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Outside Counsel for City of Boise

HEARING BEFORE HOUSE STATE AFFAIRS COMMITTEE REGARDING HB 561

**DECLARATION OF ERIK F. STIDHAM
OFFERED IN SUPPORT OF LIVE
TESTIMONY IN OPPOSITION TO HB
561 ON FEBRUARY 9, 2026**

Erik F. Stidham declares and states as follows:

1. I am a partner in the law firm of Holland & Hart LLP (“Holland & Hart”) and am duly licensed to practice law in the State of Idaho. I, along with other members of my law firm, serve as outside counsel for the City of Boise relating to HB 561. I make this declaration based upon my own personal knowledge of the matters stated herein.

2. In April of 2025, Mayor McLean requested that Holland & Hart LLP assist the City of Boise, on a pro bono basis, relating to 2025 House Bill 96 (“HB 96”) which sought to force the City of Boise to stop flying the Pride Flag. Mayor McLean sought legal assistance on a pro bono basis to avoid having to spend city funds on outside counsel and to mitigate the time that her in-house attorneys needed to spend on the matter. Without waiving the attorney-client privilege, at all times, Mayor McLean made it clear that she, along with the City Council, sought to be in compliance with all state and federal laws. She sought and received legal advice from my Holland & Hart colleagues. Mayor McLean and a majority of the members of the City Council believed they were acting in the best interests of the citizens of Boise.

3. Without waiving the attorney-client privilege regarding the specifics of my advice, I informed the Mayor that I believed that a number of valid arguments could be made challenging the legality of HB 96 and that the City of Boise could take steps to make clear that the City was in compliance with HB 96 even if a court were to somehow find the law enforceable. In my opinion, Mayor McLean and the City Council properly complied with HB 96.

4. I was present during the City Council Regular Evening Meeting on May 6, 2025. The records, including audio and video of that meeting are found at https://boisecityid.iqm2.com/Citizens/Detail_Meeting.aspx?ID=5192.

5. I watched the video of the January 29, 2026 hearing during which Representative Ted Hill introduced HB 561. The video of the hearing is found at <https://legislature.idaho.gov/sessioninfo/2026/standingcommittees/hsta/>.

6. At or around 1:30 minutes into the hearing Representative Hill began to assert that he was bringing forth HB 561 because of the “unwillingness of [Mayor McLean] following [sic] the laws provided by this body . . .” He then clearly implied that Mayor McLean was a public official who was lawless and insubordinate and encouraged anarchy. These statements and implications made by Rep. Hill are wholly inaccurate. *See id.*

7. At around 6:10 minutes into the hearing, Rep. Hill indicated his intent to make a “special carve out” for the Basque flag. *See id.*

8. At around 7:02 minutes into the hearing, Rep Hill indicated that a purpose of HR 561 would be to prevent “activist” mayors from changing flags on a whim; he discussed a hypothetical mayor deciding “if I want to make the Shahada flag, as I’m a Muslim, and I want to put the Muslim flag up for my city flag, okay, we’re not going to allow that.” At about 7:10

minutes, Rep. Hill stated “We just got to lock it down. Otherwise, it just gives you another avenue for the activists.” *Id.*

9. At about 11:30 minutes into the hearing, Rep. Hill indicated that his proposed bill would prevent the Soviet Union flag from being flown in front of city hall. *See id.*

10. At around 15:51 minutes into the hearing, Rep. Hill again references a hypothetical Muslim mayor unilaterally decreeing that the city flag will be the Shahada flag and states that “[t]he object of [HB 561] is to close that down.” *See id.*

11. At about 16:33 minutes into the hearing, Rep Hill asserts Mayor McLean made the Pride Flag the city flag and “[t]he whole reason this bill has happened is because of that.”

12. At about 18:41 minutes into the hearing, Rep. Hill again references a hypothetical Muslim mayor making the Shahada flag a city flag and explains that he keeps using that hypothetical “because that’s what Islam will do.” *See id.* In making these repeated references to Muslim flags and religious flags serving as city flags, Rep. Hill appears to be unaware of or is failing to recognize that both the Idaho Constitution and United States Constitution mandate the separation of church and state.

13. At about 21:36 minutes, Rep. Hill expresses concern about opening up college flags because “before you know it . . . I’m going to have a hammer and sickle flag.” *See id.*

14. At about 22:26 minutes into the hearing, Rep. Hill indicates that Mayor McLean “just did it ‘cause she wanted to.” *See id.* At about 22:33 minutes into the hearing, Rep Hill begins an extended discussion during which, among other things, he indicates that Mayor McLean “gave the middle finger to the legislature,” that he did not think the Mayor even talked with the Boise City Council. *See id.*

15. Attached hereto as **Exhibit A** to this declaration are copies of official flags from other countries which, based on the plain language of HB 561, could be flown on the property of
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a governmental entity. *See* Exhibit A, pp. 1-2. I personally pulled the images of the flags and the related URL cites which are included in **Exhibit A**.

16. **Exhibit A** also includes a sampling of flags which include the Shahada and which would expressly be allowed to be flown pursuant to HB 561. *Id.* at pp. 3-4. The only intent is referencing the Shahada is to show that HB 561 does not accomplish one of the primary goals of the bill's sponsor.

17. **Exhibit A** also includes examples of flags which would be banned and subject to fines under HB 561. *Id.* at pp. 5-6.

18. **Exhibit A** includes copies of texts between Rep. Hill and a constituent that I understand to be true and correct. *Id.* at pp. 7-9. My hope is that Rep. Hill can verify the authenticity of the texts at the hearing.

19. **Exhibit A** also includes a section from the 2025 Resolutions Committee of the IDGOP.

20. I declare under penalty of perjury under the laws of the State of Idaho that the foregoing is true and correct.

DATED: March 9, 2026

/s/Erik F. Stidham
Erik F. Stidham