
Idaho Voters' Pamphlet

MAKING ELECTIONS MAKE SENSE

YOUR QUICK GUIDE TO

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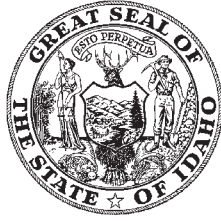


Send a Message. VOTE!

Idaho General Election, November 7, 2006

Published by
Ben Yursa
Secretary of State
State of Idaho





**STATE OF IDAHO
OFFICE OF THE SECRETARY OF STATE
BEN YSURSA**

Dear Idahoan:

This is your Idaho Voters' Pamphlet containing information concerning the two propositions which will appear on the November 7, 2006 ballot. It contains the ballot title, the pro and con arguments and rebuttals, what your vote means, and the complete text of each ballot measure. For your information the proposed constitutional amendments and the advisory vote put forth by the legislature are also contained herein.

The arguments for and against, as provided by law, are the opinions of the respective authors. The publishing of the arguments for these measures does not constitute an endorsement by the State of Idaho, nor does the State warrant the accuracy or truth of any statement made in the arguments.

Another section contains information on voter registration. Important information is included for those who are not registered to vote, or have moved recently.

Read carefully the information about the measures contained in this pamphlet. Such measures are designed specifically to give you, the electorate, the opportunity to influence the laws which regulate us all.

Visit our internet site at www.idahovotes.gov for additional election information.

Take advantage of this opportunity and vote on November 7, 2006.

Sincerely,

A handwritten signature in black ink that reads "Ben Ysursa". The signature is written in a cursive, flowing style.

BEN YSURSA
SECRETARY OF STATE

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AN INITIATIVE INCREASING K-12 EDUCATION FUNDING FOR LOCAL PUBLIC SCHOOLS BY ADDING ONE PERCENT TO STATE SALES TAX

What your vote would do:

A **YES** vote would direct the legislature to increase state funding for public schools.

A **NO** vote would make no change in school funding.

(Facsimile Ballot)

PROPOSITION ONE

AN INITIATIVE INCREASING K-12 EDUCATION FUNDING FOR LOCAL PUBLIC SCHOOLS BY ADDING ONE PERCENT TO STATE SALES TAX

An initiative relating to K-12 public school funding; identifying the purpose of this initiative as providing adequate and stable funding for local K-12 public schools; adding one percent (1%) sales tax rate, effective July 1, 2007, or requiring legislature to develop alternative revenue stream for this component of K-12 local public school funding; creating the Idaho Local Public Schools Investment Fund which, along with other revenue sources, will be used exclusively for K-12 public education, and which must be used for supporting students in the classroom and improving local schools; requiring annual accountability reports from local school boards on use of increased revenues; requiring that increased revenues in the Idaho Local Public Schools Investment Fund augment, not replace, current K-12 public school support revenue; establishing the method to compute each year’s general fund appropriation for public schools; providing for distribution of increased revenues through the current K-12 public school funding mechanism; requiring advisory revote on Act in year 2020; and containing a severability clause.

YES

Shall the above measure proposed by Proposition One be approved? **NO**

Text of Proposed Law - Proposition One

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

33-908. Title. This Act shall be entitled and may be referred to as “The Idaho Local Public Schools Investment Act.”

33-909. Purpose. The people of the State of Idaho, having concluded that the provision of a high quality public education to Idaho school children is essential to the well-being of those school children and other citizens of this state; and that a greater investment in our local public schools will put money directly into the classroom by providing up-to-date classroom materials, textbooks and adequate supplies for students and staff, giving students in Idaho’s local public schools sufficient options for either college preparatory courses or professional and technical training courses, reducing class sizes, and helping to attract and retain highly-qualified school teachers and staff; and having determined the importance of state government paying its fair share for local public schools, including but not limited to improving Idaho’s ranking of forty-fifth (45 th) in the nation on education spending per student; and having further determined a greater investment in K-12 education will allow Idaho students to better compete for good-paying jobs; hereby establish by this initiative a mechanism for more adequate and stable funding to local school districts for public education at the K-12 level that will, unless modified, result in increased student achievement and affirm Idaho’s commitment to a thorough and quality public education system as one of our highest priorities.

33-910. Increase Education Funding for all Local K-12 Public Schools with One Percent Added Back to State Sales and Use Tax Rate, Effective July 1, 2007. For the purpose of providing adequate and stable funding for Idaho’s K-12 local public schools, effective July 1, 2007, the sales and use taxes imposed upon each sale or purchase subject to taxation under the Idaho Sales Tax Act, chapter 36, title 63, Idaho Code shall be returned from the current five percent (5%) rate to and be maintained at the six percent (6%) rate in effect on June 30, 2005.

Should the Idaho legislature increase the sales and use taxes before the effective date of this Act, the legislature shall be charged with developing an alternative state-based revenue stream that will provide a level of increased funding for K-12 local public schools that is at least equal to the amount of revenue that would have been generated by increasing the sales and use taxes as provided in this section while holding funding for all other existing public services harmless.

33-911. Creation of the Idaho Local Public Schools Investment Fund. Notwithstanding the requirements of section 63-3638, Idaho Code, all of that portion of the increased revenues, after refunds or after compliance with section 63-3709, Idaho Code, derived from returning the sales and use taxes to the June 30, 2005 rate or from the alternative state-based revenue stream shall be placed in the “Idaho Local Public Schools Investment Fund” which is hereby created. All revenues placed in the Idaho Local Public Schools Investment Fund, plus all other revenue amounts in the annual general account appropriation

as provided in section 33-914, Idaho Code, shall be continuously appropriated and utilized for funding public education at the K-12 level. The provisions of this act shall include and apply to public charter schools.

33-912. Use of Enhanced Revenues. Local school districts shall spend one hundred percent (100%) of the revenues placed in the Idaho Local Public Schools Investment Fund on any of the following items to support students in the classroom and improve local schools:

- (1) Providing current and adequate classroom materials, such as textbooks and supplies, for students;
- (2) Providing every high school student with the opportunity to take either college preparatory courses or professional and technical training courses;
- (3) Reducing class sizes and preventing class size increases;
- (4) Attracting and retaining highly-qualified teachers and other school employees, including but not limited to providing competitive salaries, offering continuing education opportunities, and providing support for new educators;
- (5) Replacing out-of-date or broken technology such as computers that students need for individualized learning and access to information;
- (6) Restoring local educational programs previously eliminated or reduced, enhancing existing educational programs, or providing new educational programs with the goal of ensuring that Idaho student achievement levels meet or exceed local, state and national standards and requirements;
- (7) Providing classroom aides to help provide more individualized assistance to students;
- (8) Providing support for arts and music education in all local public schools; and
- (9) Paying for routine school maintenance to protect the public's investment and promote student safety.

33-913. Local Annual Accountability Reports on Use of Revenues. In addition to its annual audit and in order to provide information to the public about how revenues appropriated from the Idaho Local Public Schools Investment Fund were used, at least once annually the board of trustees of each local public school district shall issue a document available and easily accessible to the general public identifying the items set forth in section 33-912, Idaho Code, for which such additional revenues were utilized and the impact of such utilization of public education at the K-12 level.

33-914. Annual General Account Appropriation Amount. In order to augment, rather than replace, K-12 public school support, the revenues in the Idaho Local Public Schools Investment Fund are to be provided in addition to the state's general account appropriation to K-12 public schools and not in place of any part of that appropriation. To that end, the general account appropriation for K-12 public school support established during the 2006 legislative session shall constitute the initial base funding level for K-12 public schools. In every year thereafter, the general account appropriation for K-12 public school support shall consist, at minimum, of:

- (a) the base funding amount for the prior year;
- (b) dedicated endowment lands, lottery dividends and miscellaneous revenues, cigarette and lottery tax revenues, and federal funds;
- (c) the revenues in the Idaho Local Public Schools Investment Fund;
- (d) sufficient revenues to cover the cost of increased student enrollment; and
- (e) an annual inflationary factor, based on the percentage change in the consumer price index for all urban consumers, as published by the bureau of labor statistics, United States department of labor, from December of the second previous year to December of the previous year.

The 2007 Idaho Legislature, in establishing the general account appropriation for K-12 public school support for fiscal year 2008, shall use the provisions of this Act, including the revenues anticipated from returning the sales and use taxes to six percent (6%) on July 1, 2007.

The general account appropriation for K-12 public school support may only be reduced in future years if there is a decline in student enrollment greater than ten percent (10%) statewide for two or more consecutive years.

33-915. Distribution of General Account Appropriation Amount. In every year, the general account appropriation for K-12 public school support, as determined in section 33-914, Idaho Code, shall be distributed to local K-12 public schools as provided in chapter 10, title 33, Idaho Code.

33-916. Public Reauthorization of This Act. To ensure the purpose of this Act is met and to provide the public the opportunity to determine if the provisions of this Act continue to meet the needs of Idaho's K-12 public schools, (a) the board of trustees of each local public school district is hereby directed to conduct a study and issue a cumulative public report by September 1, 2020 concerning the effectiveness of this Act and (b) the Idaho Legislature is hereby directed to place an advisory measure on the 2020 general election ballot asking the public whether the provisions of this Act shall be continued. The year 2020 is selected as the public reporting and voting year so that the public can consider the effectiveness of this Act based on an entire generation of Idaho school children having advanced through Idaho's K-12 public school system.

33-917. Severability. If any portion, clause or phrase of this Act is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, the remaining portions, clauses or phrases shall not be affected, but shall remain in full force and effect.

Argument IN FAVOR of Proposition One

Proposition 1: Our Schools Are In Trouble. This is Your Chance to Do Something About It.

Years of stagnant or decreasing funding means our local schools and kids across Idaho are missing opportunities and falling behind:

- **Idaho ranks 45th in the nation** on what we spend to educate our children.
- We have the **nation's 8th most crowded classrooms**.
- We have **the 44th lowest** percentage of kids going on to college.

In every part of Idaho, this harms our kids' chances at success and Idaho's ability to prosper:

- **Books, technology and materials are out of date—and there aren't enough to go around.** Many children cannot take textbooks home for homework.
- In some schools, **students cannot take basic courses such as Chemistry** unless they pay extra.
- **Roofs leak** and carpets are 40-years old.

This is unacceptable. Educating our children and providing enough teachers, up-to-date learning materials and safe classrooms should be our highest priority.

Don't be fooled. No other proposal on the ballot guarantees additional school funding. It's up to us to do the right thing for our children's education.

Proposition 1: Money for What Students Need, with Accountability and Local Control for Taxpayers

Proposition 1—The Idaho Local Public School Investment Act—increases education funding for all Idaho public schools by adding 1% back to the state sales tax, returning it to 6% from 5%. The increase can only go to public school funding. If the legislature takes the penny for another purpose? They must replace the funding with an alternative source without harming other critical services.

Proposition 1 requires 100% of the additional revenue generated be spent on classroom instruction and support. Local school districts must choose from a specific menu of nine areas to spend the money and must issue an annual report to the public showing these funds were used as intended.

Proposition 1:

Delivers the Best Teaching Methods and Supplies We Can Offer • In addition to out-of-date and inadequate supplies of basic textbooks, some teachers are forced to teach English without books or dictionary skills without dictionaries. Prop. 1 provides up-to-date supplies and learning materials.

Maintains or Lowers Class Size • Proposition 1 funds schools to reduce class sizes and prevent class size increases so students receive the individual attention they need to succeed.

Attracts and Retains Highly Qualified Teachers & School Staff • Students deserve the very best possible educators and school support staff. Prop. 1 helps attract and keep the best and brightest.

Helps Provide a Quality Education for All Public School Students • Every Idaho student should be prepared, whether for college or a job. This initiative supports college preparatory classes and technical (vocational) training courses.

Proposition 1 makes our kids' education a bigger priority. Every Idaho public school benefits. **Local schools will have adequate and stable funding to provide kids with the textbooks, teachers and technology they need to compete in tomorrow's**

job market. **Yes on Prop 1: A Good Return on Our Investment - www.yesforidahoschools.org**

Invest in Our Kids' Education Campaign

Rebuttal to Argument In Favor of Proposition One

The Idaho Education Association is lying in order to get you to support a 20 percent increase in the sales tax.

Idaho's public schools receive more money each and every year. Our public schools now receive \$1.03 billion from the state. So why would the teacher's union lie in order to get money for public schools? And why has the teacher's union used token arguments about a lack of books to convince you that we need to raise the sales tax? Why would the Idaho Education Association be willing to raise other taxes-including the property tax-for its cause?

The fact of the matter is, the teacher's union wants this tax increase to pay for teacher raises. That is obvious from the fact that the union has failed to mention this as being one of the possible uses of the sales tax increase. In fact, the Idaho Education Association's Proposition One doesn't require schools that need books, to buy books. Already, money going to schools to pay for supplies is being siphoned off to pay for teacher salaries. Recently, the teacher's union forced the Meridian School District to forgo buying new books and supplies in order to pay for teacher raises.

This kind of tax and spend policy has worked so well in some school districts, the Idaho Education Association wants you to support it on a statewide basis. The losers in this arrangement will be our kids. Please protect Idaho's children by voting against the teacher's union and Proposition One.

Idahoans for Excellence in Education

ARGUMENTS PRINTED ON THIS PAGE ARE THE OPINIONS OF THE AUTHORS AND HAVE NOT BEEN CHECKED FOR ACCURACY BY ANY OFFICIAL AGENCY.

Argument AGAINST Proposition One

PROTECT IDAHO'S CHILDREN, VOTE NO ON PROPOSITION ONE!

- It would squeeze about \$4 BILLION from Idaho's taxpayers over the next 13 years without a plan for spending the money. It is highly unlikely that our children will see a penny of it!
- It would put an additional burden on Idaho's working families by increasing their sales tax by 20 percent.
- It singles out a particular employee group for a large salary increase. Our teachers are important, but so are our policemen and firemen. When nearly \$4 BILLION is siphoned away from other programs, it will be nearly impossible to address the salary needs of other valuable employees and agencies. Proposition One is a very divisive plan!
- It is a "shotgun" approach to education funding. Taxpayer money should be targeted towards needs, not allocated randomly. This "shotgun" method will virtually guarantee that the legislature will be unable to approve targeted increases for future needs. That means that critical needs will go unmet! Children will suffer as a result.
- Proposition One falsely claims that there is a connection between student spending and student performance. THERE IS NONE! In fact, per pupil spending in Idaho has increased by seven times in the last four decades. Student performance has been stagnant. The Texas Supreme Court recently concluded that there is NO relationship between money and student performance. Utah's schools outperform Idaho's schools at 75 percent of the cost of Idaho's schools. Idaho's charter schools produce a quality education at a cost of about 80 percent of Idaho's traditional schools.
- Idaho has tried before to use big spending to boost student achievement. In 1994-95, the Legislature increased school spending by \$100 million. The result was massive increase in spending for teachers and staff, but almost no increase in student performance.
- Idaho's teachers are paid a beginning salary of \$30,000. With benefits, it comes to about \$40,000. After only 12 years of experience, teachers may earn as much as \$70,000. Compared to most Idaho taxpayers, teachers are among the highest paid in the state. Teachers are paid the fifth highest among other Idaho Occupations.
- The Idaho teacher's union thinks Idaho's tax policy is for sale. The union will spend millions of dollars to convince you that Proposition One is an investment in kids. In fact, it is an investment in the union – the only direct beneficiaries. It is a crying shame that the union leadership would prostitute Idaho's children for their own gain. But as a nationally-known union leader recently stated, "When students start paying union dues, we will be concerned about students." Proposition One is not about your child's school teacher. It is all about the union using its political muscle for its own interests.

PROTECT IDAHO'S CHILDREN, VOTE NO ON PROPOSITION ONE!

Idahoans for Excellence in Education

Rebuttal to Argument Against Proposition One

Let's Set the Record Straight About Proposition 1

- **Every penny** of the money generated by Proposition 1 **will be spent directly on Idaho's public school students, not for administration—it's the law.**
- Proposition 1 **helps the children of Idaho's working families compete for better-paying jobs.**
- Proposition 1 **does not divert a single penny from other services** like police and fire.
- **The money from Proposition 1** can only be spent on nine specific areas that most improve student success in the classroom. Local control is also guaranteed since school districts determine what they need the most, and **must report to the public how the money was used.** That's far more taxpayer accountability than now exists.
- Money is not the only factor in a quality education, **but it takes money to replace out-of-date textbooks, and to make sure there are enough for every student, as well as ensure classrooms are safe and in good repair.** We are **45th out of 50 states** in per pupil spending and have the **8th most crowded classrooms.** The idea that inadequate funding doesn't hurt the academic success of our children is absurd.
- Attacking our classroom teachers is not the way to improve our schools. **Idaho is losing highly skilled and committed teachers to other states.** Proposition 1 is critical to Idaho's ability to retain and attract the best and brightest for our kids.

Idaho's Schools Are Idaho's Future

Vote Yes on Proposition 1

Invest in Our Kids' Education Campaign

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AN INITIATIVE LIMITING EMINENT DOMAIN WHEN USED FOR ECONOMIC DEVELOPMENT; DEFINING LAND USE LAW; AND PERMITTING JUST COMPENSATION FOR REGULATORY TAKINGS.

What your vote would do:

A **YES** vote would expand the definition of eminent domain and provide further limitations on its use.

A **No** vote would make no changes to the current definition and use of eminent domain.

(Facsimile Ballot)

PROPOSITION TWO

AN INITIATIVE LIMITING EMINENT DOMAIN WHEN USED FOR ECONOMIC DEVELOPMENT; DEFINING LAND USE LAW; AND PERMITTING JUST COMPENSATION FOR REGULATORY TAKINGS.

An initiative relating to eminent domain; amending section 7-701, Idaho Code, to provide limitations on eminent domain for private parties, and for urban renewal or economic development purposes; and provide for further judicial review of proceedings involving the exercise of eminent domain; adding a new section 7-701A to provide for definitions relating to highest and best use, fair market value, just compensation, and land use law; and amending Chapter 80, Title 67, Idaho Code, to provide for just compensation when a regulatory action reduces fair market value of property and to provide just compensation to a condemnee.

YES

Shall the above measure proposed by Proposition Two be approved?

NO

Text of Proposed Law - Proposition Two

Therefore, be it enacted by the People of the State of Idaho :

SECTION 1. That Section 7-701, Idaho Code, is hereby amended to read as follows:

7-701. Uses for which eminent domain is authorized. Subject to the provisions of this chapter, the right of eminent domain may be exercised in behalf of the following public uses:

1. Public buildings and grounds for the use of the state, and all other public uses authorized by the legislature, except as provided in subsection (12) of this section.
2. Public buildings and grounds for the use of any county, incorporated city or school district; canals, aqueducts, flumes, ditches or pipes for conducting water for use on state property or for the use of the inhabitants of any county or incorporated city, or for draining state property for any county or incorporated city, raising the banks of streams, removing obstructions therefrom and widening, deepening or straightening their channels, roads, streets, alleys, and all other public uses for the benefit of the state or of any county, incorporated city or the inhabitants thereof, except as provided in subsection (12) of this section.
3. Wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads, steam, electric and horse railroads, reservoirs, canals, ditches, flumes, aqueducts and pipes, for public transportation supplying mines and farming neighborhoods with water, and draining and reclaiming lands, and for storing and floating logs and lumber on streams not navigable.
4. Roads, tunnels, ditches, flumes, pipes and dumping places for working mines; also outlets, natural or otherwise, for the flow, deposit or conduct of tailings or refuse matter from mines; also, an occupancy in common by the owners or possessors of different mines of any place for the flow, deposit or conduct of tailings or refuse matter from their several mines,
5. Byroads, leading from highways to residences and farms.
6. Telephones, telegraph and telephone lines.
7. Sewerage of any incorporated city.
8. Cemeteries for the burial of the dead, and enlarging and adding to the same and the grounds thereof.
9. Pipe lines for the transmission, delivery, furnishing or distribution of natural or manufactured gas for light, heat or power, or for the transportation of crude petroleum or petroleum products; also for tanks, reservoirs, storage, terminal and pumping

facilities, telephone, telegraph and power lines necessarily incident to such pipe lines.

10. Snow fences or barriers for the protection of highways from drifting snow.

11. Electric distribution and transmission lines for the delivery, furnishing, distribution, and transmission of electric current for power, lighting, heating or other purposes; and structures, facilities and equipment for the production, generation, and manufacture of electric current for power, lighting, heating or other purposes.

12. Eminent domain shall not be used to acquire private property:

(a) If at the time of the condemnation, the public body condemning the property, or its designee, intends to convey fee title to all or a portion of the real property, or a lesser interest than fee title, to another private party; or,

(b) For the purpose of promoting or effectuating economic development; provided, however, that nothing in this subsection 12 shall affect the exercise of eminent domain under the following circumstances:

(1) Use of eminent domain for the specific public and private uses expressly set forth in Article I Section 14 of the Constitution of the State of Idaho.

(2) Use of eminent domain for the granting of non-possessory interests in the property to be taken for the purpose of financing acquisition of the property;

(3) Use of eminent domain pursuant to chapter 15, title 70, Idaho Code;

(4) Use of eminent domain pursuant to Title 42, Idaho Code;

(5) Use of eminent domain pursuant to Chapters 19, 20, or 29, Title 50, Idaho Code, except that no private property shall be taken through exercise of eminent domain with the area of operation of a housing authority or within an urban renewal area or within a deteriorated area or within a competitively disadvantaged border community area unless the specific property to be condemned is proven by clear and convincing evidence that it meets all of the following requirements:

(i) The property, because of its general dilapidated condition, compromised structural integrity, and / or failed mechanical systems, endangers life or endangers property by fire or other perils that pose an actual identifiable threat to building occupants; and,

(ii) The property contains specifically identifiable conditions that pose an actual risk to human health, transmission of disease, juvenile delinquency, or criminal content; and,

(iii) The property presents an actual risk of harm to the public health, safety, morals, or general welfare.

13. This section shall not affect the authority of a governmental entity to condemn a leasehold estate on property owned by a governmental entity.

14. The rationale for condemnation by the governmental entity proposing to condemn property shall be freely reviewable in the course of judicial proceedings involving exercise of the power of eminent domain.

SECTION 2. That Chapter 7, Title 7, Idaho Code be, and the same is hereby amended by the addition thereto of a New Section , to be known and designated as Section 7-701A, Idaho Code to read as follows:

7-701A. Definitions.

(1) The following definitions shall apply for all purposes of Chapter 7, Title 7, Idaho Code, unless the text otherwise requires.

(2) "Public Body" means the state and its agencies, cities, counties, and any other political subdivision of the state.

(3) "Owner" means the holder of fee title to the subject real property.

(4) "Land Use Law" means:

(a) Any statute, rule or ordinance or any law that regulates the use or division of land or any interest in land or that regulates accepted farming and forest practices, including comprehensive plans and zoning ordinances that are enacted by this state or a political subdivision of this state; and,

(b) Local government comprehensive plans, zoning or subdivision ordinances, regulations, restrictions and controls for the use or division of land.

(5) "Public Use" means:

(a) The possession, occupation and enjoyment of the land by the general public or by public agencies.

(b) The use of land for the creation or functioning of public utilities.

(c) The acquisition of property to cure a concrete harmful effect of the current use of the land, including the removal of structures that are beyond repair or that are unfit for human habitation or use.

(d) The acquisition of abandoned property.

(6) "Public Use" does not mean, or include within its meaning, the public benefits of economic development, including an increase in tax base, tax revenues, employment or general economic health.

(7) "Highest and Best Use" means the highest estimated value of the property based on use to which the property is reasonably adaptable and capable, without consideration of any future zoning or dedication requirements imposed by a public body or land uses laws that would serve to diminish the value of the property. Any property taken for use by any public body shall be valued at the use to which the public body intends to put the property, if such use results in the highest value for the land taken.

(8) "Good Will" means the benefits that accrue to a business as a result of its location, reputation, skill or quality and the

probable loss of patronage as a result of a taking.

(9) "Fair Market Value" means the highest price estimated in terms of money that the real property would bring if exposed for sale on the open market with reasonable time allowed in which to find a purchaser, and the purchase is accompanied with disclosure of all known uses to which the property is reasonably adaptable and capable in order to establish the highest and best use of said property.

(a) If private property consisting of an individual's principal residence is taken for public use, the amount of compensation made and determined for that taking shall not be less than the sum of money that is necessary to place the property owner back in the same position monetarily as if the property had never been taken, in addition to any other reimbursement allowed by law.

(b) The owner of a business conducted on the subject property that is taken shall be compensated for loss of goodwill in addition to all relocation costs required by state and federal law.

(10) "Just Compensation" means:

(a) For the Purposes of a taking, the sum of money that is necessary to place the property owner back in the same position, monetarily and without any governmental offsets, as if the property or property interest had never been taken. Just compensation includes all reasonable costs and expenses actually incurred.

(b) For the purposes of an action for diminution in value, the sum of money that is equal to the reduction in fair market value of the property resulting from the enactment or enforcement of the land use law as of the date of enactment of the land use law. Just compensation includes "severance damages" (§ 7-711A(3)) and all reasonable costs and expenses actually incurred, except attorney fees and related costs are awarded only pursuant to § 7-711A(8). Compensation for the enactment or enforcement of any land use law shall be measured as of the date a written demand is made by the owner.

(11) "Regulated" means the enactment or enforcement of a statute, charter provision, ordinance, resolution, regulation, rule or policy by this state or a political subdivision of this state or the unreasonable inaction by this state or a political subdivision of this state that results in the direct denial, in whole or in part, of the economic, beneficial or productive use of private property by the owner.

(12) "Taken" and "Taking" means the transfer of ownership, control or use from a private property owner to this state or a political subdivision of this state or to any person other than this state or a political subdivision of this state.

SECTION 3 That Section 67-8002, Idaho Code, be, and the same is hereby amended to read as follows: As used in this chapter:

(1) "Local government" means any city, county, taxing district or other political subdivision of state government with a governing body.

(2) "Private property" means all property protected by the constitution of the United States or the constitution of the state of Idaho.

(3) "State agency" means the state of Idaho and any officer, agency, board, commission, department or similar body of the executive branch of the state government.

(4) "Regulatory taking" means a regulatory or administrative action resulting in deprivation of private property that is the subject of such action, whether such deprivation is total or partial, permanent or temporary, in violation of the state or federal constitution.

(5) "Land use law" means:

(a) Any statute, rule or ordinance or any law that regulates the use or division of land or any interest in land or that regulates accepted farming and forest practices, including comprehensive plans and zoning ordinances that are enacted by this state or a political subdivision of this state; and

(b) Local government comprehensive plans, zoning or subdivision ordinances, regulations, restrictions and controls for the use or division of land.

(6) The definitions set forth in Section 7-701A shall be and hereby are applicable to this Chapter 80.

SECTION 4 Section 67-8003, Idaho Code, is hereby amended to read as follows:

(1) The attorney general shall establish, by October 1, 1994, an orderly, consistent process, including a checklist, that better enables a state agency or local government to evaluate proposed regulatory or administrative actions to assure that such actions do not result in an unconstitutional taking of private property. The attorney general shall review and update the process at least on an annual basis to maintain consistency with changes in law. All state agencies and local governments shall follow the guidelines of the attorney general.

(2) Upon the written request of an owner of real property that is the subject of such action, such request being filed with the clerk or the agency or entity undertaking the regulatory or administrative action not more than twenty-eight (28) days after the final decision concerning the matter at issue, a state agency or local governmental entity shall prepare a written taking analysis concerning the action. Any regulatory taking analysis prepared hereto shall comply with the process set forth in this chapter, including use of the checklist developed by the attorney general pursuant to subsection (1) of this section and shall be provided to the real property owner no longer than forty-two (42) days after the date of filing the request with the

clerk or secretary of the agency whose action is questioned. A regulatory taking analysis prepared pursuant to this section shall be considered public information.

(3) A governmental action is voidable if a written taking analysis is not prepared after a request has been made pursuant to this chapter. A private real property owner, whose property is the subject of governmental action, affected by a governmental action without the preparation of a requested taking analysis as required by this section may seek judicial determination of the validity of the governmental action by initiating a declaratory judgment action or other appropriate legal procedure. A suit seeking to invalidate a governmental action for noncompliance with subsection (2) of this section must be filed in a district court in the county in which the private property owner's affected real property is located. If the affected property is located in more than one (1) county, the private property owner may file suit in any county in which the affected real property is located.

(4) During the preparation of the taking analysis, any time limitation relevant to the regulatory or administrative actions shall be tolled. Such tolling shall cease when the taking analysis has been provided to the property owner. Both the request for a taking analysis and the taking analysis shall be part of the official record regarding the regulatory or administrative action.

(5) If an owner's ability to use, possess, sell, or divide private real property is limited or prohibited by the enactment or enforcement of any land use law after the date of acquisition by the owner of the property in a manner that reduces the fair market value of the property, the owner shall be entitled to just compensation, and shall not be required to first submit a land use application to remove, modify, vary, or otherwise alter the application of the land use law as a prerequisite to demanding or receiving just compensation under subsection (9) of this section.

(6) Subsection (5) of this section shall not apply to land use laws:

(a) Limiting or prohibiting a use or division of real property for the protection of public health and safety, such as fire and building codes, health and sanitation regulations, traffic control, liquor control, solid or hazardous waste regulations, and pollution control regulations;

(b) Limiting or prohibiting a use or division of real property commonly and historically recognized as a public nuisance under common law;

(c) Required by federal law;

(d) Limiting or prohibiting the use or division of a property for the purpose of selling pornography or performing nude dancing, provided such land use laws are consistent with the Idaho and United States Constitutions; or

(e) Were enacted before the effective date of this Section.

(f) That do not directly regulate an owner's land.

(7) Just compensation pursuant to subsection (5) of this section shall be equal to the reduction in the fair market value of the property resulting from enactment or enforcement of the land use law as of the date of enactment of the land use law.

(8) The burden of demonstrating that a land use law is exempt by subsection (6) of this section is on the public body enacting or enforcing the land use law.

(9) If a land use law continues to apply to private real property more than 90 days after written demand for just compensation is made to the public body enacting or enforcing the land use law by the owner of the real property, the owner shall have a cause of action for just compensation, and shall be entitled to attorney fees, costs, and expenses incurred in the prosecution of the action. Such cause of action for compensation must be brought within 120 days after the expiration of the 90 day period following written demand for compensation.

(10) The remedy created by subsection (5) of this section is in addition to any other remedy under the Idaho or United States Constitutions, and is not intended to modify or replace any other remedy.

SECTION 5 If any portion or portions of the foregoing amendments are declared invalid by a court of competent jurisdiction, the remaining portions of these amendments shall remain in full force and effect.

Argument IN FAVOR of Proposition Two

Protect Private Property Rights — Vote YES on Prop. 2

Friday, June 23, 2006 was the one-year anniversary of the now-infamous U.S. Supreme Court decision (*Kelo*) that stripped Americans of any meaningful federal constitutional protection for their private property.

What a difference a year brings. Since the *Kelo* decision, Americans across the nation have risen up to protect their traditional private property rights from government takings abuse.

Many citizens in states like Idaho are protecting their property using the initiative process.

The taking of private property can either be a total takings via eminent domain, or a partial takings with the passage of regulatory land use laws, like zoning ordinances.

Under current law, property owners can fight for “just compensation” when property is taken by eminent domain. However, when zoning ordinances or other land use laws diminish the value of private property there is no “just compensation.”

Abusive regulatory takings are occurring in Blaine County, today. County commissioners are systematically down-zoning properties costing land owners millions of dollars.

Voting YES on Proposition 2 allows property owners to go to court and determine the amount of value that was taken by the land use law, and receive “just compensation.” It is only fair.

Taking private property by eminent domain is quite proper for many public purposes. We rely on roads. Some parks are nice. We need electrical transmission lines to span great distances to power our homes, businesses and churches.

Unfortunately, over the years some government officials have used the power to take private property and transfer it to developers in order to construct projects giving the local government an even higher property tax base at the expense of the homeowner, business, or church. (Note: churches are most vulnerable since they pay no property taxes!)

The Institute for Justice (who fought in the *Kelo* case) attorney Bert Gall said, “The argument is always the same: bureaucrats and developers with big visions of how other people should live claim that the use of eminent domain is necessary for economic development. They promise glitzy development in the name of more taxes and jobs. There is a strong incentive for cities and developers to over-hype the benefits of private development projects involving eminent domain in order to garner political and public support. But it turns out that many of these projects are failures.”

Consider this fact: in the five-years preceding the *Kelo* decision approximately 10,000 properties nationwide were threatened by or taken with eminent domain for private development. In the past year alone since *Kelo*, that number has ballooned to more than 5,700 properties.

Voting YES on Proposition 2 prevents using eminent domain for private economic development in Idaho.

Finally, just the threat of eminent domain or regulatory takings can force property owners to settle for less than what they could get on the open market.

Government takings can be by regulatory action or eminent domain. Voting Yes on Proposition 2 will prevent takings abuse and make government act like a good neighbor.

This House is MY Home

Rebuttal to Argument in Favor of Proposition Two

Proposition 2 is a Tax Trap Under Proposition 2, Idaho property taxpayers would be forced to pay millions to opportunists and special interests. Oregon, which passed a similar law in 2004, now faces claims exceeding **\$4 billion**. If Proposition 2 passes, property tax revenue will be lining the pockets of special interests and you, the Taxpayer, will foot the bill.

Proposition 2 is Bad for Property Owners Imagine someone wants to locate a junkyard or gravel pit next to your home. Under Proposition 2, you and your neighbors have no recourse: **either your property taxes pay the person NOT to do it or you watch the investment in your property disappear**. It doesn't matter how much the development would damage your property value. That's wrong.

Proposition 2 is a Bait-and-Switch The devil is in the details. Proposition 2 copies eminent domain law that is already on the books in Idaho and **provides no additional protection to homeowners**. This initiative is not about eminent domain or the *Kelo* decision—it's about creating massive loopholes for irresponsible development.

Proposition 2 is Funded by Rich Out-of-State Interests Don't let out-of-state special interests fool you. Proposition 2 allows opportunists and special interests to dodge basic community standards that the rest of us willingly follow to protect the investments in our homes, businesses, and farms.

VOTE NO on the Tax Trap.

VOTE NO on Special Treatment for Special Interests.

Protect Our Property Rights—VOTE NO on Proposition 2

Association of Idaho Cities and Idaho Association of Counties

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Argument AGAINST Proposition Two

Protect Our Property Rights—VOTE NO on Proposition 2

The key ingredient in Proposition 2 is deception: the vast majority of Idahoans would see their property rights threatened as a result of this initiative. The initiative does not provide additional protection to homeowners from eminent domain, and would dismantle local planning efforts that protect our quality of life.

Eminent Domain Reform is Already Law

Proposition 2 tackles eminent domain reform long after the Legislature has already completed the job. The first part of the initiative merely copies portions of existing law (House Bill 555) enacted by the 2006 Idaho Legislature and signed into law by Governor Kempthorne. The Idaho Legislature has already acted to protect homeowners from eminent domain. Why would the initiative copy a law that's already on the books? Because the initiative is *not* about eminent domain.

Prop 2: A Losing Proposition for Idahoans

The eminent domain section is included only to distract attention from the initiative's real purpose: gutting local planning that protects our communities and property values and allowing opportunists to prey on Idaho property taxpayers.

For example, say a landowner wants to operate a junkyard next to your house. Under Proposition 2, if the city or county denied the permit, the landowner could file a lawsuit seeking compensation or repeal of the ordinance.

Either way, you lose: the city or county repeals the laws that protect your home and property values from the noise, smell and pollution of incompatible land uses, or as a property taxpayer, you get to foot the bill. Proposition 2 is a losing proposition for Idahoans.

Opportunists Win, Taxpayers Lose

Proposition 2 is poorly written and contains numerous conflicting provisions. Someone will have to pay for the courts to sort out the answers to all these problems—that someone is you, the Taxpayer.

State and Local Laws Should Protect and Balance Property Rights for All

Make no mistake: protection of property rights is essential for everyone! Proposition 2 would allow a few opportunists to threaten our quality of life and burden Idaho property taxpayers. This is directly contrary to the constructive efforts taking place around the state to create communities where every property owner's interests are respected by striving for compatibility and neighborhood stability.

Protect Our Property Rights—VOTE NO on Proposition 2

Association of Idaho Cities and Idaho Association of Counties

Rebuttal to Argument Against Proposition Two

The legislature almost protected private property rights, but fell short by over half. Assistant House Majority Leader Mike Moyle proposed legislation similar to Proposition 2 protecting owners from government takings abuse. He didn't even get a hearing.

Opponents are weak arguing that a junkyard moves next door or taxpayers pay. They want you to "feel" like government is the "protector." Balderdash! If a junkyard moves next door you can sue the junkyard for diminishing your property values. But what if it's a government junkyard?

Voting YES on Proposition 2 protects you from government takings abuse, both from eminent domain (stronger than the legislature passed) and from regulatory abuse, which couldn't get a hearing.

Voting YES on Proposition 2 protects us from government abusing its land use law powers to diminish values. Property owners can go to court and determine the loss of value caused directly by government actions. If government doesn't diminish your property value, there is no problem.

Many government officials want to watch over our lives, direct our actions, and come running to them for "protection," as if they had parental responsibility over us. This is especially true when it comes to land use.

We know what we can do on our property when we buy it. We know our neighbors can sue us if we diminish their property values. Voting YES on Proposition 2 makes government a good neighbor and less likely to diminish our property values because Proposition 2 finally gives us access to the courts.

This House is MY Home

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WHO TO CONTACT FOR ADDITIONAL INFORMATION

Proposition One

Yes:**Invest in Our Kids' Education Campaign**

Ryan Hill
P.O. Box 1671
Boise, ID 83701
(208) 639-1720
ryan@yesforidahoschools.org

No:**Idahoans for Excellence in Education**

Darrell Deide
P.O. Box 525
Caldwell, ID 83606
(208) 250-7529

Proposition Two

Yes:**This House is MY Home**

Laird Maxwell
702 W. Hays, Suite 16
Boise, ID 83702
(208) 426-0358

No:**Association of Idaho Cities**

Justin Ruen
3100 S. Vista Ave., Suite 310
Boise, ID 83705
(208) 344-8594

Idaho Association of Counties

700 W. Washington
Boise, ID 83702
(208) 345-9126

Political Parties

Idaho Democratic Party

P.O. Box 445
Boise, Idaho 83701
(208) 336-1815
or 800-542-4737
FAX (208) 336-1817
Richard Stallings, Chairman

Idaho Republican Party

P.O. Box 2267
Boise, Idaho 83701
(208) 343-6405
Fax (208) 343-6414
Kirk Sullivan, Chairman

Constitution Party

P.O. Box 695
Parma, ID 83660
Paul Venable, Chairman

Libertarian Party of Idaho

1421 Dearborn St.
Caldwell, ID 83605
Phone: (208) 459-1032
Rob Oates, Chairman

United Party***[formerly Natural Law Party of Idaho]***

P.O. Box 2109
Boise, ID 83712
Phone: (208) 850-5741
Fax: (208) 344-2458
Andy Hedden-Nicely, Chairman

PROPOSED CONSTITUTIONAL AMENDMENTS

The Legislature approved two proposed amendments to the Idaho Constitution and one Advisory Vote to be submitted to voters on the November 7, 2006 general election ballot.

H.J.R. No. 2

“Shall Article III, of the Constitution of the State of Idaho be amended by the addition of a new Section 28, to provide that a marriage between a man and a woman is the only domestic legal union that shall be valid or recognized in this state?”

Proposed Amendment to the Constitution of the State of Idaho: Section 28, Article III

Legislative Council’s Statement of Meaning and Purpose of Proposed Amendment:

The proposed amendment would add a new Section 28 to Article III of the Constitution of the State of Idaho, stating that a marriage between a man and a woman is the only domestic legal union that shall be valid or recognized in the state of Idaho.

Effect of Adoption:

If adopted, the proposed amendment would add language to the Constitution of the State of Idaho to provide that a marriage is only between a man and a woman. The language prohibits recognition by the state of Idaho and its political subdivisions of civil unions, domestic partnerships, or any other relationship that attempts to approximate marriage. The language further prohibits the state and its political subdivisions from granting any or all of the legal benefits of marriage to civil unions, domestic partnerships, or any other relationship that attempts to approximate marriage.

S.J.R. 107

Abbreviated question: Shall the Constitution of the State of Idaho be amended to create an Idaho Millennium Permanent Endowment Fund for the tobacco lawsuit settlement agreement money?

(see www.idahovotes.gov for complete text)

Proposed Amendment to the Constitution of the State of Idaho: Section 18, Article VII

Legislative Council’s Statement of Meaning and Purpose of Proposed Amendment:

The purpose of this proposed amendment is to create a permanent endowment fund into which 80 percent of the money received annually as a result of the settlement between the state of Idaho and tobacco product manufacturers will be deposited. The remaining 20 percent of the annual settlement will be deposited into the existing Idaho Millennium Fund. No portion of the permanent endowment fund, including earnings, will be transferred, used, or appropriated, with the exception that each year 5 percent of the endowment fund’s average monthly fair market value will be distributed to an income fund that will be subject to appropriation. In addition, any money in the Idaho Millennium Fund in excess of a maximum amount, as provided by law, will be transferred annually to the permanent endowment fund.

Effect of Adoption:

If the amendment is adopted, 80 percent of the tobacco settlement money Idaho receives each year will be deposited into a newly created permanent endowment fund and 20 percent will be deposited into the existing Idaho Millennium Fund. All money in the permanent endowment fund will remain in the fund, with the exception that every year 5 percent of the fund’s average monthly fair market value will be deposited into an income fund that is subject to appropriation. In addition, each year any amount in the Idaho Millennium Fund in excess of a maximum amount, as provided by law, will be transferred to the permanent endowment fund.

ADVISORY VOTE

Should the State of Idaho keep the property tax relief adopted in August 2006, reducing property taxes by approximately \$260 million and protecting funding for public schools by keeping the sales tax at 6%?

Voter Qualifications and Registration

An Idaho Voter Must Be:

- A Citizen of the United States;
- At least 18 years of age on election day;
- A resident in the state and in the county for thirty (30) days prior to election day;
- Registered as required by law.

REGISTRATION

Where and When to Register:

Applicants may register before an election with the county clerk up to 25 days before an election. This deadline shall also apply to any registrars the county clerk may have appointed.

Any elector may register by mail. Any mail registration application must be received by the county clerk not later than 25 days preceding any election provided that any mail registration application postmarked not later than 25 days prior to an election shall be deemed timely.

An individual who is eligible to vote may register on election day by appearing in person at the polling place for the precinct in which the individual maintains residence, by completing a registration card, making an oath in the form prescribed by the secretary of state and providing proof of residence. All documents used in providing proof of residence shall be accompanied with a photo I.D. Only the following documents showing the registrant's current address in the precinct are authorized:

- a valid Idaho driver's license issued through the department of transportation
- a valid Idaho identification card issued through the department of transportation
- any document which contains a valid address in the precinct together with a picture identification card

Students may also use:

- A current valid student identification card from a post secondary educational institution in Idaho accompanied with a current student fee statement that contains the student's valid address in the precinct together with a picture identification card.

A person may request absentee registration by writing to the county clerk. Absentee registration will be accepted if received by the county clerk not later

than 25 days preceding any election provided that any mail registration application postmarked not later than 25 days prior to an election shall be deemed timely.

Reregistration - When Required:

Reregistration is required if the voter has failed to vote at least once at a primary or general election during the four years following registration, and the county clerk has consequently canceled the registration, or if the voter moves or changes their name.

Voting Locations:

A polling place is selected for each election precinct by the Board of County Commissioners. Election notices are published in local newspapers naming the polling place for each election precinct, date of election, and the hours during which the polls will be open. County clerks also have this information. Every effort has been made to provide handicapped voters with polling place accessibility, or when requested, absentee ballots.

Absentee Voting:

Any registered voter may make application in writing to the county clerk to receive an absentee ballot. Applications are available from Clerk's office or a written request with the required information (*name of elector; residence address in Idaho and mailing address to which ballot is to be forwarded*).

November 1, 2006 is the last day for *mailed in* absentee ballot applications to be received by the county clerk prior to General Election until 5:00 p.m. The application must be signed personally by the applicant.

The *in-person* application shall be signed personally by the applicant and be filed with the county clerk not later than 5:00 P.M. on the day before the election.

The absentee ballot may be delivered to the absent elector in the office of the county clerk, by post-age prepaid mail or by other appropriate means.

Information:

For further information contact the county clerk's office or the secretary of state's office in Boise: (208) 334-2852.

Where to Call for County Voter Information

For information in regard to election procedures, contact your County Clerk or the Secretary of State. Your County Clerk may be contacted by letter at the county seat or by calling the numbers listed below.

Ada	287-6860	Cassia	878-5240	Lewis	937-2661
Adams	253-4561	Clark	374-5304	Lincoln	886-7641
Bannock	236-7334	Clearwater	476-5615	Madison	356-3662
Bear Lake	945-2212	Custer	879-2360	Minidoka	436-9511
Benewah	245-3212	Elmore	587-2131	Nez Perce	799-3020
Bingham	785-8040	Franklin	852-1090	Oneida	766-4116
Blaine	788-5505	Fremont	624-7332	Owyhee	495-2421
Boise	392-4431	Gem	365-4561	Payette	642-6000
Bonner	265-1432	Gooding	934-4841	Power	226-7611
Bonneville	529-1350	Idaho	983-2751	Shoshone	752-1264
Boundary	267-2242	Jefferson	745-7756	Teton	354-2905
Butte	527-3021	Jerome	324-8811	Twin Falls	736-4004
Camas	764-2242	Kootenai	446-1030	Valley	382-7100
Canyon	454-7562	Latah	882-8580	Washington	414-2092
Caribou	547-4324	Lemhi	756-2815		

Secretary of State Election Division: Voice (208) 334-2852
TTY-TDD (208) 334-2366



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