

The Idaho Organization of Resource Councils

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February 16, 2021

Senate State Affairs Committee
State Capitol
P.O. Box 83720
Boise, ID 83720-0081

Dear Honorable Senator Patti Anne Lodge and members of the Senate State Affairs Committee,

I am writing you on behalf of the board of directors, members, and staff of the Idaho Organization of Resource Councils (IORC) in opposition to SB1110 which restricts the constitutionally protected right of the people to bring initiatives and referendums. IORC is a 501(c)(3) grassroots nonprofit based in Boise, Idaho with members across southern Idaho and local chapters in Bannock, Canyon, Payette, and Washington Counties. IORC's mission is to empower people to improve the well-being of their communities, sustain family farms and ranches, transform local food systems, promote clean energy, and advocate for responsible stewardship of Idaho's natural resources.

The cornerstone of our state Constitution is the framework of divided government and the robust system of checks and balances it guarantees. "The powers of the government of this state are divided into three distinct departments, the legislative, executive and judicial; and no person or collection of persons charged with the exercise of powers properly belonging to one of these departments shall exercise any powers properly belonging to either of the others, except as in this constitution expressly directed or permitted" (ID Const. Article II, § 1). Additionally, the Idaho Constitution grants to the people legislative powers equal to those of the legislative branch, "the people reserve to themselves the power to propose laws, and enact the same at the polls independent of the legislature" (ID Const. Article III, § 1).

SB1110 diminishes the constitutionally granted rights of all Idahoans. The process to bring a citizen initiative is already a monumental task. We agree that everyone should have a say, but respectfully disagree that current signature gathering requirements put our rural communities at a disadvantage. The voices of our rural communities count just the same as everyone else's on election day; one person, one vote.

However, if this legislation makes it so difficult for grassroots organizations to meet the threshold for signature distribution that it effectively prohibits the people's right to propose and enact laws or makes it available only to well-funded organizations, *then it diminishes the power of all Idahoans, rural voters included* by effectively repealing a constitutional right. If this is the effect, then it should be presented as a constitutional amendment requiring two-thirds majority in both houses and support by a majority of the people (ID Const. Article XX).

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There is no question the effect of this bill will be to silence the voice of the people by repealing one of the most direct forms of democracy out there, the ballot initiative. Please vote no on SB1110 and *any* subsequent proposal to unnecessarily restrict the initiative and referendum process

Thank you for the opportunity to express our concerns.

Sincerely,
Doug Paddock
Field Organizer,
Idaho Organization of Resource Councils

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Twyla Melton

From: Rae Charlton <rae.charlton@icloud.com>
Sent: Thursday, February 18, 2021 11:06 AM
To: Twyla Melton
Subject: Testimony on SB 1110

I believe I was included on the list to testify yesterday, but time ran out. Unfortunately I have a conflict and am unable to attend Friday's hearing, so am submitting written comments instead. Thank you for providing the opportunity for citizens all over the state to testify on this important issue.

I strongly oppose SB 1110, which would make citizen initiatives all but impossible. My first experience with the initiative process was gathering signatures for the Medicaid Expansion bill. I spent many hours going door to door, and it was enlightening. So many people needed help on this issue, and since the legislature hadn't acted on it, if we could qualify it for the ballot, the voters could decide. It struck me that this was a grassroots effort, and truly democracy in action. There aren't too many ways to experience that, jury duty and voting come to mind, but it was immensely gratifying to be part of something so positive for people desperately needing medical care.

Idaho's Constitution enshrines the ballot initiative as a way to give citizens a voice in their government. The current procedural requirements are very difficult and restrictive; making them so much more so is clearly an effort to sabotage the whole endeavor. Please vote "No" on SB 1110.

Rae Charlton
Sandpoint

Testimony Against Senate Bill 1110

Jessica Mahuron
2907 W Masters Dr
Couer d'Alene, ID 83815
civicengagementalliance@gmail.com

Good morning Madam Chair and members of the committee. My name is Jessica Mahuron from Coeur d'Alene and I am representing myself. I am testifying AGAINST Senate Bill 1110.

Based on my own personal volunteer experience serving as a local coordinator for the Medicaid expansion ballot initiative in Kootenai County, I strongly feel the changes proposed in Senate Bill 1110 would severely limit the ability of any volunteer-powered citizen initiative from meeting the qualifications to gain ballot access for voters to decide upon ever again.

The stated bill's purpose to increase voter involvement and inclusivity in the voter initiative process would not be achieved in passing this legislation - in fact, it would do the complete opposite of preventing citizens from participating in a cherished and accessible expression of civic engagement. It would deter Idaho citizen initiative organizers from sacrificing valuable time, energy, volunteer commitment, and financial resources with the increased, if not definite, risk of failure.

Ordinary citizens, working not for money, but because they are deeply passionate about a cause or legal solution that is unaddressed by the Idaho Legislature, would likely no longer have opportunities to participate in the initiative process if this bill were to become law. The initiative process is already extraordinarily challenging and complicated. As demonstrated in our state history, most grassroots efforts under the current qualifications are likely to fail as it requires enormous state-wide coordination, impeccable organization, and hundreds of volunteers willing to sacrifice their precious free time and energy for months for something that could easily fall apart. It would be incredibly foolish to organize a grassroots citizen initiative unless it had proven broad-based, cross-partisan support and appeals to both rural and urban voters.

There is a significant difference between petition drives that rely on paid signature gatherers and efforts that rely on volunteer labor, or citizens expressing their First Amendment right to petition the government. Senate Bill 1110 does not recognize that difference and is an infringement on Idahoans' constitutional rights.

The assumption that somehow the current initiative process of requiring 6% of voters in 18 out of 35 legislative districts is more favorable to urban voters than rural voters is false and goes against the logic of the experience of the last successful initiative. It goes against my own personal lived experience working on a petition drive in a county that is both urban and rural. It goes against the lived experience of my former volunteer colleagues in other counties, who gathered signatures in their small rural towns.

As a volunteer myself, I helped coordinate over 100 volunteers to achieve our local goals, working the hardest I have ever worked in my entire life for the cause to provide healthcare access for the working poor. The signatures our local team gathered were primarily from the urban area of Coeur d'Alene, but we also collected hundreds of signatures in more rural areas of our county in legislative districts 2 and 3. We only qualified legislative district 4.

Every legislative district participating in a petition drive should have at least one person to serve in a leadership role or there would be no one to track progress, no one to collect petitions, and no one who can be locally accessible to volunteers. Finding people in all 35 districts (let alone 18) to take on the heavy burden of leadership as unpaid volunteers is very difficult to achieve. And every local group of volunteers must rely on the success of other districts reaching their goals, or all their hard work will go to waste.

The sponsors of Senate Bill 1100 most likely do not understand the hands-on logistics of the current initiative process and how this bill would severely restrict the voices of all Idahoans. They do not understand how volunteer initiative drives are largely powered on relationship-building in towns both rural and urban, and how oftentimes, it's more favorable to do relational organizing in small towns where there is a stronger sense of community and everyone knows each other.

I strongly urge this committee to vote NO.

Thank you,

Jessica Mahuron
Coeur d'Alene, Idaho

Twyla Melton

From: ELLEN B ROBERT SPENCER <RCSPENCER5@msn.com>
Sent: Thursday, February 18, 2021 9:31 AM
To: Twyla Melton
Subject: Opposing SB 1110

To the Chair and members of the Committee:

Regarding the proposed Senate Bill 1110, I am writing to Oppose it.

SB 1110 is another attempt to silence the voice of Idaho voters. The proposition that rural communities are left out or under-represented under the current process is a false narrative and you can see that clearly, from the Medicaid Expansion Initiative data which shows that 44 counties approved it to be on the ballot and it passed in 35 counties. This demonstrates that every Idaho citizen who wanted to vote and did, had their say.

It is not just that this change would make it impossible for regular people to get a measure on the ballot; this Bill is not good government by any democratic assessment. Regardless of the percentage determined, when one district has veto power and the ability to negate the desires of the other 34, that is not democracy.

The ballot initiative is simply the mechanism to get a matter placed on the ballot. There is no guaranty it will become law. It only guaranties and provides that Idaho citizens get their say. Only 15 bills have passed in 100 years. Idaho citizens do not abuse this difficult process and only use it when they have exhausted all other avenues and attempts to have lawmakers do the peoples' bidding, as they are elected to do. They only use it when they feel their representatives are not listening to them.

As for the fear that outside interests would come in and influence Idaho government with the current process, passing this bill is the surest way to have those fears confirmed, as those entities and organizations will be the only ones able to afford to navigate the process successfully. I urge the committee to vote No on this bill and keep outside interests out of Idaho government, and to stop taking away the voice and the rights of Idaho citizens.

Sincerely,
Ellen B. Spencer
991 N. Pinnacle Way
Eagle, Idaho 83616



IDAHO CITIZENS COALITION

PROMOTING SENSIBLE CANNABIS REGULATIONS FOR THE GEM STATE

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Testimony to Senate State Affairs Regarding S 1110

Good morning, Madame Chair, and esteemed Senators. My name is Russ Belville. I am a native Idahoan, as are my parents, and five generations of my family have called Idaho home.

My dad, John Belville, was a drug and alcohol addict. In 1982, he checked into the Mercy Care Unit in Nampa for drug rehab. By 1985, he had returned to Boise State University to get his degree in social work. From there, he returned to the Mercy Care Unit and worked for years as a drug and alcohol rehab counselor.

In 1996, dad suffered from a near fatal health condition. He was left with a crippling painful neuropathy in his legs, to go along with his diabetes and bouts with cancer. Doctors put him on a pharmaceutical regimen that included morphine, oxycodone, and hydrocodone, to deal with the pain.

I had moved to Portland in 2003, because my wife at the time needed medical marijuana for her crippling pain conditions, and if we stayed in Idaho, eventually the state would arrest and imprison her for that.

In 2015, my parents visited us in Portland, and I had him try a cannabis tincture for pain. Dad said it was a miracle, the first time he'd been absolutely pain free since the 90s.

Since then, my elderly father has been risking arrest and jail to live pain free. In 2018, I asked him if he'd like to try to establish a medical marijuana law in Idaho.

In 2019, he filed the Idaho Medical Marijuana Act petition. We spent every weekend in the winter of 2019 driving to literally every county seat in the state to collect signatures. Our campaign collected 40,000 signatures before coronavirus stopped us.

This body, however, wishes to stop my dad's quest to live pain-free legally, whether it is by enshrining medical marijuana prohibition in the state constitution or by increasing the district requirement to all 35 districts.

When this body passed increases to 24 and to 32 districts in bills last year, they were vetoed by Gov. Little, who worried that such a move would trigger a lawsuit that would let the Ninth Circuit Court of Appeals invalidate Idaho's geographic signature requirement, as it did in the 2001 *Idaho Coalition for Bears v. Czarussa* case.

I'm here to guarantee you that an increase to 35 districts will trigger that lawsuit from my father, who has the standing to bring the case.

In the 2001 case, Idaho's county requirements were found unconstitutional because counties are different size, thereby making 6% of the votes from a small county more valuable than those from a large county. Similar county-based regulations were also struck down in Illinois, Utah, Montana, Nevada, and Nebraska.

A congressional district requirement was struck down in Michigan, but no one has yet challenged state legislative district requirements in court. However, given that District 27 requires only 1,309 signatures to reach 6%, while District 14 requires 3,009, it's not hard to imagine the Ninth Circuit ruling that District 27's voters being given almost triple the weight of District 14's voters is unconstitutional, too.

Madame Chair, esteemed senators, the Idaho Medical Marijuana Act is already gathering signatures. It is fundamentally unfair to change the rules on us in the middle of the game. In the interest of Idaho democracy and avoiding a lawsuit, please reject S 1110. Thank you.



SB 1110 District Map Analysis

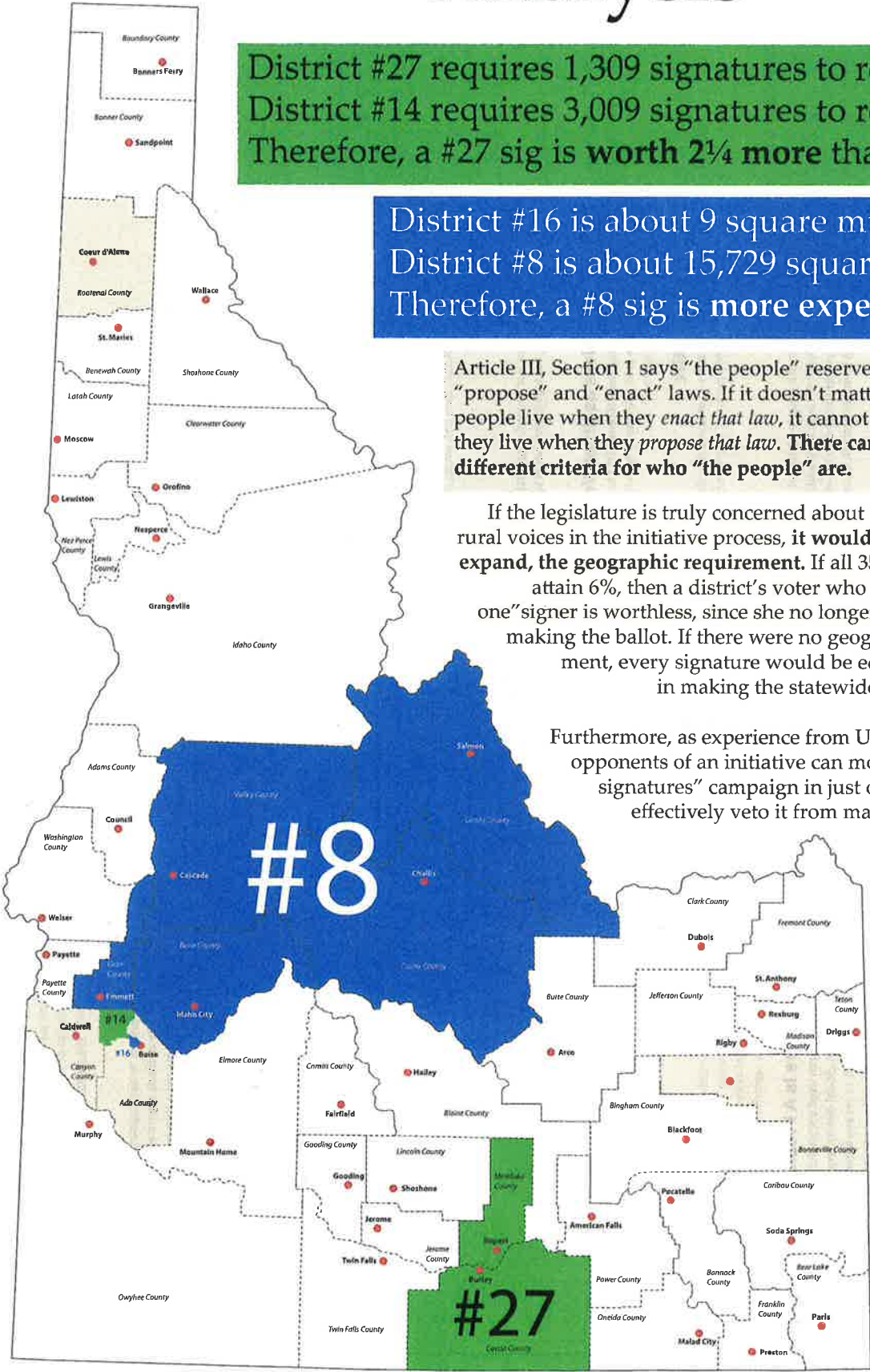
District #27 requires 1,309 signatures to reach 6%
District #14 requires 3,009 signatures to reach 6%
Therefore, a #27 sig is worth 2¼ more than a #14

District #16 is about 9 square miles
District #8 is about 15,729 square miles
Therefore, a #8 sig is more expensive

Article III, Section 1 says "the people" reserve the power to "propose" and "enact" laws. If it doesn't matter where the people live when they enact that law, it cannot matter where they live when they propose that law. **There cannot be two different criteria for who "the people" are.**

If the legislature is truly concerned about the silencing of rural voices in the initiative process, **it would eliminate, not expand, the geographic requirement.** If all 35 districts must attain 6%, then a district's voter who is the "6% plus one" signer is worthless, since she no longer contributes to making the ballot. If there were no geographic requirement, every signature would be equally valuable in making the statewide 6% threshold.

Furthermore, as experience from Utah has shown, opponents of an initiative can mount a "remove signatures" campaign in just one district and effectively veto it from making the ballot.





Idaho Citizens Coalition Analysis of SB 1110

The Idaho Citizens Coalition is a grassroots organization funded by Idahoans that works to reform Idaho's antiquated marijuana laws. We strongly oppose SB 1110, sponsored by Sen. Vick, to increase unconstitutional geographic signature gathering requirements for petitions.

SB 1110 Changes the Rules in the Middle of the Game

The Idaho Medical Marijuana Act is already gathering signatures under the 18-of-35 districts rule. To declare an emergency and change those rules after the petitioning has already begun is patently unfair, unnecessary, and undemocratic. The only "emergency" is that the majority of Idaho voters are threatening to pass laws the legislature, law enforcement, and leadership of the LDS Church don't like.

SB 1110 Is a Solution in Search of a Problem

Sen. Vick claims this change is necessary to hear from rural voices in the initiative process. We already do; no matter where someone resides, their signature counts toward a statewide total. No matter where they live, their vote on an initiative counts the same.

SB 1110 Doesn't Boost Rural Voices, It Silences Them

Rather than boost rural voices, SB 1110 disenfranchises them, both rural and urban. For once a district's 6% threshold is met, no other signature from that district matters. One could collect all the necessary District #8 signatures in McCall, then one would never have any reason to collect from Emmett, Idaho City, Challis, or Salmon.

SB 1110 Does the Opposite of What it Intends

If the legislature wanted to empower more rural voices in the initiative process, it would eliminate, not expand, a geographic requirement that treats some signatures as more valuable or more expensive (see map). Instead, the legislature should value every signature, no matter where it came from, as an equally-sized step toward a statewide goal.

SB 1110 Pretends Rural Voters Don't Support the Same Initiatives as Urban Voters

There is 78% statewide support for the Idaho Medical Marijuana Act, with support over 60% among Republicans, LDS Churchgoers, and Idahoans over age 65. The Medicaid Expansion initiative got 61% statewide and plenty of support in all counties. If both rural and urban voters support these measures, what difference does it make where the signature threshold comes from?

SB 1110 Guarantees Only Big Money Could Ever Pass an Initiative

Rather than forestall the intrusion of large out-of-state donors in Idaho's initiative process, SB 1110's requirement to collect about as many signatures from 15,729-sq-mile District #8 as from 9-sq-mile District #16 guarantees only deep-pocketed interests could ever place an initiative on the ballot.

SB 1110 Gives Initiative Veto Power to One District

In deciding Idaho's 22-of-44 counties requirement unconstitutional, U.S. District Judge B. Lynn Winmill ruled in 2001 that "...it is easy to envision a situation where three-fourths of Idaho's voters sign a petition but fail to get it on the ballot because they could not collect 6 percent of the vote in rural counties." SB 1110 exacerbates that flaw by essentially granting veto power to one district, whether that be through withholding signatures initially, or (as we've seen in Utah) through a big money campaign to entice petition signers to remove their signatures once the initiative has qualified for the ballot.

SB 1110 Is Arguably Unconstitutional

The 22-of-44 counties requirement was unconstitutional because counties are of different sized populations—getting 1 signature of the 5,000 needed from one county was only 1/10th as valuable as getting 1 signature of the 500 needed from another. Illinois, Idaho, Nevada, Montana, Utah, and Nebraska all had their county-based requirements declared unconstitutional. In response, these states imposed legislative district requirements, because all districts are roughly the same population. However, *registered voters* in those districts create different thresholds, from the 3,009 signatures needed in District #14 that are 2% less valuable than the 1,309 in District #27.

SB 1110 Could Trigger Federal Court Review of Current Requirements

In vetoing the Legislature's last attempts to raise the district requirements to 24 and to 32, Gov. Little wrote "I question the constitutional sufficiency of the bills." Gov. Little worried that the bills "invite legal challenges that will result in the Idaho initiative process being determined by the liberal Ninth Circuit Court of Appeals." *We guarantee that will happen.*

SB 1110 Is Contrary to the Idaho Constitution

Article III, Section 1 reserves to "the people" the power to "propose" and to "enact" legislation independent of the legislature. When enacting those laws, it is votes statewide that are counted and a majority of them, regardless of the voter's district, enact the law. If a threshold of "the people" of each district are not required to enact a law, how can a threshold of "the people" of each district be required to propose a law? How could a scenario where 200,000 of "the people" statewide sign a petition, only to have it fail to make the ballot for lacking 2,000 signatures in Meridian, possibly be in keeping with the Idaho Constitution's reservation of "the people's" right to propose laws?

SB 1110 Pretends That Rural Voters Don't Visit Cities

In our 2019 campaign for medical marijuana, we canvassed many events in Boise like Hyde Park Street Fair, Boise Farmers Market, and New Years' Eve. At those events, we'd collect signatures from voters all across the state. Their voices counted, too, since they applied to a statewide 6% threshold.

SB 1110 Pretends That Rural Voters Don't Have Internet

Any rural voter who wants to have their signature counted doesn't have to rely on petition campaigns to come to their county. Any Idaho adult can download the petition, print it, collect 20 signatures, notarize it, and send it to the county clerk.

SB 1110 Seeks Rural Veto of Initiatives, Not Rural Support of Initiatives

Any rural voter who wishes to propose and enact an initiative faces the same obstacles as any urban voter. Both of them still have to go where the signatures are—the cities. SB 1110 makes it no easier for rural Idahoans to get initiatives on the ballot; it makes it far harder for everyone to get initiatives on the ballot.

SB 1110's Clear Goal is to Thwart Progressive Initiatives

Since the first initiative creating the Fish & Game Commission in 1938, statewide signatures and statewide votes determined initiatives. But when California in 1996 passed the first medical marijuana initiative, the next year the legislature created the county requirement. In 2012 when Washington and Colorado legalized adult use marijuana, the next year the legislature created the current district requirement. In 2018 when Utah passed medical marijuana and Idaho passed Medicaid expansion, the next year the legislature tried to increase the district requirement. Finally, in 2020 when we nearly put medical marijuana on the ballot before coronavirus hit, here we are, the next year, and the legislature is once again trying to make ballot initiatives more difficult.

SB 1110's Goal of Thwarting Progressive Initiatives Could Bite Conservatives, Too

SB 1110 would cut both ways, conservative and progressive. While it's easy to imagine a conservative rural district refusing to sign a petition to address medical marijuana, minimum wage, or Medicaid expansion, it's just as easy to imagine a progressive urban district refusing to sign a petition to address gun rights, reproductive rights, or religious rights.

SB 1110 Pretends There Is A Problem of Initiative Abuse

Idaho's initiative process has only been used successfully fifteen times and only once since the enactment of the arguably unconstitutional district requirement. This is not California; it is already apparently exceedingly difficult to get any initiative on the ballot. The Legislature should be making that process easier, not harder, if they want to hear more rural voices.

At the Idaho Citizens' Coalition, we believe in the liberty of Idaho citizens to use the cannabis plant as God and nature intended—for food, fuel, fiber, and medicine—free from government tyranny that maintains criminal marijuana prohibition in defiance of the people's will. We oppose all efforts to make it harder for Idaho citizens to overcome that tyranny.



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