

APRIL 2, 2019

H 296

COPIES OF ORAL TESTIMONIES

ATTACHMENT 2

Brenda Foster
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Boise, ID 83712

April 2, 2019

Idaho Senate State Affairs Committee
Senators Lodge, Harris, Hill, Winder, Vick, Anthon, Souza, Stennett, Buckner-Webb

Re: Citizens' Initiatives Bill HB296

Madam Chairwoman, Honorable Senators, thank you for the chance to testify against HB296 for one minute today.

I am reminded of Flight of the Bumblebee.

Flight of the Bumblebee would aptly describe the year in my life when I worked on the Medicaid Initiative.

1300 hours

There were more than 2,000 of us hardworking bumblebees frantically gathering signatures. Many of our courageous little bumblebee body parts suffered. My heroic little bumblebee lungs got pneumonia from working so hard.

Now, though, the Flight of the Bumblebee, if you can imagine it, would play four times faster for future volunteers who wish to put an initiative on the ballot.

I'm afraid HB296—with SB1159—is going to break our brave little bumblebee wings.

Please vote against this bill.

Thank you for your public service.

Sincerely,



Brenda Foster

TESTIMONY ON H296 BY GARY MONCRIEF

Madam Chairman: My name is Gary Moncrief and I remain opposed to this effort to dilute the influence of everyday Idahoans in the policy process.

Former Congressman John Dingell famously said,

If you let me write procedure and I let you write substance, I'll screw you every time."

In my view, this amended version remains highly questionable from a constitutional standpoint. The most egregious part of the original bill remains, and that is the requirement that signatures equal to 10 percent of registered voters—NOT ACTUAL VOTES, but registered voters remains.

The argument in favor of this appears to be, "But Wyoming's requirement is higher!" The Wyoming requirement is 15% of the total number of VOTERS (not registered voters) in the last election. So the 10% of registered voters standard in Idaho would be very similar to the 15% of actual voters in Wyoming. So, yes, this bill would put us on a par with the standard in Wyoming. The most difficult standard in the country.

By the way, no initiative has passed in Wyoming since 1992. That's 27 years--more than a quarter of a century.

If you let me write procedure and I let you write substance, I'll screw you every time."

This bill is about changing procedure and for what? There is NO compelling evidence that there is a problem. ~~Elsewhere, it appears we~~

Good Morning. Madam Lodge, members of the Committee. My name is Roberta D'Amico, I live in Boise, and I represent myself. Thank you for the opportunity, to testify. I'm here to express my opposition to SB 1159 and the trailer bill HB 296.

When distinguished citizens from all walks of life, education, ^{rural & urban residents,} and political affiliations have overwhelming spoken against changing the ballot initiative process from what we have which is hard, to what is proposed, which is impossible, I asked myself what else can I say.

I say it's wrong to defy the ^{history of the} Idaho constitution, it's wrong to betray the trust of ~~our~~ ^{Idahoans} constituents, it's wrong to make the ballot initiative process feasible for only well-funded special interest groups. Its just wrong.

^{This body has the power to make this right, this body can}
~~What will make this right?~~ Regain ~~ing~~ the trust of Idahoans in our legislature.

~~What will make this right? Vote no on SB 1159/HB 296.~~

I urge you to make this right, vote no on SB1159/HB296.

[↓]
^{for Idahoans} ^{→ with the trailer bill}

Thank you.

Roberta D'Amico

Boise, Idaho



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Testimony of Kathy Griesmyer
OPPOSE HB 296: Trailer Bill to SB 1159aa Initiative and Referendum Requirements
Before Senate State Affairs Committee
April 2, 2019

The ACLU of Idaho stands before you in opposition to HB 296 because the proposed changes do not address SB 1159aa's continued unconstitutional violation of the Fourteenth Amendment's Equal Protection Clause that provides the promise of "one person, one vote."

HB 296 continues to impose an even more restrictive geographic distribution signature requirement than is currently provided by law under I.C. §34-18. According to public voting information, Idaho's population of qualified electors varies widely in their geographic distribution based on the state's 35 legislative districts. As provided in our initial testimony on SB 1159, District 14 has the highest population of qualified electors at roughly 38,000 voters while District 27 has the lowest population of qualified electors at roughly 17,000. These disparities bear out in total district population numbers as well: District 14's total population of more than 66,000 Idahoans is well over 1.5 times that of District 27's population of less than 39,000.

HB 296 attempts to reduce SB 1159aa's geographic distribution requirement by shortening the proposed number of legislative districts required for signature gathering from 32 out of 35 legislative districts to two-thirds of all districts. However - this change does nothing to absolve SB 1159aa's violation of the premise of the Equal Protection clause and the long held constitutional standard of one person, one vote. In the *Idaho Coalition United for Bears v. Cenarrusa* case from 2003, the Ninth Circuit Court of Appeals ruled that the geographic distribution requirement valued voters in more sparsely populated areas over those in more densely populated areas.¹ The same arguments can still be applied to HB 296 and SB 1159aa when considering the vast range of population distributions and voter registration numbers between Idaho's currently drawn legislative districts.

A recent case out of Colorado challenging a new ballot initiative geographic distribution requirement is a cautionary tale. In 2018, a federal court struck down this voter approved requirement as a violation of the Equal Protection clause.² The Court noted the significant variation in registered voters in each state senate district and held that a system which treated senate districts the same when the number of potential petition signers in each varied greatly violated the Equal Protection Clause. HB 296's and SB 1159aa's geographic distribution requirement continues to suffer from this same problem. The number of registered voters in Idaho's legislative districts varies by as much as 21,000 voters – a 200% difference.

¹ *Idaho Coalition United for Bears v. Cenarrusa*, 234 F.Supp.2nd 1159, 1160 (D.Idaho 2001)

² *Semple v. Williams*, 290 F.Supp.3d 1187 (D. Colo. 2018)



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HB 296 also continues to violate the First Amendment of the US Constitution because the enhanced initiative process requirements place a severe and unconstitutional burden on core political speech. Under the *Angle v. Miller* case out of the Ninth Circuit Court of Appeals, the Court examined “the entire statutory scheme regulating ballot access” to determine whether a “reasonably diligent” proponent “can normally gain a place on the ballot, or whether they will rarely succeed in doing so.”³ Under this standard, Idaho’s existing ballot access requirements may be unconstitutional, with just two of twelve initiatives gaining a place on the ballot since Idaho’s statewide initiative requirements were last amended in 2013. And, with the additional imposed requirements under HB 296 and SB 1195aa, it’s highly likely that the public will be unable to reasonably succeed at placing a ballot initiative before the voters.

For these reasons, we ask you to vote no on HB 296 and preserve the constitutional rights of all Idahoans to petition their government under the ballot initiative process. Thank you.

³ *Angle v. Miller*, 673 F.3d at 1133 (9th Cir. 2012)

TESTIMONY ON H296 – APRIL 2, 2019

My name is Sam Sandmire and I am from Boise.

I represent myself & more than 2000 volunteers.

I have performed back flips on a 4-inch wide balance beam, 4 feet off the floor in front of thousands of people with no margin for error.

I survived childbirth.

I raised 3 teenage boys.

NOTHING I have ever done in my life was more difficult than my role in getting 56,192 valid signatures from 18 different legislative districts to get Medicaid Expansion on the ballot.

And to craft bills ~~like~~ 296 & 1159, without even ASKING grassroots volunteer organizers about the process & then to claim that the numbers in these bills are *attainable*, is just not acceptable.

This ~~is a bill to~~^{will} silence the people of Idaho.

Thank you for letting me testify. Questions?

Yvonne "Sam" Sandmire
800 W. Ranch Rd.
Boise, ID 83702
208-859-0560 samsandmireidaho@gmail.com

A wise man once said, "the strength of the Constitution lies entirely in the determination of each citizen to defend it."

Everyday citizens have spoken up in both the Senate and House committees hearings, in phone calls, emails, letters, in signing a petition to the Governor, asking that our elected officials protect our constitutional right to bring forth a ballot initiative. We have acted with determination to protect this right, this freedom to act when elected officials fail to do so. Our efforts to protect our rights should be respected, not undermined. There is a disturbing pattern happening in the legislature where the goal posts are moved each time an initiative passes, making the hurdles higher and higher to overcome. The stated purpose of these changes is to increase public involvement but there is no doubt in any of our minds what the intention of this bill is: to strip us of our rights. Vote NO on 296 and help restore the trust in our government.

*Nancy Olsen
Boise 83702*

Madam Chair and Members of the committee. My name is Ashley Prince I am the current Field Director for Reclaim Idaho. Yesterday, I had the privilege of turning in over 10,000 online signatures to the gentleman on the second floor, asking him to Veto 1159 and H296! Signers hailed from over 150 Idaho towns, from all 35 Legislative Districts and all 44 counties. Luckily, for this purpose, we are not subjected to the same restrictions you see in regards to our initiative process. During Prop 2, it took us about 2 months to gather our first 10,000 signatures.

I wanted to share some comments from Idahoans in your district in opposition to H296 and 1159. However, the restrictive 1 min time you have placed on this testimony does not allow me the opportunity. Instead I will leave you with this- if I asked you to jump over a 40 ft wall you would say that is impossible. Asking you to instead jump over a 30 ft wall doesn't make it any more probable. This bill does nothing to protect our cherished constitutional right to organize ballot initiatives. Please kill this bill in committee and join the citizens of Idaho in asking Gov Little to Veto 1159.

I now stand for questions

Jefferson Slagle- Rexburg (D34) Please preserve Idaho's already-reasonable constitutional process for placing citizen initiatives on the ballot.

Richard Merkel- Cataldo (D2) Silencing the people is not serving the people.

Leslie Cavanah- Coeur D'Alene (D4) No law that muzzles the voter is good for Idaho.

Clyde Rinne- Meridian (D 20) Don't take away Idaho's citizens right to organize ballot initiatives.

Susan Keck- Almo (D 27) It is a terrible for the citizens of Idaho to be under the leadership of politicians who take away, limit, or diminish their constitutional rights.

Joetta Fulgenzi- Middleton (D11) If you represent the people, accept what the majority are saying. It takes an enormous amount of work to get anything on the ballot as seen by how few actually make it. Making it more difficult seems to say that you really don't want to listen to the people who you are supposed to be representing.

David E Rawdon jr- Montpelier (D32) Git r done Sir

Madam Chair, members of the committee, my name is Jeremy Redman, I am a journeyman electrician and the president of the International Brotherhood of Electrical Workers local 291 in Boise and a resident of District 19. I am here to speak in opposition of bill 296. The last thing a working person, or any person for that matter, wants is for it to be more difficult to exercise their constitutional rights. Are ballot initiatives so big of a problem that we need secret meetings and suspended rules to stop the onslaught of citizen initiatives? The lightest hand of government. What does that mean? Do the right thing. Stop this bill in this committee. Thank you for your time. I will stand for questions.



Russ Hendricks

IDAHO FARM BUREAU[®] FEDERATION

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April 2, 2019

Dear Senate State Affairs Committee Members:

On behalf of the more than 80,000 Idaho families who are members of the Idaho Farm Bureau Federation, I am writing to ask you to **oppose H296**.

Our members only became involved in this issue to help raise the number of districts required to gather signatures so that rural districts would have a say in the process. S1159 got us very close to what our members wanted to achieve.

Unfortunately, H296 takes away more than ½ of the gains we made with S1159. Yes, it does require signatures from more districts than current law, but with redistricting, we will be right back to the same situation we have now, where signatures can be collected solely in urban districts, while rural districts can potentially be completely ignored.

Signature gatherers will not go to a district that spans three or four counties, when they can go to multiple districts which are contained within a single county. The rural voice will be marginalized and discounted and will have no opportunity to help determine what makes it onto the ballot.

H296 needlessly undermines the hard work and effort that Senators spent defending and promoting S1159.

If you have any questions about this issue, please contact Russ Hendricks at 208-342-2688.

We appreciate your careful consideration of this issue and ask you to **oppose H296**.

Sincerely,

Bryan Searle, President
Idaho Farm Bureau Federation

1 minute testimony is terribly short to be able to address this weighty issue - comparing that to a book report is a false equivalency

This is how we see it: When Idahoans pass an initiative that a majority in this body does not agree with, you move the goalposts to make it harder for it to happen again. It's happened in the past and now you are trying to do it again. When, actually, what this body should be doing is some serious introspection. If I were you, I'd be asking myself, "Why is it that thousands of people had to spend their precious time away from their families, knocking on strangers' doors to get a law passed that this body could have done in the first place?" Although we know you have good intentions, sometimes you guys make mistakes and do something that the majority of citizens disagrees with. Hence, the emergency option of ballot initiatives in our constitution. This body has already made the rules more difficult over time. Now you are contemplating basically taking it away.

If you want We the People to be replaced in our constitution by We the Wealthy or We the Corporations, since they will be the only ones who will be able to pass a ballot initiative in this state, then pass HB296.

If you want to prove to our youth that our government cares more about special interests and monied lobbyists than they do about their citizens voices, then pass HB296.

If you want to ensure that the voice of rural voters gets silenced, then pass HB296.

If you want to completely demoralize the citizens of this state, then pass HB296.

The creation of this bill had a seedy start in a rushed, secret, rule violating meeting. If you truly want an inclusive process for ballot initiatives then you will vote against HB296.

Thank you,

Stephanie Hanson
877 Chardie Rd.
Boise, ID 83702

Stephanie Hanson

Has the cost of the ^{inevitable} court battle been calculated into the financial impact of HB296?

Madame Chairwoman, members of the Committee, my name is Jason Hudson and I represent the Idaho AFL-CIO. I am here because the working people of Idaho do not want to see their Constitutional rights infringed. It has always been a fundamental legal principle that the Legislative branch cannot in effect amend the Constitution through the process of enacting statutes.

As the late Justice Antonin Scalia said in *District of Columbia v. Heller* - which struck down strict conditions on handgun ownership for citizens in Washington DC - "the enshrinement of constitutional rights necessarily takes certain policy choices off the table." The Heller decision relied on *State v. Reid*, which stated even more clearly, "A statute which - under the pretense of regulating - amounts to the destruction of the right...[in that case the right of the people to bear arms]...would be clearly unconstitutional".

As the statistics and analysis already presented today make clear, H296 would, under the pretense of regulating, amount to the practical destruction of the Constitutional right of the people of Idaho to "initiate any desired legislation and cause the same to be submitted to the vote of the people". The working people of Idaho hold their

Constitutional rights dear, and I am here to ask you not to infringe on that right.

by regulating it
 ^
 fundamental in a way you would
 not tolerate for
 the exercise of
 other fundamental
 rights.

MADAME CLERK, GOOD MEMBERS OF THE COMMITTEE

MY NAME IS JORDAN MORALES AND I'M GRATEFUL TO BE ABLE TO TESTIFY. I'M IN BETWEEN MY TWO JOBS RIGHT NOW, EARLY MADE IT ON TIME FROM MY EARLY MORNING JOB AND TAKING PTO FROM MY AFTERNOON JOB TO BE HERE. I FEEL THAT'S IMPORTANT AS SOME LOBBYIST NOTE THEY REPRESENT A BUNCH OF FOLKS THAT COULDN'T BE HERE BECAUSE OF JOBS AND FAMILIES. I HAVE TWO KIDS, TWO ~~JOBS~~ JOBS, AN AWESOME WIFE AND I'M HERE BECAUSE IT'S IMPORTANT. I'M ALSO PRIVILEGED AS I DO IN BOISE. I'M REPRESENTING MYSELF &

I SPEAK IN OPPOSITION TO HB 296. IN 2013 WHEN THE CURRENT REQUIREMENTS WERE INTRODUCED, THE EDU EDUCATION NEWS QUOTED A LOBBYIST ON THE TIGHTENING OF INITIATIVE REQUIREMENTS AS SAYING, "WE WANT TO SHUT THE DOOR TO THE BARN BEFORE THE HORSE IS OUT." THAT LOBBYIST WAS ~~ROSS~~ MR HENDRICKS OF THE BOISE ~~TRAILER~~ TRAILER BURDEN. WELL, THE HORSE GOT OUT, THIS BELL ~~IS~~ SELLS THE HORSE TO THE CLOVE FACTORY.

I SPENT TWO YEARS KNOCKING DOORS IN NEW JERSEY FOR THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, AND SOME CONSIDERABLE TIME FOR PROP 2. BOTH OF THOSE EXPERIENCES WERE OF HIGH IMPORTANCE TO ME AND I'M NOT SURE WHICH WAS HARDER. IT'D BE A SHAME IF MY TIME FOR EITHER WERE FOR NOTHING WHEN THESE NEW REQUIREMENTS WOULD MAKE THE CASE FOR MY PROP 2 ~~WORK~~ VOLUNTEER WORK.

~~I ASK YOU TO SHOW SOME BOY'S FAVORITE~~
I ASK YOU TO HOLD HB 296 IN COMMITTEE

JORDAN MORALES