCE DENNEY, in his official
capacity as Idaho Secretary of State, and
the STATE OF IDAHO,**

Respondents.

Case No.

**DECLARATION OF LINDA
LARSON IN SUPPORT OF
PETITION FOR A WRIT OF
PROHIBITION**

I, Linda Larson, having first been duly sworn upon oath, declare as follows:

1. My name is Linda Larson, and I am the Volunteer Leader for Bonner County of Reclaim Idaho, a Petitioner in this case.
2. I was the Bonner County Co-Leader for the 2017-2018 signature drive to qualify Medicaid Expansion for the ballot. In this volunteer role, I recruited volunteers, facilitated at events, kept spreadsheets with the data from every single petition, helped organize and design advertisements for local papers, organized volunteers to write letters to the editor, and organized volunteers so that we could cover events with enough people to collect as many signatures as possible at each event. I became a notary so that I could notarize petitions, and I organize the handling of the petitions to the county elections office and back.
3. I collected signatures mostly in Sandpoint, Idaho which is in Bonner County and Legislative District 1.
4. When I collected signatures, I would go to events such as movies or plays and show up early to collect from people as they stood in line. I also collected signatures going door to door. That was the hardest for me as I have mobility issues.
5. Collecting signatures from 6% of registered voters in my district required a huge effort. It took approximately 150 volunteers working 5 to 20 hours a week for over 5 months. We stood in snowstorms and knocked on hundreds of doors. People took time

off work. I personally worked 20 to 40 hours a week as I am retired. But many working people with families took time out of their day every week to help out.

6. I was motivated to work on the Medicaid Expansion initiative because I wanted to help all of the people in Idaho who did not have any access to healthcare. I saw so many people suffer needlessly because our legislators refused to accept the federal funds. I didn't know it at the time but it turned out that my niece and nephew both qualified for expanded Medicaid. Today they are benefitting greatly from it as have so many others in Idaho.

7. I'm seriously not sure if I have the energy to collect signatures for a future initiative, knowing that we'll need to collect signatures from 6% of registered voters all 35 districts. It just seems insurmountable. I don't want to put that much energy into something and then have the initiative fail to qualify for the ballot. Our volunteers up here feel discouraged and burnt out now that Senate Bill 1110 has become law. Of course, we will still support legislation that improves the lives for everyday Idahoans. But I doubt we'll be willing to work on another ballot initiative under these impossible rules.

8. I declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

EXECUTED ON this 4th day of May 2021.

/s/Linda Larson
Linda Larson

EXHIBIT 8

DECLARATION OF JESSICA MAHURON

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IN THE SUPREME COURT FOR THE STATE OF IDAHO

**RECLAIM IDAHO, and the
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CONSTITUTION, INC.,**

Petitioners,

v.

**LAWERENCE DENNEY, in his official
capacity as Idaho Secretary of State, and
the STATE OF IDAHO,**

Respondents.

Case No.

**DECLARATION OF
JESSICA MAHURON IN
SUPPORT OF PETITION
FOR A WRIT OF
PROHIBITION**

I, Jessica Mahuron, having first been duly sworn upon oath, declare as follows:

DECLARATION OF JESSICA MAHURON, IN SUPPORT OF PETITION FOR A WRIT OF
PROHIBITION- 1

1. My name is Jessica Mahuron, and I live in Coeur d'Alene, Idaho.
2. I served as the Reclaim Idaho volunteer leader for Kootenai County during the Medicaid expansion ballot initiative signature drive. This was the first and only grassroots ballot initiative or political campaign I have ever participated in.
3. My role within our local volunteer team was to ensure we met the bare minimum requirement of valid signature collection of 6% registered voters in Legislative District 4. In the end, 100 volunteers residing in Kootenai County gathered approximately 5200 signatures for districts 2-4 combined, 4000 of them deemed valid, on a local budget of less than \$500. The signature collection drive was intensified due to a shortened signature collection time of five months, and most of it occurred during an especially cold and weather-fraught winter.
4. As the local coordinator, I invested a range of 30-50 hours per week to reach campaign goals on top of my employed position of 30 hours per week. Recently married, I chose to delay my honeymoon or even take time to rest until we reached our goal. My husband also immersed himself in the campaign, along with many volunteers who collectively sacrificed an enormous amount of time and energy to win a chance of securing basic healthcare access for their neighbors, patients and loved ones.
5. The actions needed to carry out this task were: constant volunteer recruitment and being accessible for support; outreach and collaboration with citizen groups, associations and healthcare workers; creating ongoing communications on multiple platforms; providing educational resources to volunteers and voters; organizing door-knocking canvasses in

numerous neighborhoods, identifying and implementing signature collection at local events and outside public buildings; notarizing and collecting petitions; coordination with the local elections office; motivating and inspiring people in spite of challenges and setbacks; tracking progress and ensuring all ballot signature collecting rules were strictly adhered to. And all of this was done on a volunteer basis.

6. The experience was both profoundly inspiring and utterly exhausting. And it represents just a fraction of the statewide effort of hundreds of volunteers working for the common good in their own communities and the long, laborious journey it requires for Idaho citizens to pass a law.

7. The motivation for doing all of this was rooted in the desire to improve the well-being of Idahoans & their communities, along with resolving an injustice through a cherished democratic process accessible to ordinary people. It was a human rights mission to alleviate suffering and provide peace of mind for thousands of Idahoans needlessly locked out of our healthcare system. It was an opportunity for citizens and community partners to band together to solve a life-or-death problem through fiscally responsible means, and only because the Idaho Legislature refused to listen and act year after year.

8. Having experienced the hands-on logistics and intensity of a grassroots citizen initiative, I know in my bones that requiring signature collection of 6% of registered voters from all 35 legislative districts is an unsurmountable wall to climb, even for the most passionate. It would

deter Idaho citizen initiative organizers from sacrificing valuable time, energy, volunteer commitment, and financial resources with the increased, if not total, risk of failure.

9. The restrictions brought forth by the Idaho Legislature will have the same devastating damage to civic engagement and trust in government that voter suppression laws in other areas have. Volunteering was 110% worth the effort knowing the good it achieved, but what proceeded in the legislature after Medicaid expansion was signed into law and actions taken to stifle future initiatives broke my own heart and desire to engage in the process again.

10. Why even try when citizen voices always fall upon deaf ears, when volunteers are put through endless hoops to address an injustice and treated with such intolerance by their own representatives? I hope the courts can reverse this law and restore the role we as citizens have in our own government.

11. I declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

EXECUTED ON this 3rd day of May 2021.

/s/ Jessica Mahuron
Jessica Mahuron