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I. STATEMENT OF THE CASE

A. Nature of the Case

Article III § 5 of the Idaho Constitution mandates that “a county may be divided in creating districts only to the extent it is reasonably determined by statute that counties must be divided to create senatorial and representative districts which comply with the constitution of the United States.” The Idaho Commission on Reapportionment (“Commission”) violated this Idaho constitutional provision by dividing eight counties, more counties than necessary, to comply with the Equal Protection Clause of the United States Constitution.

B. Procedural History

Pursuant to Idaho Code § 72-1501, after the United States Census Bureau released its 2020 results on August 12, 2021, the Idaho Secretary of State issued an order for organization of the Commission. The Commission called itself to order on September 1, 2021, finished its business on November 10, 2021, and submitted its Final Report to the Idaho Secretary of State.

Petitioner Branden Durst submitted a Petition for Review of the Commission’s Plan on November 10, 2021. Petitioner Ada County submitted its Petition Challenging Constitutionality of Reapportionment Plan L03 and Request for Writ of Prohibition and Remand on November 17, 2021. Mr. Durst’s and Ada County’s Petitions were consolidated on November 23, 2021 as Supreme Court Docket 49261-2021.

C. Statement of Facts

The United States Census Bureau released its Census 2020 results on August 12, 2021. According to the release, Idaho’s total state population is 1,839,106. Thirty-five (35) legislative districts are allowed, and the state population of 1,839,106 must be allocated among the thirty-five

(35) districts. An exact allocation of 1,839,106 people in thirty-five (35) districts would result in 52,546 people in each district.

The Final Report of the Commission states that its Plan L03 meets equal protection requirements and divides eight (8) counties. The eight counties are: Ada, Bannock, Bonner, Bonneville, Canyon, Kootenai, Nez Perce, and Twin Falls. There were other plans presented to the Commission that met the equal protection standard and only divided seven counties. *See* Plans L075, L076 and L079 filed with the Ada County’s Petition; Final Report, at 13.

In addition, although L03 states that it divides eight (8) counties, this number only reflects any one division of a county. This counting method does not consider the actual number of times a county is divided and parsed out to other counties to form a legislative district. Using the Commission’s statement regarding external divisions, “creat[ing] districts that combine part of the county with another county,”¹ L03 actually has 15 divisions while L075 has 15 divisions, and both L076 and L079 have 14 divisions. *See* charts attached as Ex. A.

Ada County’s population is 494,967, an increase of 26.1% since the last census. Final Report, App. V. This should equate to nine internal legislative districts of 52,546 and a remainder of 22,053 people. Ada County currently has nine legislative districts. Idaho Secretary of State, District Maps, <https://sos.idaho.gov/elect/elected/maps.html>, Ex. B. The Commission, in its Final Report, claims that “Ada County *should* be externally split.”² Report at 20 (emphasis added). The Commission decreased

¹ Final Report, at 8 (citing Idaho Const. art III, § 5, and *Bingham County*, 137 Idaho at 874).

² The first sentence in the Final Report on page 20 appears to be in error. It states that “Seven counties—Ada, Bannock, Bonneville, Canyon, Kootenai, Madison and Twin Falls—have a population exceeding the ideal district size. Six of these counties must be divided to satisfy equal protection standards.” The report actually states that only four counties must be divided to satisfy equal protection standards. The Final Report states that Ada and Kootenai “should” be externally split (p. 22), Madison is not split (367 above ____ deviation +0.7%) (p. 22) while Bannock, Bonneville, Canyon and Twin Falls “must” be split (pp. 20-22).

Ada County's current *nine* internal districts to only *eight* internal districts in Ada County and externally joined 75,859 citizens of Ada County (over 15% of its population) with three other counties: Gem, Canyon and Owyhee to form districts. Ada County was actually split three times externally.

The Commission claims that "Bannock County *must* be externally split." Final Report, at 21 (emphasis added). Bannock County was split twice and was parsed out to other counties. According to Commission Map L03, a portion of Bannock County is aligned with Power and Franklin Counties and another portion is aligned with Bonneville, Teton, Caribou and Bear Lake Counties.

Bonner County was split twice, with a portion connected to Boundary County and another portion connected to Kootenai, Benewah, Shoshone and Clearwater Counties.

Bonneville County was split once, and a portion was parsed out to a portion of Teton, Caribou, Bannock and Bear Lake Counties. The Report claims that "Bonneville County *must* be externally split." Report at 21 (emphasis added).

Canyon County's population is 231,105, an increase of 22.3% from the last census. Final Report, App. V. This should equate to four ideal internal legislative districts of 52,546 and a remainder of 20,921 people. The Final Report claims that "Canyon County *must* be externally split." Report at 21 (emphasis added). The Commission created only three internal legislative districts and externally parsed out 70,678 citizens from Canyon County (30% of its population) to northern Ada County, to Washington and Payette Counties, and to southern Ada County and Owyhee County. In addition to the creation of three internal districts, the Commission divided Canyon County externally three times.

The Commission's Final Report claims that "Kootenai County *should* be externally split." Report at 22 (emphasis added). Kootenai County was split externally once, and a portion was parsed out to Bonner, Benewah, Shoshone and Clearwater to form a district.

Nez Perce County was divided with a portion connected to Idaho and Adams Counties and the other portion joined with Lewis and Latah Counties. Final Report, at 23-25.

The Report claims that “Twin Falls County *must* be externally split.” Final Report, at 22 (emphasis added). After creation of one internal legislative district, the remainder of Twin Falls County was parsed out to Gooding and Camas Counties.

II. LEGISLATIVE APPORTIONMENT REVIEW

This Court has original jurisdiction. Idaho Constitution Art. III § 2(5). When evaluating a challenge to a reapportionment plan, the Court considers a hierarchy of applicable law. *Twin Falls County v. Idaho Com’n on Redistricting*, 152 Idaho 346, 347, 271 P.3d 1202, 1203 (2012). First, the Court evaluates whether the plan meet the requirements of the Equal Protection Clause of the U.S. Constitution. *Id.* at 348-49, 1204. Second, the Court evaluates whether the plan limits the number of counties that can be divided. *Id.* at 349, 1205 And third, the Court considers whether the plan complies with Idaho Code § 72-1506. *Id.* at 349-350, 1206-1206.

III. ARGUMENT

A. Plans L03, L075, L076 and L079 all meet the equal protection standard.

In 1964 when *Reynolds v Sims*, 377 U.S. 533 (1964) was decided, the United States Supreme Court was focused on the lack of reapportionment of Alabama since 1901. At issue was the “strangle hold” that rural Alabama had over urban areas.³ The U.S. Supreme Court found “Population is, of necessity, the starting point for consideration and the controlling criterion for

³ “Bullock County, with a population of only 13,462, and Henry County with a population of only 15,286, each were allocated two seats in the Alabama House, whereas Mobile County, with a population of 314,301, was given only three seats, and Jefferson County with 634,846 people had only seven representatives.” *Reynolds v. Sims*, 377 U.S. 533, 545-46 (1964).

judgment in legislative apportionment controversies”. *Id.* at 567. However, the requirement is to “make an honest and good faith effort to construct districts . . . as nearly of equal population as is practicable. We realize that it is a practical impossibility to arrange legislative districts so that each one has an identical number of residents, or citizens, or voters. Mathematical exactness or precision is hardly a workable constitutional requirement.” *Id.* at 577.

It was almost twenty years later in 1983, that the U.S. Supreme Court held in a state legislative apportionment case that “a maximum population deviation under 10%” is a “minor deviation” that is “insufficient to make out a *prima facie* case of invidious discrimination.” *Brown v. Thomson*, 462, U.S. 835, 842 (1983). Interestingly, in the same decision, the U.S. Supreme Court allowed more than 10% deviations in Wyoming finding it was “justified on the basis of Wyoming’s longstanding and legitimate policy of preserving county boundaries.” *Id.* at 847. On the same day, June 22, 1983, the U.S. Supreme Court also issued a congressional reapportionment decision, *Karcher v. Daggett*, 462 U.S. 725 (1983) (White, J., Powell, J. and Rehnquist, J. dissenting). Although the Court struck down New Jersey’s congressional reapportionment plan, the dissenting Justices argued against striking the congressional plan, utilizing the Court’s established case law for state legislative apportionment. *Id.* at 780. The dissenting Justices noted that the Court had “taken a more sensible approach” to state legislative apportionment. *Id.* (citing *Gaffney v. Cummings*, 412 U.S. 735 (1973); *White v. Register*, 412 U.S. 755 (1973)). The dissent summarized prior case law that recognized that small deviations were not a *prima facie* constitutional violation and that the Court had “upheld plans with reasonable variances that were necessary to account for political subdivisions.” *Id.* at 780-81 (citing *Mahan v. Howell*, 410 U.S. 315 (1973)). Here there are plans other than L03 that meet the 10% deviation requirement AND preserve county boundaries which is a sensible approach, accounting for the political boundaries of counties.

This Court has also recognized that precision is not attainable and that deviations are allowed. *Bonneville County v. Ysursa*, 142 Idaho 464, 467, 129 P.3d 1213, 1216 (2005) (citing to *Reynolds*, 377 U.S. at 577; *Brown*, 462, U.S. at 842-43 (1983); (*Twin Falls*, 152 Idaho at 349, 271 P.3d at 1205 “The commission is not required to draw legislative districts that all have precisely the same population numbers”).

The Commission set its goal as “no district should deviate more than five percent, either over or under, from the ideal district size” and ultimately settled on a “5.84% maximum deviation.” Final Report, at 2, 11. Curiously, the Commission did not focus on meeting the Equal Protection Clause **and** dividing as few counties as possible. Because other proposed plans split fewer counties and still met equal protection standards, the Commission had to address the other plans that divided fewer counties.⁴ The Commission stated that “seven-county split plans are discriminatory under the Equal Protection Clause, as they consistently and significantly underpopulate [sic] districts in North Idaho at the expense of voters in other parts of the state, such that the weight of a person’s vote depends on the location in the state where that person lives.” Final Report, at 29. The *Bonneville County* Court, in its decision, cited to a regional deviation case which found “that in the absence of evidence of an unconstitutional or irrational state purpose for deviating from mathematical equality, a plan that arguably favored one region of the state but remained within the ten percent margin was not unconstitutional. 142 Idaho at 469, 129 P.3d at 1218.

⁴ If a redistricting plan with a deviation of less than 10% is challenged, the burden is on the challenger to “demonstrate that the deviation results from some unconstitutional or irrational state purpose.” *Bonneville County v. Ysursa*, 142 Idaho 464, 468, 129 P.3d 1213, 1217 (2005); *see also Rodriguez v. Pataki*, 308 F.Supp.2d 346, 365 (S.D.N.Y. 2004). Since the Commission is challenging Plans L075, L076 and L079 in its Final Report, the Commission has the burden to demonstrate an unconstitutional or irrational purpose of those plans. On page 15 of the Final Report, it states: “the Commission does not mean to imply that anyone who submitted a seven-county-split plan did so for improper purposes.”

The Commission’s criticisms of the other plans with seven-county splits stated its concern with effects of the seven-county split plans on North Idaho. The Commission’s Plan, L03, fails to address the concerns of how Ada and Canyon Counties were split in the Commission’s plan. “Obviously, to the extent that a county contains more people than allowed in a legislative district, the county must be split. However, this does not mean that a county may be divided and aligned with other counties to achieve ideal district size if that ideal district size may be achieved by internal division of the county” *Bingham County*, 137 Idaho at 874, 55 P.3d at 867 (emphasis added). An ideal district number for Ada County is nine districts, which Ada County currently has, but Ada County was divided into eight districts and the rest of Ada County (15%) was aligned with other county districts. The same occurred with Canyon County. An ideal district number for Canyon County is four districts, but Canyon County was divided into three districts and the rest of the County (30%) was aligned with other county districts. The Commission is treating the largest urban areas of the Treasure Valley differently than all other urban areas in the state. There are 105,092 citizens in Canyon and Ada Counties facing unequal treatment because they are being deprived of a legislative district in each of their own counties.⁵

⁵ “The fact than an individual lives here or there is not a legitimate reason for overweighting or diluting the efficacy of his vote.” *Reynolds*, 377 U.S. at 567.

Number of Ideal Internal Legislative Districts Based on Population & Commission Internal Divisions				
County Population	No. of Ideal Internal Legislative Districts Based on Population	Population Remaining After Ideal Population Distribution of 52,913 into Legislative Internal Districts	Commission No. of Legislative Districts	Commission Population Remaining After Forming Internal Legislative Districts
Ada 494,967÷52,546	9 (note – currently Ada has 9 districts)	22,053	8	75,859
Bannock 87,018÷52,546	1	34,472	1	33,754
Bonneville 123,064÷52,546	2	17,972	2	20,497
Canyon 231,105÷52,546	4	20,921	3	70,678
Kootenai 171,362÷52,546	3	13,724	3	15,082
Twin Falls 90,046÷52,546	1	37,500	1	36,446
Madison 52,913÷52,546	1	367	1	0

The mathematical deviations in Plans L03, L075, L076 and L079 are insufficient to make a prima facie case that they are unconstitutional, and the Commission admits on page 15 of the Final Report, that “the Commission does not mean to imply that anyone who submitted a seven-county-split plan did so for improper purposes.”

The Commission argues that counties can only be split to comply with equal protection. Final Report, at 16. The Commission then argues that there is no equal protection justification for splitting Bonner County more than once (*Id.*), but the Commission somehow finds equal protection is served by externally dividing Ada County three times and removing an entire legislative district

that Ada County currently has. The Commission also finds that equal protection is served by externally dividing Canyon County three times and depriving Canyon County of a legislative district. Although L03 meets the 10% deviation criteria, L03 does not serve equal protection because of its treatment of Ada and Canyon Counties. There are 105,092 citizens that should have had their own legislative districts (Ada and Canyon)⁶ but instead have been parsed out of their own counties and have been joined with other counties.

B1. The Commission violated Article III § 5 of the Idaho Constitution by stating that they are dividing counties eight times to meet the equal protection clause when there were other plans that divided counties seven times and met the equal protection clause.

The Legislative History of the Constitutional Amendment to Article III § 5 indicates that not splitting counties was of great importance to the Idaho Legislature and Idaho Voters. In 1986, the Idaho Legislature adopted HJR4 which proposed to amend the Idaho Constitution. H.R.J. Res. 4, 48th Legislature (1986), Ex. C. A voter pamphlet was prepared, with the Legislative Council providing statements of meaning and purpose and the effect of adoption. *See* Secretary of State Voter’s Pamphlet, 1986, Ex. D. The Legislative Council’s meaning and purpose states in relevant part: “to permit the division of a county into more than one legislative district if all such districts are wholly contained within the county.” *Id.* The Legislative Council’s statement regarding effect of the adoption of the constitutional amendment stated in relevant part: “allow for the division of a county into more than one legislative district when districts are wholly contained within a single county.” *Id.* The statements appeared to imply that counties could only be split internally into legislative districts. It was not until the Statements for the Proposed Amendment that the voter

⁶ Ada County and Canyon County should each have an additional district. This is the number of people who should be in those districts.

learned that adoption “would provide a constitutional method to divide counties, but only when absolutely necessary to form legislative districts of equal population.” *Id.*

The question that was to be presented on the ballot was shall the Idaho Constitution be amended “to provide that counties shall be divided only to the extent determined necessary by statute to comply with the Constitution of the United States. *See* H.R.J. Res. 4, Sec. 4, 48th Legislature (1986), Ex. C. The citizens voted in favor of the amendment to the Idaho Constitution, apparently favoring the limitation on the division of counties.

After the amendment was approved, Article III § 5 of the Idaho Constitution states:

A senatorial or representative district, when more than one county shall constitute the same, shall be composed of contiguous counties, and a county may be divided in creating districts only to the extent it is reasonably determined by statute that counties must be divided to create senatorial and representative districts which comply with the constitution of the United States. A county may be divided into more than one legislative district when districts are wholly contained within a single county. No floterial district shall be created. Multi-member districts may be created in any district composed of more than one county only to the extent that two representatives may be elected from a district from which one senator is elected. The provisions of this section shall apply to any apportionment adopted following the 1990 decennial census.

Emphasis added. During the last reapportionment process in 2012, this Court held that if counties are divided for some reason other than to comply with the U.S. Constitution, it violates Idaho’s Constitution. *Twin Falls*, 152 Idaho at 347, 271 P.3d at 1203. In violation of this constitutional provision, the Commission unnecessarily divided eight counties in its Final Report and Map L03. There are other plans that meet the criteria of equal voter protection and divide only seven counties. *See* Plans 75, 76, and 79 filed with the Commission; *Twin Falls*, 152 Idaho at 350, 271 P.3d at 1206 (“If, for example, only seven counties needed to be divided in order to comply, then a plan that divides eight counties would violate these constitutional and statutory provisions”).

B2. The Commission violated Article III § 5 of the Idaho Constitution by failing to count the actual number of times the Commission divided counties, and because the actual number of divisions exceeds the number of divisions in Plans L076 and L079.

The Court did not address the external division issue in its 2012 *Twin Falls* Redistricting Decision. The Court did previously address the issue in its *Bingham County* redistricting decision.

Obviously to the extent that a county contains more people than allowed in a legislative district, the county must be split. *However, this does not mean that a county may be divided and aligned with other counties to achieve ideal district size if that ideal district size may be achieved by internal division of the county. Whether desirable or not, that is the meaning of Article III, § 5. A county may not be divided and parsed out to areas outside the county to achieve ideal district size, if that goal is attainable without extending the district outside the county.*

Bingham County, 137 Idaho at 874, 55 P.3d at 867 (emphasis added). As the following chart illustrates, the Commission not only divided more counties than necessary (8 vs 7) but the actual external divisions have more divisions than necessary.

County/Population	No. of Stated Commission County External Division	Commission External Divisions (“create districts that combine part of the county with another county” Final Report at 8) See Exhibit A for detailed charts of each L03, L075, L076, and L079
Ada 494,967	1	3 (75,859 parsed out)
Bannock 87,018	1	2 (33,754 parsed out)
Bonneville 123,064	1	1 (20,497 parsed out)
Canyon 231,105	1	3 (70,678 parsed out)
Kootenai 171,362	1	1 (15,082 parsed out)
Twin Falls 90,046	1	1 (36,446 parsed out)
Madison 52,913	0	0
All other counties have populations below the ideal mathematical size of 52,546 (1,839,106 divided by 35 legislative districts). Only the following two counties, with populations below 52,546 have been split under L03.		
Bonner	1	2 (47,110 parsed out)

47,110		
Nez Perce 42,090	1	2 (42,090 parsed out)
TOTAL	8	15

The Commission took 75,859 Ada County residents (15%), a number well above the mathematical ideal of 52,546, and enough to form another legislative district, and instead of creating another district, parsed those 75,859 citizens out in three other districts. This parsing out of Ada County to achieve an ideal district size is constitutionally prohibited. The Commission did the same thing with Canyon County, parsing out 70,678 citizens (30%), a number well above the mathematical ideal of 52,546, and enough to form another legislative district, and instead parsed the citizens out in three districts. The Commission’s action is constitutionally prohibited.

The Commission asserts in its Final Report that it split Ada County three times in the interest of equal protection, and further argued that they “found it necessary . . . to combine ‘rural, sparsely populated’ areas with more urban ones.” Final Report, at 56. This finding does not comport with equal protection as making urban and rural voters coequals by joining them in the same legislative district is not an equal protection issue, nor is it a county division issue. Such a finding actually appears to be for the improper purpose of diluting the strength of the rapidly growing urban areas. The Commission finally determines that they are maintaining communities of interest by the county divisions. The Commission does not appear familiar with southwest Idaho as they argue that Emmett and Eagle are part of the Treasure Valley, and that Emmett and Eagle share economic interests. *See* Final Report, at 54. Emmett is not considered part of the Treasure Valley. *See* Treasure Valley Partnership, <https://treasurevalleypartners.org/about>, Ex. E. Eagle profiles itself as an area with “miles of trails, acres of parks, and endless outdoor recreational opportunities” and “a workforce with high educational attainment, top-rated schools, abundant shopping and entertainment, well-designed

residential and commercial neighborhoods, and restaurants that run from five-star elegance to drop in casual.” The City of Eagle, Community Profile, www.cityofeagle.org/1778/Community-Profile, Ex. F. No one would argue that this profile describes Emmett. See City of Emmett, <https://www.cityofemmett.org/our-community>, Ex. G.

The Commission’s Final Report stated: “When a county must be divided to create legislative districts, internal divisions, which create districts wholly contained within a county, are favored over external divisions, which create districts that combine part of the county with another county.” [citing Idaho Const. art III, § 5, and *Bingham County*, 137 Idaho at 874]. A county may not ‘be divided and aligned with other counties to achieve ideal district size if that ideal district size may be achieved by internal division of the county.’” [citing *Bingham County*, 137 Idaho at 874]. Final Report, at 8. The Commission did not favor internal divisions in Canyon and Ada Counties, and instead decided to favor excessive divisions of two urban counties and the alignment of the urban counties with neighboring rural counties. This excessive division of these counties is not constitutionally permissible, and goes against the Commission’s statements in its Final Report.

C. L03 does not comply with Idaho Code § 72-1506.

Assuming arguendo that the Court finds L03 meets the Idaho Constitution’s requirement not to unnecessarily divide counties, the Plan fails to meet the statutory requirements found in Idaho Code § 72-1506.

Idaho Code § 72-1506 provides in part:

Congressional and legislative redistricting plans considered by the commission, and plans adopted by the commission, shall be governed by the following criteria:

...

(2) To the maximum extent possible, districts shall preserve traditional neighborhoods and local communities of interest.

...

(5) Division of counties shall be avoided whenever possible. In the event that a county must be divided, the number of such divisions, per county, should be kept to a minimum.

(9) When a legislative district contains more than one (1) county or a portion of a county, the counties or portion of a county in the district shall be directly connected by roads and highways. . .

As to § 72-1506(5), as previously stated in Parts A, B1 and B2 of this Brief, the Commission excessively and unnecessarily divided Ada and Canyon Counties.

Section 72-1506 discusses preserving traditional neighborhoods and local communities of interest. The Commission determined that they are maintaining local communities and argue that Emmett and Eagle are part of the Treasure Valley, and that Eagle and Emmett share economic interests. *See* Final Report, at 54. Emmett is not considered part of the Treasure Valley. *See* Treasure Valley Partnership, <https://treasurevalleypartners.org/about>, Ex. E. Eagle does not share economic interests with the agricultural community of Emmett. *See* www.cityofeagle.org/1778/Community-Profile, Ex. F; City of Emmett, <https://www.cityofemmett.org/our-community>, Ex. G. Also, it is questionable whether State Highway 16 directly connects Eagle with Emmett.

There is no statutory or constitutional basis for the Commission deciding that in southwestern Idaho, rapidly growing urban counties should be deprived of their legislative districts and be chopped up and aligned with rural, sparsely populated areas. Final Report, at 56. There is also no statutory or constitutional basis to chop up urban counties to make “urban and rural voters coequals” in a legislative district.

The Commission also criticized Ada County’s proposed plan because that plan divided Garden City into two legislative districts. *See* Final Report, at 55. Ada County, more familiar with its own communities, had a specific reason for its proposed division along the Boise River, as is highlighted in a recent *Idaho Press* article; Ryan Suppe, *Affordability, partisanship divides Garden*

City in recent local election, Idaho Press, November 20, 2021, <https://www.idahopres.com/news/local/affordability-partisanship-divides-garden-city-in-recent-local-election/article>, Ex. H. “North of the river are upscale subdivisions, winding suburban streets and a private golf course. In southeast Garden City, lower-income and more ethnically diverse residents live alongside industrial and commercial businesses, art studios and breweries.” The Commission further points out that Ada County’s proposed plan combined portions of Ada County and portions of Canyon County with Owyhee County. This was done specifically to keep the Melba School District intact because in the extremely rural area, the school district is the community of interest.

On the other side of the state, the Commission failed to maintain a traditional neighborhood and community of interest in Bannock County. According to the L03 map, it appears that the neighbors in the same cul-de-sac above the Highland Golf Course are separated into Legislative Districts 28 and 29 depending on which side of the street the person lives on.

Although the Commission Plan L03 should fail for failing to divide as few counties as possible, if the Court considers Idaho Code § 72-1506, L03 also fails under the statutory requirements. L03 does not preserve traditional neighborhoods and local communities of interest, it excessively divides counties and it is questionable whether certain areas are directly connected by highways.

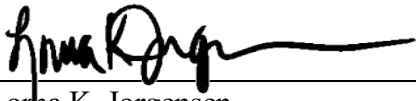
IV. CONCLUSION

There are several plans that meet the equal protection requirements of the U.S. Constitution and the Idaho Constitution. Unfortunately, Plan L03 fails to meet the requirements of the Idaho Constitution because it divides counties too many times. Because of this constitutional violation, Petitioner Ada County requests that the Court issue a Writ of Prohibition that restrains the Secretary of State from transmitting a copy of the Commission’s Final Report and Map L03 to the president of

the Idaho Senate and the speaker of the Idaho House. Further, Petitioner asks the Court to remand the matter back to the Commission for review and revision so that the Final Report and adopted map comply with both the Equal Protection Clause of the United States Constitution and the Idaho Constitution.

DATED this 2nd day of December, 2021.

JAN M. BENNETTS
Ada County Prosecuting Attorney

By: 

Lorna K. Jorgensen
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of December, 2021, I served a true and correct copy of the foregoing BRIEF IN SUPPORT OF ADA COUNTY’S PETITION CHALLENGING THE CONSTITUTIONALITY OF REAPPORTIONMENT PLAN L03 AND REQUEST FOR WRIT OF PROHIBITION AND REMAND to the following persons by the following method:

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L03 External County Splits

Statement: "Create districts that combine part of the county with another county," Final Report, at 8.

County/Population	No. of External Splits	Split 1	Split 2	Split 3
Ada 494,967	3	Northern Ada with Gem County	Eastern Ada with Canyon County	Southern Ada with Canyon and Owyhee Counties
Bannock 87,018	2	Portion with Power and Franklin Counties	Portion with Bonneville, Teton, Caribou and Bear Lake Counties	
Bonneville 123,064	1	Portion aligned with Bannock, Teton, Caribou and Bear Lake Counties		
Canyon 231,105	3	Portion with Northern Ada County	Portion with Washington and Payette Counties	Southern portion with Ada and Owyhee Counties
Kootenai 171,362	1	Portion with Bonner Benewah, Shoshone and Clearwater Counties		
Twin Falls 90,046	1	Portion connected to Gooding and Camas Counties		
Madison 52,913	0			
<p>All other counties have populations below the ideal mathematical size of 52,546 (1,839,106 divided by 35 legislative districts) and only the following two counties have been split under L03.</p>				
Bonner 47,110	2	Portion connected to Boundary County	Portion connected to Kootenai, Benewah, Shoshone and	

			Clearwater Counties	
Nez Perce 42,090	2	Portion connected to Idaho and Adams Counties	Portion connected to Lewis and Latah Counties	
TOTAL EXTERNAL SPLITS	15			

L075 External County Splits				
Statement: "Create districts that combine part of the county with another county," Final Report, at 8.				
County/Population	No. of External Splits	Split 1	Split 2	Split 3
Ada 494,967	3	Western portion with Canyon, Owyhee, and a portion of Twin Falls Counties	Western portion with Elmore, Camas and Gooding Counties	Western portion with eastern portion of Canyon (Kuna, Meridian and Nampa)
Bannock 87,018	0			
Bonneville 123,064	2	Portion aligned with Bingham and Butte Counties	Portion aligned with Teton, Caribou, Franklin and Bear Lake Counties	
Canyon 231,105	3	Northern Portion connected to Payette, Gem and Boise Counties	Southern portion with a portion of Ada, Owyhee, and Twin Falls Counties	Western portion with eastern portion of Canyon (Kuna, Meridian and Nampa)
Kootenai 171,362	2	Portion with Bonner and Benewah, Counties	Portion with Shoshone County	
Twin Falls 90,046	2	Portion connected to Owyhee,	Portion connected to	

		Canyon and Ada Counties	Minidoka, Cassia Counties	
Madison 52,913	0			
All other counties have populations below the ideal mathematical size of 52,546 (1,839,106 divided by 35 legislative districts) and only the following county has been split.				
Bonner 47,110	3	Portion connected to Boundary County	Portion connected to Kootenai County	Portion connected to Kootenai and Shoshone Counties
TOTAL EXTERNAL SPLITS	15			

L076 External County Splits				
Statement: "Create districts that combine part of the county with another county," Final Report, at 8.				
County/Population	No. of External Splits	Split 1	Split 2	Split 3
Ada 494,967	1	Southern portion with a portion of Canyon and Elmore Counties		
Bannock 87,018	2	Portion connected to Oneida, Franklin and Bear Lake Counties	Portion connected to Bingham County	
Bonneville 123,064	1	Portion connected to Teton, Clark, Fremont and Caribou Counties		
Canyon 231,105	3	Northern Portion connected to Payette,	Southern portion with Owyhee County	Western portion with a portion of Ada and Elmore Counties

		Washington and Adams Counties		
Kootenai 171,362	2	Portion with Bonner	Portion with Bonner and Shoshone Counties	
Twin Falls 90,046	2	Portion connected Jerome County	Portion connected to Minidoka, Cassia Counties	
Madison 52,913	0			
All other counties have populations below the ideal mathematical size of 52,546 (1,839,106 divided by 35 legislative districts) and only the following county has been split.				
Bonner 47,110	3	Portion connected to Boundary County	Portion connected to Kootenai County	Portion connected to Kootenai and Shoshone Counties
TOTAL EXTERNAL SPLITS	14			

L079 External County Splits				
Statement: "Create districts that combine part of the county with another county," Final Report, at 8.				
County/Population	No. of External Splits	Split 1	Split 2	Split 3
Ada 494,967	2	A portion or northern part joined with Canyon County	A portion of southern part joined with Elmore County	
Bannock 87,018	2	Portion connected to Oneida, Franklin and Bear Lake Counties	Portion connected to Bingham County	

Bonneville 123,064	1	Portion connected to Teton, Fremont Clark and Caribou Counties		
Canyon 231,105	3	Northern Portion connected to Payette, Washington and Adams Counties	Southern portion with Owyhee County	Western portion with a portion of Ada County
Kootenai 171,362	2	Portion with Bonner County	Portion with Shoshone County	
Twin Falls 90,046	2	Portion connected Jerome County	Portion connected to Minidoka and Cassia Counties	
Madison 52,913	0			
All other counties have populations below the ideal mathematical size of 52,546 (1,839,106 divided by 35 legislative districts) and only the following county has been split.				
Bonner 47,110	2	Portion connected to Boundary County	Portion connected to Kootenai County	
TOTAL EXTERNAL SPLITS	14			

IDAHO STATE LEGISLATIVE MEMBERS

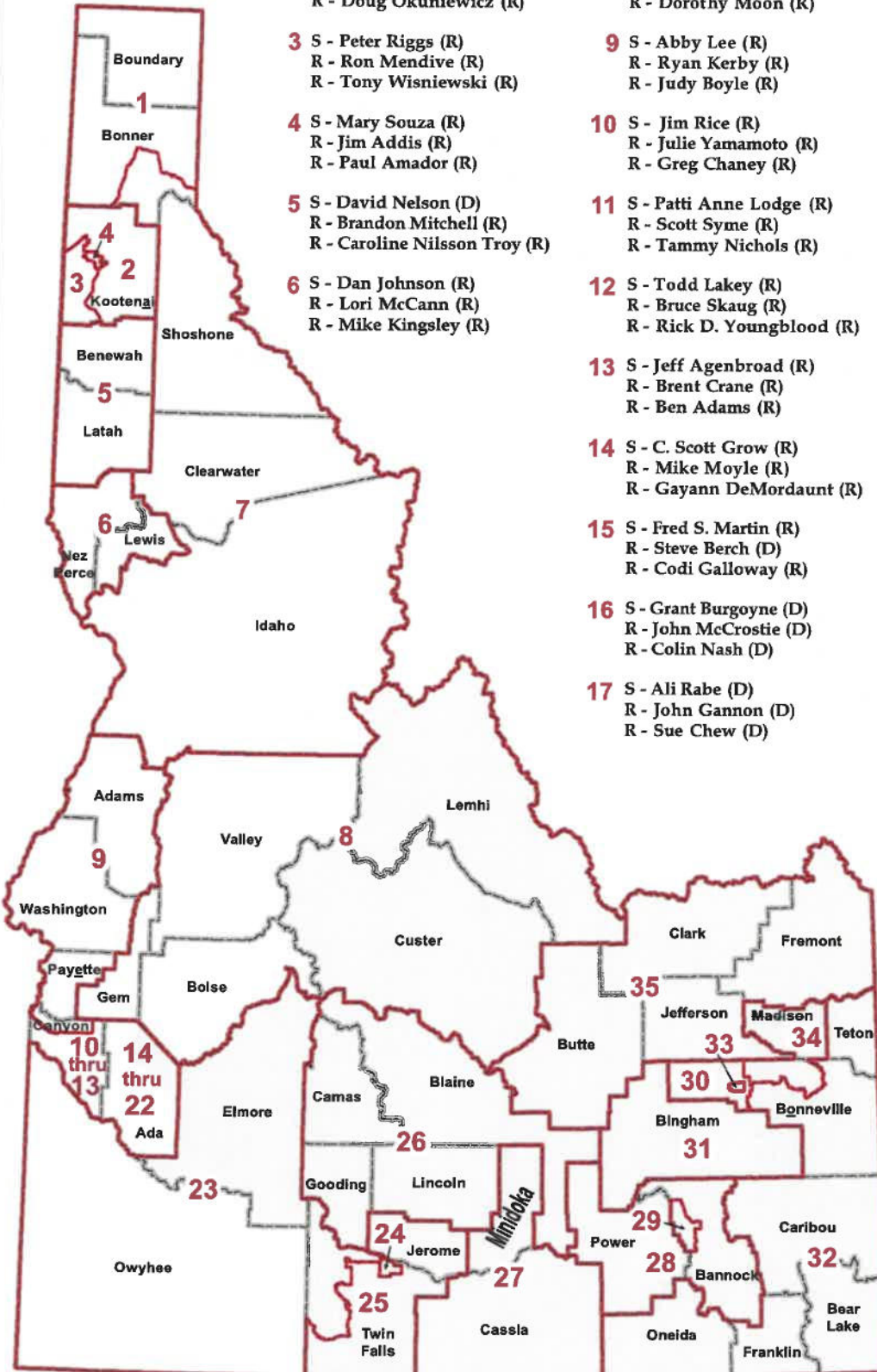
66th IDAHO STATE LEGISLATURE

FIRST REGULAR SESSION

SESSION BEGINS
JANUARY 11, 2021

Legend

- S - Senator
- R - Representative
- (D) Democrat
- (R) Republican
- State Legislative District Boundary
- State Legislative District Number
- 1st Congressional District
- 2nd Congressional District
- County Boundary



- | | | |
|---|---|--|
| <p>1 S - Jim Woodward (R)
R - Heather Scott (R)
R - Sage Dixon (R)</p> <p>2 S - Steve Vick (R)
R - Vito Barbieri (R)
R - Doug Okuniewicz (R)</p> <p>3 S - Peter Riggs (R)
R - Ron Mendive (R)
R - Tony Wisniewski (R)</p> <p>4 S - Mary Souza (R)
R - Jim Addis (R)
R - Paul Amador (R)</p> <p>5 S - David Nelson (D)
R - Brandon Mitchell (R)
R - Caroline Nilsson Troy (R)</p> <p>6 S - Dan Johnson (R)
R - Lori McCann (R)
R - Mike Kingsley (R)</p> | <p>7 S - Carl Crabtree (R)
R - Priscilla Giddings (R)
R - Charlie Shepherd (R)</p> <p>8 S - Steven Thayn (R)
R - Terry F. Gestrin (R)
R - Dorothy Moon (R)</p> <p>9 S - Abby Lee (R)
R - Ryan Kerby (R)
R - Judy Boyle (R)</p> <p>10 S - Jim Rice (R)
R - Julie Yamamoto (R)
R - Greg Chaney (R)</p> <p>11 S - Patti Anne Lodge (R)
R - Scott Syme (R)
R - Tammy Nichols (R)</p> <p>12 S - Todd Lakey (R)
R - Bruce Skaug (R)
R - Rick D. Youngblood (R)</p> <p>13 S - Jeff Agenbroad (R)
R - Brent Crane (R)
R - Ben Adams (R)</p> <p>14 S - C. Scott Grow (R)
R - Mike Moyle (R)
R - Gayann DeMordaunt (R)</p> <p>15 S - Fred S. Martin (R)
R - Steve Berch (D)
R - Codi Galloway (R)</p> <p>16 S - Grant Burgoyne (D)
R - John McCrostie (D)
R - Colin Nash (D)</p> <p>17 S - Ali Rabe (D)
R - John Gannon (D)
R - Sue Chew (D)</p> | <p>18 S - Janie Ward-Engelking (D)
R - Ilana Rubel (D)
R - Brooke Green (D)</p> <p>19 S - Melissa Wintrow (D)
R - Lauren Necochea (D)
R - Chris Mathias (D)</p> <p>20 S - Chuck Winder (R)
R - Joe Palmer (R)
R - James Holtzclaw (R)</p> <p>21 S - Regina M. Bayer (R)
R - Steven C. Harris (R)
R - Greg Ferch (R)</p> <p>22 S - Lori Den Hartog (R)
R - John Vander Woude (R)
R - Jason Monks (R)</p> <p>23 S - Christy Zito (R)
R - Matthew Bundy (R)
R - Megan Blanksma (R)</p> <p>24 S - Lee Heider (R)
R - Lance W. Clow (R)
R - Linda Wright Hartgen (R)</p> <p>25 S - Jim Patrick (R)
R - Laurie Lickley (R)
R - Clark Kauffman (R)</p> <p>26 S - Michelle Stennett (D)
R - Muffy Davis (D)
R - Sally Toone (D)</p> <p>27 S - Kelly Anthon (R)
R - Scott Bedke (R)
R - Fred Wood (R)</p> <p>28 S - Jim Guthrie (R)
R - Randy Armstrong (R)
R - Kevin Andrus (R)</p> <p>29 S - Mark Nye (D)
R - Dustin Manwaring (R)
R - James Ruchti (D)</p> <p>30 S - Kevin Cook (R)
R - Gary L. Marshall (R)
R - Wendy Horman (R)</p> <p>31 S - Steven Bair (R)
R - David Cannon (R)
R - Julianne Young (R)</p> <p>32 S - Mark Harris (R)
R - Marc Gibbs (R)
R - Chad Christensen (R)</p> <p>33 S - Dave Lent (R)
R - Barbara Ehardt (R)
R - Marco Erickson (R)</p> <p>34 S - Doug Ricks (R)
R - Jon Weber (R)
R - Ronald Nate (R)</p> <p>35 S - Van T. Burtenshaw (R)
R - Karey Hanks (R)
R - Rod Furniss (R)</p> |
|---|---|--|

Click here to see on-line map.
Prepared by the Idaho Transportation Department
Revised by LSC: April 29, 2021

1986

STATEMENT OF PURPOSE

RS 11866

THIS PROPOSAL WOULD LIMIT THE MEMBERSHIP OF THE SENATE TO THIRTY (30) TO THIRTY-FIVE (35) MEMBERS WITH A LIMIT OF TWO TIMES AS MANY REPRESENTATIVES AS SENATORS.

IT PROVIDES THAT COUNTIES MAY BE DIVIDED IN CREATING LEGISLATIVE DISTRICTS ONLY TO THE EXTENT IT IS NECESSARY TO COMPLY WITH THE UNITED STATES CONSTITUTION.

FISCAL NOTE

GENERAL FUND SAVINGS WOULD RESULT FROM THE SIZE LIMITATION. THE SAVINGS IN PAY AND PER DIEM ALONE IS ESTIMATED AT \$150,000 PER YEAR MINIMUM, BASED ON SEVENTY (70) REPRESENTATIVES AND THIRTY-FIVE (35) SENATORS. NO ESTIMATE IS MADE OF ASSOCIATED SAVINGS IN STAFF, SUPPLIES, REDUCED NUMBER OF BILLS, ET CETERA.

EXHIBIT C

IN THE HOUSE OF REPRESENTATIVES

HOUSE JOINT RESOLUTION NO. 4

BY STATE AFFAIRS COMMITTEE

A JOINT RESOLUTION

1 PROPOSING AMENDMENTS TO SECTIONS 2, 4 AND 5, ARTICLE III, OF THE CONSTITUTION
 2 OF THE STATE OF IDAHO, RELATING TO APPORTIONMENT OF THE LEGISLATURE, TO
 3 APPLY TO APPORTIONMENTS AFTER 1990, TO LIMIT THE MEMBERSHIP OF THE SENATE
 4 TO NOT LESS THAN THIRTY NOR MORE THAN THIRTY-FIVE MEMBERS AND THE HOUSE OF
 5 REPRESENTATIVES TO NOT MORE THAN TWO TIMES THE SIZE OF THE SENATE; TO
 6 DELETE THE REQUIREMENT THAT EACH COUNTY SHALL BE ENTITLED TO ONE REPRESENTATIVE;
 7 TO PROVIDE THAT COUNTIES SHALL BE DIVIDED ONLY TO THE EXTENT
 8 DETERMINED NECESSARY BY STATUTE TO COMPLY WITH THE CONSTITUTION OF THE
 9 UNITED STATES; TO PERMIT DIVIDING A COUNTY WHEN DISTRICTS ARE WHOLLY
 10 WITHIN A SINGLE COUNTY; TO PROHIBIT FLORIAL DISTRICTS; AND TO PERMIT
 11 MULTI-MEMBER DISTRICTS IF A DISTRICT IS COMPOSED OF MORE THAN ONE COUNTY,
 12 ONLY TO THE EXTENT THAT TWO REPRESENTATIVES MAY BE ELECTED FROM A DISTRICT
 13 FROM WHICH ONE SENATOR IS ELECTED; STATING THE QUESTION TO BE SUBMITTED TO
 14 THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS
 15 REQUIRED BY LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE
 16 AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

17 Be It Resolved by the Legislature of the State of Idaho:

18 SECTION 1. That Section 2, Article III, of the Constitution of the State
 19 of Idaho be amended to read as follows:

20 SECTION 2. MEMBERSHIP OF HOUSE AND SENATE. Following the decen-
 21 nial census of 1990 and in each legislature thereafter, ~~t~~The senate
 22 shall consist of ~~one-(1)-member-from-each-county~~ not less than thirty
 23 nor more than thirty-five members. The legislature may fix the number
 24 of members of the house of representatives at not more than ~~three-(3)~~
 25 two times as many representatives as there are senators. The senators
 26 and representatives shall be chosen by the electors of the respective
 27 counties or districts into which the state may, from time to time, be
 28 divided by law.

29 SECTION 2. That Section 4, Article III, of the Constitution of the State
 30 of Idaho be amended to read as follows:

31 SECTION 4. APPORTIONMENT OF LEGISLATURE. The members of the
 32 first legislature following the decennial census of 1990 and each
 33 legislature thereafter shall be apportioned to ~~the-several~~ not less
 34 than thirty nor more than thirty-five legislative districts of the
 35 state ~~in-proportion-to-the-number-of-votes-pollied-at-the-last-general~~
 36 ~~election-for-delegate-to-congress,-and-thereafter-to--be--apportioned~~
 37 as may be provided by law~~+provided,-each-county-shall-be-entitled-to~~
 38 one-representative.

1 SECTION 3. That Section 5, Article III, of the Constitution of the State
2 of Idaho be amended to read as follows:

3 SECTION 5. SENATORIAL AND REPRESENTATIVE DISTRICTS. A sena-
4 torial or representative district, when more than one county shall
5 constitute the same, shall be composed of contiguous counties, and no
6 a county shall may be divided in creating such districts only to the
7 extent it is reasonably determined by statute that counties must be
8 divided to create senatorial and representative districts which
9 comply with the constitution of the United States. A county may be
10 divided into more than one legislative district when districts are
11 wholly contained within a single county. No floterial district shall
12 be created. Multi-member districts may be created in any district
13 composed of more than one county only to the extent that two repre-
14 sentatives may be elected from a district from which one senator is
15 elected. The provisions of this section shall apply to any apportion-
16 ment adopted following the 1990 decennial census.

17 SECTION 4. The question to be submitted to the electors of the State of
18 Idaho at the next general election shall be as follows:

19 "Shall Sections 2, 4 and 5, Article III, of the Constitution of the State
20 of Idaho, relating to apportionment of the Legislature, be amended as they
21 apply to apportionments after 1990, to limit the membership of the Senate to
22 not less than thirty nor more than thirty-five members and the House of Repre-
23 sentatives to not more than two times the size of the Senate; to delete the
24 requirement that each county shall be entitled to one representative; to pro-
25 vide that counties shall be divided only to the extent determined necessary by
26 statute to comply with the Constitution of the United States; to permit divid-
27 ing a county when districts are wholly within a single county; to prohibit
28 floterial districts; and to permit multi-member districts if a district is
29 composed of more than one county, only to the extent that two representatives
30 may be elected from a district from which one senator is elected?"

31 SECTION 5. The Legislative Council is directed to prepare the statements
32 required by Section 67-453, Idaho Code, and file the same.

33 SECTION 6. The Secretary of State is hereby directed to publish this pro-
34 posed constitutional amendment and arguments as required by law.

(House)

MINUTES OF THE MEETING OF THE STATE AFFAIRS COMMITTEE

Thursday, January 9, 1986

TIME: 10:00 a.m.
PLACE: Room 412, Statehouse, Boise, Idaho
PRESENT: All members present except Representatives Bateman, Chatburn, Crane, Hay, and McDermott, excused.

The meeting was called to order by Representative Little, Chairman.

Chairman Little extended a welcome to the new members, Representatives Fry and Kellogg.

There was an adjustment in seat assignments due to the new vice-chairman and new members.

→ RS 11866

PROPOSING AMENDMENTS TO SECTIONS 2, 4 AND 5, ARTICLE III, OF THE CONSTITUTION OF THE STATE OF IDAHO, RELATING TO APPORTIONMENT OF THE LEGISLATURE TO APPLY TO APPORTIONMENTS AFTER 1990, LIMITING MEMBERSHIP OF THE SENATE TO NOT MORE THAN 35 MEMBERS AND THE HOUSE TO NO MORE THAN TWO TIMES THE SIZE OF THE SENATE.

Representative Haagenson explained to the Committee that his reason for sponsoring this legislation was that the smaller numbers would be more efficient. He explained that this would eliminate the floterial districts. This measure would also result in a general funds savings.

MOTION

It was moved by Representative Stoicheff that RS 11866 be introduced. Seconded by Representative Smock. Motion carried.

RS 11867

PROPOSING AN AMENDMENT TO SECTION 8, ARTICLE III, OF THE CONSTITUTION OF THE STATE OF IDAHO, RELATING TO SESSIONS OF THE LEGISLATURE, TO PROVIDE THAT SESSIONS DURING ODD-NUMBERED YEARS SHALL BE GENERAL SESSIONS WITHOUT LIMIT AS TO LENGTH OR SUBJECT MATTER, AND TO PROVIDE THAT BUDGET SESSIONS DURING EVEN-NUMBERED YEARS SHALL BE LIMITED TO TWENTY DAYS.

Representative Haagenson told the Committee that there were many states larger than Idaho that had similar sessions and that some large states only met every two years, such as Texas.

Representative Strasser asked Representative Haagenson if he had considered adding language to this proposed legislation that would allow the Governor to add other items to be considered on the even-numbered years that he considered urgent.

Representative Haagenson replied that he had not, as the Governor still has the authority to issue a call for an extraordinary session and could do so in conjunction with the budget session if there was legislation that was urgent.

Representative Smock asked Representative Haagenson if the twenty-day provision had just been a figure pulled out of the air or if there was some basis for limiting the budget session to that length of time.

Representative Haagenson said that after some discussion, twenty days had seemed to be a reasonable length of time, even though at first it had been an arbitrary figure. He added, however, that he had no objection to changing the length of time to fifteen or twenty days or whatever figure seemed more reasonable.

Representative Stoicheff said that he could not support this legislation because he felt that it would not be productive for the whole legislature to be here for the budget session waiting for the Joint Committee to bring the budgets to the floor in order to vote on them.

Senate State Affairs
3-27-1986

B U C K S L I P

WALTER H. YARBROUGH
DISTRICT 12
OWYHEE AND ELMORE COUNTIES

HOME ADDRESS
BOX 216, ROUTE B
GRANDVIEW, IDAHO 83624
RESIDENCE (208) 834-2727



COMMITTEES

CHAIRMAN
STATE AFFAIRS

VICE CHAIRMAN
FINANCE

Idaho State Senate

CAPITOL BUILDING
BOISE

Date 3/27/86

TO: SENATE STATE AFFAIRS COMMITTEE
FROM: SEN. WALTER H. YARBROUGH, Chairman
SUBJECT: HJR 4
(Bill No.)

Would you please read the attached HJR 4 (and Statement of Purpose if required), indicate your desires regarding the legislation and then initial.

	DO PASS	DO NOT PASS	WITHOUT RECOM- MENDATION	HOLD IN COMMITTEE	INITIAL
YARBROUGH, Chairman	X				W.H.Y.
BUDGE					
RISCH					
CRYSTAL					
RICKS					
BATT					
KIEBERT					
PEAVEY					J.P.
SWEENEY					

When complete, please return to Bert Bays, Secretary, State Affairs Committee.

Thank you.

3/27 out w/o recommendation

1986 Daily Data, Final Edition

- 1/30 Rpt prt - to Agric Aff
- 2/11 Rpt out - rec d/p - to 2nd rdg
- 2/12 2nd rdg - to 3rd rdg
- 2/13 3rd rdg - ADOPTED - voice vote
To Senate
- 2/14 Senate intro - 1st rdg - to Loc Gov

HJM15..... By State Affairs
KERN RIVER PIPELINE PROJECT - Petitioning the Federal Energy Regulatory Commission to facilitate the construction and operation of the Kern River Pipeline Project in the State of Wyoming.

- 2/10 House intro - 1st rdg - to printing
- 2/11 Rpt prt - to St Aff
- 2/14 Rpt out - rec d/p - to 2nd rdg
- 2/17 2nd rdg - to 3rd rdg
- 2/18 3rd rdg - ADOPTED - voice vote
To Senate
- 2/19 Senate intro - 1st rdg - to St Aff
- 3/10 Rpt out - to 10th Ord
- 3/11 ADOPTED - voice vote
Title apvd - to House
- 3/12 To enrol
- 3/13 Rpt enrol - Sp signed
- 3/14 Pres signed - to Secretary of State

HJM16..... By Transportation & Defense
HIGHWAYS - FUNDS - Petitioning Congress to develop flexibility for transferring apportioned funds from the Interstate Resurfacing Program to the Primary Highway System and to eliminate statutory mandates requiring rigid safety standards.

- 2/19 House intro - 1st rdg - to printing
- 2/20 Rpt prt - to Transp
- 3/7 Rpt out - rec d/p - to 2nd rdg
- 3/10 2nd rdg - to 3rd rdg
- 3/11 3rd rdg - ADOPTED - voice vote
To Senate
- 3/12 Senate intro - 1st rdg - to Transp
- 3/21 Rpt out - rec d/p - to 10th Ord
- 3/22 ADOPTED - voice vote
Title apvd - to House
- 3/24 To enrol - rpt enrol - Sp signed
- 3/25 Pres signed - to Secretary of State

HJM17..... By Revenue & Taxation
MILK AND MILK PRODUCTS - Petitioning Congress to delay the implementation date of the Milk Production Termination Program.

- 2/28 House intro - 1st rdg - to printing
- 3/3 Rpt prt - to 2nd rdg
- 3/3 2nd rdg - to 3rd rdg
- 3/3 Rules susp (81-0-3) - ADOPTED - voice vote
To Senate
- 3/4 Rules susp (32-0-10) - ADOPTED - voice vote
Title appvd - to House
- 3/4 To enrol - rpt enrol - Sp signed - Pres signed
- 3/4 To Secretary of State

HJM18..... By State Affairs
FREEDOM FIGHTERS OF NICARAGUA - Urging Congress to join with the President of the United States to provide assistance to the Freedom Fighters of Nicaragua in efforts to resist the regime of the Sandinista Government.

- 3/13 House intro - 1st rdg - to printing
- 3/14 Rpt prt - to 2nd rdg
- 3/14 2nd rdg - to 3rd rdg

- 3/17 3rd rdg - ADOPTED - 64-15-5
 NAYS -- Adams, Black, Crozier, EchoHawk, Givens, Herndon, Horvath, Johnson (27), Johnson (6), Judd, Keaton, McCann, Reid, Stoicheff, Tucker.
 Absent and excused -- Callen, Gurnsey, Lucas, McDermott, Stone.
 Title apvd - to Senate
- 3/18 Senate intro - to St Aff
- 3/20 Rpt out - to 10th Ord
- 3/22 3rd rdg - ADOPTED - 27-15-0
 NAYS -- Beitelspacher, Bilyeu, Bray, Calabretta, Dobler, Fairchild, Horsch, Kiebert, Lacy, Lannen, Marley, McLaughlin, Peavey, Reed, Sweeney.
 Absent and excused -- none.
 Title apvd - to House
- 3/24 To enrol - rpt enrol - Sp signed
- 3/25 Pres signed - to Secretary of State

→ HJR4..... By State Affairs
REAPPORTIONMENT - Proposing an amendment to the Constitution of the State of Idaho to limit the number of legislative districts to thirty-five, to prohibit multi-member senatorial districts, and to prohibit floterial districts and to allow for dividing counties under certain conditions.

- 1/9 House intro - 1st rdg - to printing
- 1/10 Rpt prt - to St Aff
- 1/17 Rpt out - rec d/p - to 2nd rdg
- 1/20 2nd rdg - to 3rd rdg
- 1/22 3rd rdg - PASSED - 70-10-3
 NAYS -- Adams, Callen, Givens, Herndon, Hoagland, Infanger, Morgan, Sorensen, Tucker, Wood.
 Absent and excused -- Johnson (6), Jones (23), McDermott.
 Title apvd - to Senate
- 1/23 Senate intro - 1st rdg - to St Aff
- 3/27 Rpt out - w/o rec - to 2nd rdg
- 3/28 2nd rdg - to 3rd rdg
- 3/28 Rules susp (27-13-2) - PASSED - 30-12-0
 NAYS -- Beitelspacher, Bilyeu, Bray, Calabretta, Dobler, Kiebert, Lannen, Marley, McLaughlin, Peavey, Reed, Sweeney.
 Absent and excused -- none.
 Title apvd - to House
- 3/28 To enrol - rpt enrol - Sp signed - Pres signed
- 4/1 To Secretary of State

HJR5..... By State Affairs
LEGISLATURE - SESSIONS - Proposing an amendment to the Constitution of the State of Idaho to provide for a legislative budget session limited to 20 days during even-numbered years and a general session without limit during the odd-numbered years.

- 1/9 House intro - 1st rdg - to printing
- 1/10 Rpt prt - to St Aff

HJR6..... By State Affairs
LEGISLATURE - BILLS - Proposing an amendment to the Constitution of the State of Idaho to require that legislative bills be read by title only on three separate days in each house prior to passage instead of at length.

- 1/23 House intro - 1st rdg - to printing
- 1/24 Held at desk
- 3/26 Rpt prt - to Jud

HJR7aa..... By Education



VOTER'S PAMPHLET



One Referendum Petition; One Initiative Petition; 3 Constitutional Amendments To Be Voted On November 4, 1986

published by Pete T. Cenarrusa
Secretary of State, State of Idaho
AS PUBLIC NOTICE

Dear Idahoans:

This is your Idaho Voter's Pamphlet for the November 4, 1986 General Election. It contains information concerning the one referendum, the one initiative, and three constitutional amendments which will appear on the ballot.

By constitutional provision in Idaho the people have the power to approve or reject at the polls any act or measure passed by the legislature. This is the referendum power. Referendum No. 1 therefore asks for your approval or rejection of the law, relating to right to work, which is already in existence. A simple majority of "yes" votes will approve the existing law. A simple majority of "no" votes will reject the existing law.

By constitutional provision the people also have the power to propose laws independently of the legislature. This is the initiative power. Initiative No. 1 therefore asks whether or not you wish to establish a state lottery. A simple majority of "yes" votes will establish a new state lottery law. A simple majority of "no" votes will reject the establishment of a state lottery.

The arguments for and against the referendum and initiative which are contained in the following pages of this voter's pamphlet, are the opinions of the respective authors. The printing of these 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.

The constitutional amendment proposals, the Legislative Council's statements of meaning and purpose and effect of adoption, and the statements for and against the amendments are included in this publication.

Another section included in this pamphlet 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 referendum, initiative and constitutional amendments contained in this pamphlet. Such measures are designed specifically to give you, the electorate, the opportunity to influence the laws which regulate us all.

Take advantage of this opportunity and vote on November 4, 1986.

Sincerely,

(FACSIMILE BALLOT)

REFERENDUM ORDERED BY PETITION OF THE PEOPLE

REFERENDUM PETITION NO. 1

REFERENDUM TO APPROVE OR REJECT LEGISLATION ON RIGHT TO EMPLOYMENT REGARDLESS OF UNION MEMBERSHIP OR NON-MEMBERSHIP.

REFERENDUM TO APPROVE OR REJECT HOUSE BILL 2; RELATING TO RIGHT TO WORK: AMENDING TITLE 44, IDAHO CODE, TO PROVIDE A DECLARATION OF POLICY, TO DEFINE THE TERM LABOR ORGANIZATION, TO PROVIDE FOR FREEDOM OF CHOICE IN EMPLOYMENT AND TO PROHIBIT DISCRIMINATION, TO PROVIDE FOR VOLUNTARY DEDUCTION, TO PROVIDE THAT AGREEMENTS THAT VIOLATE THE TERMS OF THIS CHAPTER ARE ILLEGAL AND VOID, TO PROHIBIT COERCION AND INTIMIDATION, TO PROVIDE PENALTIES FOR VIOLATIONS, TO PROVIDE FOR CIVIL REMEDIES, TO PROVIDE FOR INVESTIGATION OF COMPLAINTS, TO PROVIDE FOR PROSPECTIVE APPLICATION.

Shall the legislation pertaining to the Right To Employment regardless of union membership or non-membership be approved?

YES
NO

PROPOSED BY INITIATIVE PETITION

INITIATIVE PETITION NO. 1

INITIATIVE ESTABLISHING A STATE LOTTERY COMMISSION AND AUTHORIZING A STATE LOTTERY.

AN INITIATIVE TO CREATE A STATE LOTTERY COMMISSION AND DELINEATE ITS POWER AND DUTIES; AUTHORIZE THE APPOINTMENT OF A DIRECTOR, HIS DEPUTIES AND ASSISTANTS AND DELINEATE THEIR POWERS AND DUTIES; AUTHORIZE THE OPERATION OF A STATE LOTTERY; PROVIDE FOR LICENSING OF SALES AGENTS; PROVIDE FOR PENALTIES FOR VIOLATIONS; PROVIDE FOR DISTRIBUTION OF PRIZES AND RECEIPTS; PROVIDE FOR LICENSING BINGO AND RAFFLES BY CHARITABLE ORGANIZATIONS.

Shall the above-entitled measure proposed by Initiative Petition No. 1 be approved?

YES
NO

EXHIBIT D



PUBLIC NOTICE

CONSTITUTIONAL AMENDMENTS

Three amendments to the Idaho Constitution will appear on the November 4, 1986 general election ballot. These have been proposed to the people for ratification following action by the legislature.

The amendment proposals, the Legislative Council's statements of meaning and purpose, and the statements for and against are listed as follows:

S.J.R. No. 102

That Section 6, Article XVIII, of the Constitution of the State of Idaho be amended to read as follows:

SECTION 6. COUNTY OFFICERS. The legislature by general and uniform laws shall, commencing with the general election in 1978, provide for the election biennially, in each of the several counties of the state, of county commissioners and a coroner and for the election of a sheriff, and a county assessor, a county coroner and a county treasurer, who is ex-officio public administrator, every four years in each of the several counties of the state. All taxes shall be collected by the officer or officers designated by law. The clerk of the district court shall be ex-officio auditor and recorder. No other county offices shall be established, but the legislature by general and uniform laws shall provide for such township, precinct and municipal officers as public convenience may require, and shall prescribe their duties, and fix their terms of office. The legislature shall provide for the strict accountability of county, township, precinct and municipal officers for all fees which may be collected by them, and for all public and municipal moneys which may be paid to them, or officially come into their possession. The county commissioners may employ counsel when necessary. The sheriff, county assessor, county treasurer, and ex-officio tax collector, auditor and recorder and clerk of the district court shall be empowered by the county commissioners to appoint such deputies and clerical assistants as the business of their office may require, said deputies and clerical assistants to receive such compensation as may be fixed by the county commissioners.

The question to be submitted to the electors of the State of Idaho at the next general election shall be as follows:

"Shall Section 6, Article XVIII, of the Constitution of the State of Idaho be amended to provide for the election of county coroners every four years commencing with the general election of 1986, rather than every two years as presently required?"

LEGISLATIVE COUNCIL'S STATEMENT OF MEANING AND PURPOSE
S.J.R. NO. 102

MEANING AND PURPOSE

The purpose of this proposed amendment to Section 6, Article

XVIII, of the Constitution of the State of Idaho is to provide for the election of county coroners every four years commencing with the general election of 1986, rather than every two years as is presently required.

EFFECT OF ADOPTION

If this amendment is adopted, Section 6, Article XVIII, of the Constitution of the State of Idaho would provide that county coroners shall be elected to a term of office for the same number of years as county clerks, county sheriffs, county assessors, county treasurers and prosecuting attorneys currently are elected for.

STATEMENTS FOR THE PROPOSED AMENDMENT

1. This amendment will make the term of office for the county coroner consistent with the terms of office for the county clerk, county sheriff, county assessor, county treasurer and prosecuting attorney, and will thus result in efficiency in the election process if the office of county coroner is contested once every four years instead of every two years as currently occurs.

2. If the term of office of county coroner is four years, the office might be attractive to a wider variety of qualified people.

3. The office of county coroner requires some technical experience, and two years may be too short a time to develop expertise and to obtain familiarity with the effective functioning of the agencies and individuals with whom the coroner must interact.

STATEMENTS AGAINST THE PROPOSED AMENDMENT

1. The office of county coroner potentially could be very politically sensitive and should be subject to election every two years.

S.J.R. No. 107

That Section 7, Article IV, of the Constitution of the State of Idaho be amended to read as follows:

SECTION 7. THE PARDONING POWER. From and after July 1, 1947, a board as may hereafter be created or provided by legislative enactment shall constitute a board to be known as the board of pardons.

Said board, or a majority thereof, shall have power to remit fines and forfeitures, and, only as provided by statute, to grant commutations and pardons after conviction and judgment, either absolutely or upon such conditions as they may impose in all cases of offenses against the state except treason or conviction on impeachment. The legislature shall by law prescribe the sessions of said board and the manner in which application shall be made, and regulated proceedings thereon, but no fine or forfeiture shall be remitted, and no commutation or pardon granted, except by the decision of a majority of said board, after a full hearing in open session, and until previous notice of the time and place of such hearing

and the release applied for shall have been given by publication in some newspaper of general circulation at least once a week for four weeks. The proceedings and decision of the board shall be reduced to writing and with their reasons for their action in each case, and the dissent of any member who may disagree, signed by him, and filed, with all papers used upon the hearing, in the office of the secretary of state.

The governor shall have power to grant respites or reprieves in all cases of convictions for offenses against the state, except treason or conviction on impeachment, but such respites or reprieves shall not extend beyond the next session of the board of pardons; and such board shall at such session continue or determine such respite or reprieve, or they may commute or pardon the offense, as herein provided. In cases of conviction for treason the governor shall have the power to suspend the execution of the sentence until the case shall be reported to the legislature at its next regular session, when the legislature shall either pardon or commute the sentence, direct its execution, or grant a further reprieve.

The question to be submitted to the electors of the State of Idaho at the next general election shall be as follows:

"Shall Section 7, Article IV, of the Constitution of the State of Idaho be amended to remove outdated language and to provide that the power of the Board of Pardons to grant commutations and pardons after conviction and judgment shall be only as provided by statute?"

LEGISLATIVE COUNCIL'S STATEMENT OF MEANING AND PURPOSE
S.J.R. NO. 107

MEANING AND PURPOSE

The purpose of this proposed amendment to Section 7, Article IV of the Constitution of the State of Idaho is to remove from constitutional status the powers of commutation and pardon, which are held by the Board of Pardons, and to make the powers of commutation and pardon subject to amendment by statute by the Legislature.

EFFECT OF ADOPTION

Presently, the Board of Pardons has the constitutional powers of commutation and pardon. Because these powers are constitutional, they cannot be amended or changed by statutory enactment and are not subject to review. If SJR 107 is adopted, the commutation and pardon power will no longer have a constitutional status; they will be subject to amendment by statutory enactment. The Legislature would have the authority to set policies and procedures for commutations and pardons and could also review Board commutation and pardon decisions.

STATEMENTS FOR THE PROPOSED AMENDMENT

1. Through its constitutional

commutation and pardon powers, the Board of Pardons can reduce criminal sentences and release prison inmates. As a result, the public never knows what the final criminal sentence is, because the sentence handed down by the judge is always subject to change by the Board of Pardons. This amendment will promote truth in sentencing, by letting the judge's sentence stand.

2. No other agency in Idaho state government is isolated from legislative, executive, and judicial review, as is the Board of Pardons. Many of the Board's decisions to reduce sentences for crimes of violence have been controversial, and many Idaho citizens disagreed with those decisions. Adoption of this amendment will require that the Board of Pardons be subject to the same legislative, executive and judicial controls as all other agencies of state government.

3. The Board of Pardons is insulated from public input and values concerning releasing inmates. Giving the Legislature the authority to set standards for commutations and pardons will insure that the Board's actions will be made with an emphasis on public health and safety.

STATEMENTS AGAINST THE PROPOSED AMENDMENT

1. Removing the constitutional status of the Board's commutation and pardon powers and making them subject to the control of the Legislature will remove the Board's independence and could subject the Board's decisions to political pressure. Such political pressure could result in special dispensations being given based on political clout instead of individual merit.

2. The Board should be free to make a decision on the individual merits of a case. If an extensive statutory scheme is passed by the Legislature, some of the Board's flexibility to fashion a decision according to the merits of a case may be lost.

3. The constitutional powers of commutation and pardon were given to the Board by constitutional amendment in 1946. Since then, the Board has made hundreds of commutation and pardon decisions in an independent and objective manner, with little resulting controversy. Therefore, the present system is working smoothly, change is not needed.

H.J.R. No. 4

That Section 2, Article III, of the constitution of the State of Idaho be amended to read as follows:

SECTION 2. MEMBERSHIP OF HOUSE AND SENATE. Following the decennial census of 1990 and in each legislature thereafter, the senate shall consist of one (1) member from each county not less than thirty nor more than thirty-five members. The legislature may fix the

number of members of the house of representatives at not more than three (3) times as many representatives as there are senators. The senators and representatives shall be chosen by the electors of the respective counties or districts into which the state may, from time to time, be divided by law.

That Section 4, Article III, of the Constitution of the State of Idaho be amended to read as follows:

SECTION 4. APPORTIONMENT OF LEGISLATURE. The members of the first legislature following the decennial census of 1990 and each legislature thereafter shall be apportioned to the several not less than thirty nor more than thirty-five legislative districts of the state in proportion to the number of votes polled at the last general election for delegate to congress, and thereafter to be apportioned as may be provided by law; provided, each county shall be entitled to one representative.

That Section 5, Article III, of the Constitution of the State of Idaho be amended to read as follows:

SECTION 5. SENATORIAL AND REPRESENTATIVE DISTRICTS. A senatorial or representative district, when more than one county shall constitute the same, shall be composed of contiguous counties, and no a county shall be divided in creating such districts only to the extent it is reasonably determined by statute that counties must be divided to create senatorial and representative districts which comply with the constitution of the United States. A county may be divided into more than one legislative district when districts are wholly contained within a single county. No floteria district shall be created. Multi-member districts may be created in any district composed of more than one county only to the extent that two representatives may be elected from a district from which one senator is elected. The provisions of this section shall apply to any apportionment adopted following the 1990 decennial census.

The question to be submitted to the electors of the State of Idaho at the next general election shall be as follows:

"Shall Sections 2, 4 and 5, Article III, of the Constitution of the State of Idaho, relating to apportionment of the Legislature, be amended as they apply to apportionments after 1990, to limit the membership of the Senate to not less than thirty nor more than thirty-five members and the House of Representatives to not more than two times the size of the Senate; to delete the requirement that each county shall be entitled to one representative; to provide that counties shall be divided only to the extent determined necessary by statute to

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