



BRAD LITTLE
GOVERNOR

April 17, 2021

The Honorable Janice McGeachin
President of the Senate
Idaho State Senate

Dear Madam President:

I have the honor to advise you that I have signed on April 17, 2021 and am transmitting to the Secretary of State the following Senate bills to wit:

SENATE BILL 1110

In 2019, I vetoed Senate Bill 1159 and House Bill 296 because I had serious concerns for the constitutional sufficiency of the bills and the unintended consequences of their passage. I expressed my support for the Legislature's goal of ensuring that the rights of all Idahoans – not just those in urban areas – have a voice in Idaho's initiative process. However, I believed those bills went too far.

I have similar concerns with Senate Bill 1110, but I believe the bill presents a much closer call. Idaho has an important interest in ensuring that our ballots are not cluttered with initiatives that have not demonstrated sufficient grassroots support. Under current law, an initiative can qualify for the ballot after collecting voter signatures in only a few of Idaho's more populated, urban areas. This is unacceptable, especially since technological advancements make it more feasible than ever before to reach voters. Senate Bill 1110 has a laudable goal of ensuring that initiatives have a minimum level of support throughout all of Idaho before they are placed on the ballot.

Article III, Section 1 of the Idaho Constitution guarantees to the people an initiative and referendum process. Not every state in our country provides these important rights and I urge the Legislature to ensure those rights remain accessible to the people. However, I cannot overlook that the same constitutional provision limits those rights to "such conditions and in such manner as may be provided by acts of the legislature." Said differently, our constitution gives broad discretion to the Legislature to place conditions on ballot access. Whether Senate Bill 1110 amounts to an impermissible restriction in violation of our constitution is highly fact dependent and, ultimately, a question for the Idaho judiciary to decide.

I also expect the federal courts may be called to determine whether Senate Bill 1110 violates the First Amendment of the U.S. Constitution. Yet, there is good cause to believe the neutral regulations in this bill are constitutionally permissible. Last summer, excellent lawyering by Idaho Deputy Attorneys General secured a favorable ruling from our nation's highest court in a lawsuit challenging Idaho's initiative process. The U.S. Supreme Court recognized a circuit split and indicated that it may soon welcome an invitation to overturn precedent from the Ninth Circuit Court of Appeals upon which opponents of Senate Bill 1110 rely.

I appreciate that signing this bill will be controversial. Very few issues elicit such strong feelings from both sides of the debate. I am grateful for the positions that each side articulated during debate and in meetings with my office.

Sincerely,

A handwritten signature in dark ink, appearing to read "Brad Little", written in a cursive style.

Brad Little
Governor of Idaho

cc: Secretary of State