

IN THE SUPREME COURT OF THE STATE OF IDAHO

COMMITTEE TO PROTECT AND PRESERVE THE
IDAHO CONSTITUTION, INC.; MORMON WOMEN
FOR ETHICAL GOVERNMENT; SCHOOL DISTRICT
NO. 281, LATAH COUNTY, STATE OF IDAHO; IDAHO
EDUCATION ASSOCIATION, INC.; JERRY EVANS;
MARTA HERNANDEZ; STEPHANIE MICKELSEN;
ALEXIS MORGAN, on behalf of herself and her minor
children; KRISTINE ANDERSON, on behalf of herself and
her minor children; each of the foregoing individually and as
private attorneys general on behalf of the public of the State
of Idaho,

Petitioners,

vs.

STATE OF IDAHO, acting by and through the IDAHO
STATE TAX COMMISSION,

Respondent.

Case No. _____

VERIFIED PETITION FOR WRIT OF PROHIBITION

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I. INTRODUCTION

1. Petitioners bring this original action to petition the Court pursuant to Idaho Code section 7-401 *et seq.* and Rule 5 of the Idaho Appellate Rules for a writ of prohibition forbidding the Idaho State Tax Commission (“Respondent”) from giving effect to, implementing, and carrying out the “Idaho Parental Choice Tax Credit Program” (the “Program”) created under House Bill 93 (2025) (“HB 93”) as enacted by the Idaho State Legislature (the “Legislature”) and now codified in Idaho Code §§ 63-3029N and 67-1230.

2. HB 93 creates the Program that provides a refundable tax credit available to parents who have their children educated in nonpublic schools.

3. The Program provides a dollar-for-dollar refundable tax credit to a parent-applicant who (i) incurs qualified expenses of up to \$5,000 per eligible student in the tax year, and (ii) who files an application with the Respondent Tax Commission. I.C. § 63-3029N(3).

4. The Program also allows for a credit of up to \$7,500 for children with disabilities requiring ancillary personnel, as defined in Idaho Code § 33-2001. I.C. § 63-3029N(7).

5. In all cases, a parent may not claim the tax credit “for any semester in which a student was enrolled full-time or part-time in a public school, public charter school, public virtual charter school, public magnet school, or part-time public kindergarten.” It also excludes reimbursement for tuition and fees relating to an applicant parent’s homeschool education of their own qualifying children. I.C. §§ 63-3029N(10)(b)–(c). Thus, the Program is not open to support the education of all children regardless of where they are educated.

6. The Program does not function like traditional tax credits that offset a recipient’s income tax liability until netting the liability to zero—rather, the tax credits are “refunded” to a

recipient in the amount exceeding said income tax liability, and even for certain applicants may be paid in advance of the close of the tax year in which a parent claims a credit. I.C. §§ 63-3029N(9), (11).

7. The Program limits the aggregate amount of tax credits to \$50,000,000 each year. This amount is funded, in part, by a legislative appropriation of State funds to pay reimbursable or advance payments rather than a traditional tax credit mechanism of simply forgoing income tax revenue. I.C. § 63-3029N(12); I.C. § 67-1230(2)(a).

8. HB 93 specifically states that its provisions shall not permit any government agency to exercise control or supervision over any nonpublic school or to give the State authority to regulate education of nonpublic school students. I.C. § 63-3029N(20). This would include the State Board of Education and State Superintendent of Education.

9. Thus, the Legislature has created a means of directly funding private education with appropriated State funds. Other than requiring that the academic instruction provided include English language arts, mathematics, science, and social studies, no requirements or restrictions on the private schools benefitting from these funds are provided, thus opening the door for public funds to subsidize entities that can ignore innumerable State policies with impunity. I.C. § 63-3029N(2)(a). There are no safeguards in the Program to ensure that state laws and policies such as the following are complied with by private schools benefitting from the Program: (i) the prohibition on teaching or spending funds on critical race theory, (ii) the requirement to display donated posters or framed copies of the national motto, (iii) the requirement to provide information on adoption practices and resources whenever contraception or STDs are discussed, (iv) the prohibition on displaying banners that promote political,

religious, or ideological viewpoints, and (v) the requirement that public bodies not do business with entities that (a) boycott Israel, (b) are owned or operated by the Government of China, or (c) boycott companies engaged in fossil fuels, timber, agriculture or firearms. *See* I.C. §§ 33-138, 33-139, 33-141, 33-142, 33-143, 67-2346, 67-2359, 67-2347A.

10. The Program violates Article IX, section 1 of the Idaho Constitution and Idaho's public purpose doctrine by using public taxpayer funds to (i) benefit private education, without public accountability or government oversight, outside of the single general, uniform, thorough and free public school system the Legislature is required to establish and maintain, and (ii) advance private, rather than public, purposes.

11. This matter is time sensitive. Petitioners respectfully request that the Court accept this matter and expedite consideration so that public funds are not unconstitutionally spent under the Program after applications for tax credits open on January 15, 2026. *See* I.C. § 63-3029N(14).

12. Petitioners assert a Constitutional defect. The Idaho Constitution could be amended if the Program represented the will of the people of the State, but only by legislative action in the 2026 Legislative session followed by a State-wide vote at the general election in an even year. IDAHO CONST. art. XX § 1. A speedy resolution of this Petition would enable a Constitutional amendment to be considered in a timely manner.

II. JURISDICTION

13. The Court has "original jurisdiction to issue writs of mandamus, certiorari, prohibition, and habeas corpus, and all writs necessary or proper to complete the exercise of its appellate jurisdiction." IDAHO CONST., art. V, § 9; I.C. § 1-203. *See also* I.A.R. 5(a).

14. A writ of prohibition may be issued by the Idaho Supreme Court to any inferior tribunal, corporation, board or person to arrest the proceedings of any of the foregoing parties when such proceedings are without or in excess of the jurisdiction of such parties. *See* I.C. §§ 7-401–402; I.C. § 1-203.

15. The issues presented here are of significant statewide importance, as evidenced by the Declarations attached to this Petition, and arise from a constitutional violation of Idaho’s safeguards protecting and prioritizing public education by allowing the expenditure of public funds for private education outside of the general, uniform and thorough system of public, free common schools. Petitioners have no other plain, speedy and adequate remedy in the ordinary course of law.

16. The matter is urgent and calls for the Court’s expedited review to (i) prevent the unconstitutional expenditure of public funds, and (ii) provide guidance to parents, students, schools and state officials as to the validity of the Program before it is implemented.

III. PARTIES AND STANDING

17. Petitioner Committee to Protect and Preserve the Idaho Constitution, Inc. (the “Committee”) is an Idaho nonprofit corporation whose members are Idaho citizens committed to preventing the subversion of constitutional rights of the people of Idaho and ensuring that the Idaho Constitution is not violated by laws enacted by the Legislature. *See* Declaration of Daniel E. Mooney (“Mooney Decl.”) at ¶¶ 1–5, attached hereto as Exhibit A and incorporated herein. Because of this commitment, the Committee has an interest in preventing the unconstitutional expenditure of public funds and ensuring that the duties imposed by the Idaho Constitution are followed by the Legislature.

18. Petitioner Mormon Women for Ethical Government (“MWEG”) is a Utah nonprofit corporation and a nationwide organization whose members include Idaho women and a board member from Idaho. *See* Declaration of Cindy Wilson (“Wilson Decl.”) at ¶¶ 1–4, attached hereto as Exhibit B and incorporated herein. MWEG’s membership is a cross partisan, ideologically diverse coalition of women who are dedicated to building a more peaceful, just and ethical world through advocacy and civic empowerment. Wilson Decl. at ¶ 5. MWEG is registered to do business in the State of Idaho. As a structured nonprofit with a substantial base of membership in Idaho, MWEG acts on behalf of its constituents who are parents, taxpayers and advocates for ethical governance. Wilson Decl. at ¶ 6. They stand united in affirmation of core principles such as the separation of church and state and constitutional governance. Wilson Decl. at ¶¶ 6–7. One of MWEG’s principles of ethical government is the government’s duty to adhere to the rule of law. Wilson Decl. at ¶ 7. MWEG believes that the Program violates this principle because it is in violation of Idaho’s organic law—the Idaho Constitution. Wilson Decl. at ¶ 8. MWEG has associational standing to bring this action on behalf of its parent members with children attending Idaho public schools who individually would have standing due to (i) the harm to public schools in the State as a result of the unconstitutional Program, (ii) the fact that one of MWEG’s principal purposes is ensuring government adheres to the rule of law, and (iii) that the relief requested and claims asserted do not require participation of individual members.

19. Petitioner School District No. 281, Latah County, State of Idaho (the “Moscow School District”) is a public school district organized and existing under the laws and Constitution of the State of Idaho, responsible for providing public education to students in its boundaries, including educating students with disabilities that require an Individualized

Education Program. *See* Declaration of Shawn Tiegs (“Tiegs Decl.”) at ¶¶ 1–4, attached hereto as Exhibit C and incorporated herein. Significant nonpublic schooling exists within the service area and boundaries of the Moscow School District, whether that be private elementary and secondary schools or other organized homeschooling pods. Tiegs Decl. at ¶ 6. The Program will impact the enrollment in the district, thereby reducing funding and the ability of the district to retain high quality teachers and spreading thin resources needed to provide legally-mandated services. Tiegs Decl. at ¶¶ 12–13. Moscow School District is committed to serving the best interests of all students within the district and to upholding the Constitution of the State of Idaho. Tiegs Decl. at ¶¶ 7–8. Moscow School District has standing due to this harm and under Idaho Code § 33-301 which “established an unqualified grant of power ... carr[ying] with it all powers that are ordinarily incident to the prosecution and defense of a suit at law or in equity” in cases where a school district alleges it is being deprived of funds under Article 9, section 1 of the Idaho Constitution. *Idaho Sch. For Equal Educ. Opportunity v. State*, 140 Idaho 586, 591, 97 P.3d 453, 458 (2004) (internal quotations and citations omitted).

20. Petitioner Idaho Education Association, Inc. (the “IEA”) is an Idaho nonprofit corporation and is the State’s teachers’ union comprised of members including teachers, support professionals, school administrators, and retired educators. *See* Declaration of Paul Stark (“Stark Decl.”) at ¶¶ 1–4, attached hereto as Exhibit D and incorporated herein. The IEA’s core mission is to advance the cause of public education throughout the state. Stark Decl. at ¶ 3. As such, the IEA and its members have a distinct interest in ensuring that public funds are not spent in violation of the Idaho Constitution, particularly in a manner that will solely benefit private schools to the detriment of public schools in the State. Stark Decl. at ¶¶ 5–8. The IEA has

standing to bring this action on behalf of its members that are public school educators that individually would have standing due to (i) the inevitable harm to public schools, (ii) the interest being sought to be protected is public education, which is the core mission of the IEA, and (iii) the claims asserted and relief requested in this action do not require participation by individual members.

21. Petitioner Jerry Evans is a State citizen and taxpayer, resident of Ada County, and the Idaho State Superintendent of Public Instruction serving from 1979 until 1995. *See* Declaration of Jerry Evans (“Evans Decl.”) at ¶ 2, attached hereto as Exhibit E and incorporated herein. Petitioner Evans is particularly knowledgeable on educational issues throughout the State, including the State’s compliance in maintaining public education in accordance with Idaho law. Evans Decl. at ¶¶ 3, 10. Petitioner Evans is opposed to the Program based on its blatant violation of the Idaho Constitution by publicly funding disparate education systems outside the bounds of the Idaho Constitution’s educational mandates for providing a general, uniform and thorough public education system open to all children across the State. Evans Decl. at ¶¶ 4–8. Placing the administration of the Program under the State Tax Commission diminishes the role of the State Board of Education and State Superintendent of Public Instruction. *Id.* at ¶¶ 13–17.

22. Petitioner Marta Hernandez is a State citizen and taxpayer, resident of Cassia County, Idaho, and a licensed educator currently teaching both English speaking and bilingual students in the Idaho public schools in Cassia County, Idaho. *See* Declaration of Marta Hernandez (“Hernandez Decl.”) at ¶¶ 1–8, attached hereto as Exhibit F and incorporated herein. She has been a teacher for the past 30 years and will be directly impacted by the Program as it will create a greater burden on public schools, including her school, as students are incentivized

to leave public schools, in turn decreasing funding for public schools and making it increasingly difficult to retain qualified teachers, maintain reasonable class sizes and offer comprehensive educational programs. Hernandez Decl. at ¶¶ 9–15. Marta Hernandez has standing to bring this claim due to the harm to public schools resulting from the unconstitutional Program that will directly impact her line of work.

23. Petitioner Stephanie Mickelsen is a State citizen and taxpayer, resident of Bonneville County, representative in the Idaho House of Representatives, and grandmother to eighteen grandchildren, twelve of whom attend public schools in the State. *See* Declaration of Stephanie Mickelsen (“Mickelsen Decl.”) at ¶¶ 2–3, attached hereto as Exhibit G and incorporated herein. She represents the citizens of District 32A which encompasses two public school districts, Idaho Falls School District and Bonneville School District, which collectively serve approximately 25,000 students and employ over 2,500 people. Mickelsen Decl. at ¶¶ 3–6. Petitioner Mickelsen voted against the Program because she strongly believes that religious teaching of any faith should not be financed or subsidized with public money under Article IX, section 5 and the Program does not adequately support the school districts and constituents within District 32A. Mickelsen Decl. at ¶¶ 7–9. Petitioner Mickelsen recognizes that, not only is the Program facially unconstitutional due to the reallocation of public funds from public schools to private schools, but that the practical effects of the Program result in most families in her legislative district and throughout the State being unable to actually use funds from the Program due to many private schools being outside of geographic proximity or being religious in nature. Mickelsen Decl. at ¶¶ 10–11.

24. Petitioner Alexis Morgan is a State citizen and taxpayer, resident of Ada County, Idaho, and the parent of four children, two of whom currently attend State public schools. *See* Declaration of Alexis Morgan (“Morgan Decl.”) at ¶ 2, attached hereto as Exhibit H and incorporated herein. She is also a former board member of the Lewiston School District Board of Directors and former President for the Idaho Parent Teacher Association. Morgan Decl. at ¶¶ 3–4. Petitioner Morgan is currently serving as the Director of Public Policy for the Idaho Parent Teacher Association. Morgan Decl. at ¶ 3. Petitioner Morgan opposes the Program due to public funds flowing to private schools which are not subject to public school standards and public accountability, allowing private schools to engage in religious exclusion and discrimination. Morgan Decl. at ¶ 12. In fact, in the Fall of 2020, Petitioner Morgan’s daughter was denied admission to a private religious school based on her family’s religious affiliation. *Id.* at ¶¶ 7–11. Petitioner Morgan has standing to bring this action because of the harm to public schools her children attend as a result of HB 93. Additionally, Petitioner Morgan has standing as evidenced by the direct harm she already experienced as a result her daughter’s exclusion from a private school on religious grounds, which is threatened to continue under the Program since it exempts private schools receiving State funds from the requirement of non-discrimination inherent in Article IX, section 1, effectively barring her from participating in the Program to educate her daughter at a school of her choice.

25. Petitioner Kristine Anderson is a State citizen and taxpayer, resident of Madison County, Idaho, and the parent of four children, three of whom currently attend State public schools. Declaration of Kristine Anderson (“Anderson Decl.”) at ¶ 2, attached hereto as Exhibit I incorporated herein. Two of Petitioner Anderson’s children currently enrolled in the Madison

School District have an Individualized Education Program (“IEP”) in place designed to provide specialized support for their speech impairment and speech disability. Anderson Decl. at ¶¶ 4–5. As a part of her son’s IEP, he is guaranteed access to regulated, essential special education services including speech therapy, tailored goals, and legal protections under federal and Idaho law. Anderson Decl. at ¶ 6. Private schools typically do not accept children like her son with development or speech disabilities and even where admission may be possible, essential therapies, resources and legal safeguards are unavailable. Anderson Decl. at ¶ 9. The loss or impairment of IEP services would cause irreparable harm to her son’s development and her family’s ability to secure his right to a full and appropriate education. *Id.* at ¶ 11. She is opposed to the Program because it uses public funds to fund private schools, including those that practice selective admissions, including religion or ability-based exclusions, while State public schools are required to educate every child regardless of background, ability or need. Kristine Anderson has standing to bring this action due to the harm of the Program on public schools which will further divert and reduce resources at public schools her children attend, including the ability for schools to provide adequate specialized support they are legally required to provide to all children. An additional harm is the inability of her family to meaningfully use funds under the Program when private schools are not required to provide IEP services and routinely exclude children with disabilities.

26. Petitioners represent a wide range of organizations, parents, teachers, and students adversely impacted by the Program’s unconstitutionality. Even if standing were in question for any or all of the Petitioners, the Court has relaxed traditional standing requirements where “the matter concerns a significant and distinct constitutional violation” and no other party could have

standing to bring the claim. *See Reclaim Idaho v. Denney*, 169 Idaho 406, 422, 497 P.3d 160, 176 (2021). This Petition is one for extraordinary relief, involving a significant and unprecedented shift in legislative funding of education in the State in violation of the Idaho Constitution, and is of an urgent nature due to the imminence of the Respondent Commission's opening applications for parents on January 1, 2026, with the intention to notify parents of awards by April 15, 2026.

27. Attached to this Petition and incorporated herein as Exhibits, J–Q are Declarations from several other concerned Idaho citizens from all corners of the State who will be irreparably harmed if this unconstitutional Program is implemented. These declarations illustrate that the Program harms Idaho's most vulnerable students, including children with significant disabilities, teachers and those students from religious backgrounds who are excluded by private schools who discriminate against individuals on the basis of religious beliefs. Families and public-school stakeholders report loss of access to essential IEP services, increased religious discrimination and diminished educational opportunities due to the public funds flowing to institutions that do not serve all children. Collectively, these sworn statements show how the Program undermines the constitutional promise of a general uniform public school system open to all children and intensifies exclusion and discrimination against Idaho families. *See* Declarations of Karli Hosman, Exhibit J, Declaration of Kathleen Ross, Exhibit K , Declaration of Sue Peterson, Exhibit L, Declaration of McKenzie McFarland, Exhibit M, Declaration of Shane Williams, Exhibit N, Declaration of Kevin Ramsey, Exhibit O, Declaration of Brady Dickinson, Exhibit P and Declaration of Linda Patchin, Exhibit Q.

28. Respondent Tax Commission is the State agency responsible for overseeing and administering taxation within the State, and the agency designated with the responsibility of implementing and administering the Program.

IV. FACTS

A. The Program.

29. The Legislature enacted HB 93 during the 2025 Legislative Session, establishing the Program with an effective date retroactive to January 1, 2025.

30. HB 93 has not been amended or repealed as of the date hereof and remains in full force and effect.

31. The Program provides a refundable tax credit to a parent-applicant who (i) incurs “qualified expenses” of up to \$5,000 (or up to \$7,500 for children with disabilities requiring ancillary personnel) per eligible student in the tax year and (ii) who timely and properly files an application with the Respondent Tax Commission. I.C. §§ 63-3029N(3), (7).

32. Students are eligible for the Program if they are between five and eighteen years of age, are a full-time resident of Idaho, and are not enrolled full-time or part-time in a public school. I.C. §§ 63-3029N(2)(b), (10)(b).

33. Disabled students “requiring ancillary personnel” as defined by State law are eligible until they reach twenty-one years of age. I.C. § 63-3029N(2)(b)(ii).

34. The aggregate amount of tax credits issued in a given year under the Program is limited to \$50,000,000, and the Program provides that awards of tax credits are on a first-come, first-served basis (accounting for the priority status of applicants described below). I.C. § 63-3029N(12).

35. There is no income limit on the Program, but applications from parents whose income do not exceed 300% of the federal poverty level receive priority for tax credits and are eligible for advance payment of the tax credit in the same tax year so that they do not have to wait until filing taxes to collect the tax credit and can use said funds for qualified expenses. I.C. §§ 63-3029N(6), (9).

36. In years following 2026, priority for tax credits is reserved for parents who received a credit in prior years, followed by parents who are below the 300% federal poverty level threshold. I.C. § 63-3029N(6).

37. Eligible parents may claim a credit only for “qualified expenses” they incur during the preceding tax year. I.C. §§ 63-3029N(9), (10)(b).

38. “Qualified expenses” include all of the following: (i) K-12 private school tuition and fees; (ii) Tutoring; (iii) Certain educational assessments, as well as preparatory courses for nationally standardized assessments; (iv) Textbooks and curriculum materials; and (v) Transportation costs to and from a K-12 instructional facility. I.C. § 63-3029N(2)(f).

39. The foregoing expenses are not considered qualified when a student was enrolled full-time or part-time in a public school, public charter school, public virtual charter school, public magnet school, or part-time public kindergarten, and parents may not claim a tax credit for tuition or fees related to homeschooling of their own child. I.C. § 63-3029N(10). Compare this to the “Empowering Parents Grant Program” that provided grants to for education expenses of all children regardless of whether a child attends a public school, private school, or is homeschooled. *See* I.C. § 33-1031 (the program is being phased out in 2028 after the passage of Senate Bill 1142 during the 2025 Legislative Session).

B. The Transfer Of Public Funds To Private Schools.

40. Applications for the Program open on January 15, 2026, where parents of eligible students may apply to receive the tax credit. I.C. § 63-3029N(14).

41. The tax credit is refundable, thus any amount of awarded credits that exceeds the income tax liability of the applicant is refunded to the applicant. I.C. § 63-3029N(11).

42. Additionally, applicants meeting the low-income threshold are eligible to receive an advance payment of the tax credit, paid in a single installment, which payment can be used for qualifying expense in the year in which the tax credit is claimed (rather than claiming the credit for qualifying expenses incurred the prior year). I.C. § 63-3029N(11).

43. To allow for advance payments, HB 93 creates the “Idaho Parental Choice Tax Credit Advance Payment Fund,” which will be administered by the Respondent Tax Commission and made up of *legislative appropriations and transfers*, donations, and interest earned on the principal. I.C. §§ 67-1230(1), (2)(a).

44. HB 93 provides that “[m]oneys in the fund shall . . . [b]e continuously appropriated to pay advance payments” awarded under the Program, essentially allowing moneys in the fund to be disbursed without the need for legislative action each year. I.C. § 67-1230(2)(b). The refundable nature of the tax credit, especially when coupled with advance payments, shows that legislative appropriations of taxpayer dollars are directly flowing to private schools.

45. The Respondent Tax Commission must pay advance payments to eligible parents no later than August 30, although the Respondent Tax Commission has publicly indicated that it will notify parents of awards by April 15 for the 2026 application cycle, and the Respondent Tax Commission is required to disburse advance payments within sixty days of notifying parents of

awards (sixty days from April 15 being June 14). *Id.*; see *Welcome to Idaho Parental Choice Tax Credit Program*, IDAHO STATE TAX COMMISSION, Slide 12 *What's the Timeline*, https://tax.idaho.gov/wp-content/uploads/pubs/EIS00548/EIS00548_08-20-2025.pdf (last visited Sept. 17, 2025). Since private school tuition and fees are the most costly of “qualifying expenses” under the Program, substantial portions of the public funds appropriated to the Program will flow directly to private schools for their tuition and fees through parents who are awarded tax credits.

46. The Program also will have the effect of reducing State funding for public schools. When students previously attending public schools withdraw to be privately educated in order to take advantage of the Program, public schools’ loss of enrollment will be reflected in a reduction of funding based on the State’s enrollment-based funding formula. *See* I.C. § 33-1002 (regarding the average daily attendance formula for determining state funding for school districts).

47. The \$50 million limit to the Program is likely to be expanded by future Legislatures. *See* Caitlin Sievers, *Arizona School Voucher Program Ignored State Audit Law for Nearly a Year, Officials Say*, AZ MIRROR (July 29, 2025), <http://azmirror.com/2025/07/29/arizona-school-voucher-program-ignored-state-audit-law-for-nearly-a-year-officials-say/> (noting that Arizona’s universal voucher program is projected to cost \$1 billion in 2025-2026—up from \$300 million in 2022). The effects of increased funding by future legislatures will further reduce public school attendance-based funding as more families are able to take advantage of the Program and more students attend private schools, all while the State uses public funds to pay for private education.

C. Private Schools Receiving Funds Through The Program Are Not Subject To The Same Standards And Accountability As Public Schools.

48. “Nonpublic” schools providing academic instruction that qualifies expenses for the Program need not be accredited, and must only provide instruction in English language arts, mathematics, science and social studies, and, if not accredited, document an indication of a student’s growth in a portfolio or record. I.C. §§ 63-3029N(2)(a), (d). There is no requirement that nonpublic schools be nonsectarian or do not use funds for religious instruction despite Article IX, section 5 of the Idaho Constitution’s requirement to the contrary. Nonpublic schools need not even be located in the State as long as the eligible student is a full-time Idaho resident and meets the Program’s age requirements. *Id.* In fact, the Program opens the door for public funds to subsidize entities that need not comply with state laws and policies applicable to public schools such as: (i) the prohibition on teaching or spending funds on critical race theory, (ii) the requirement to display donated posters or framed copies of the national motto, (iii) the requirement to provide information on adoption practices and resources whenever contraception or STDs are discussed, (iv) the prohibition on displaying banners that promote political, religious, or ideological viewpoints, and (v) the requirement that public bodies not do business with entities that (a) boycott Israel, (b) are owned or operated by the Government of China, or (c) boycott companies engaged in fossil fuels, timber, agriculture or firearms. *See* I.C. §§ 33-138, 33-139, 33-141, 33-142, 33-143, 67-2346, 67-2359, 67-2347A.

49. The Program places no restriction on how private schools can use funds that stem from the Program or any restrictions on tuition or fees charged to students.

50. Article IX, section 2 of the Idaho Constitution provides: “The general supervision of the state educational institutions and public school system of the state of Idaho, shall be vested

in a state board of education, the membership, powers and duties of which shall be prescribed by law. The state superintendent of public instruction shall be ex officio member of said board.”

51. The State Board of Education “is ‘the single constitutionally mandated board of authority to act as a whole body on all educational issues.’” *Ybarra v. Legislature by Bedke*, 166 Idaho 902, 912, 466 P.3d 421, 431 (2020) (quoting *Evans v. Andrus*, 124 Idaho 6, 11, 855 P.2d 467, 472 (1993)). The Program is being administered by Respondent Tax Commission, rather than the State Board of Education. Compare this arrangement with a grant program created for the advancement of education in Idaho for all students: the Empowering Parents Grant Program. *See* I.C. § 33-1031.

52. HB 93 expressly provides that enactment of the Program “shall not be construed to permit any government agency to exercise control or supervision over any nonpublic school or to give the state authority to regulate the education of nonpublic school students[.]” that nonpublic schools which receive refundable tax credits directed from parents are not agents of the State, and that “[a] nonpublic school shall not be required to alter its creed, practices, admissions policy, or curriculum in order to accept students whose payment of tuition or fees stems from a refundable tax credit” I.C. § 63-3029N(20). This includes the State Board of Education and the State Superintendent of Public Instruction.

53. The only oversight provided by the Program is (i) Respondent Tax Commission has the power to audit parents receiving tax credits and “deny or recapture credits claimed by a parent for expenditures not authorized” by the Program, and (ii) the Legislative Services Office will deliver to parents who received a tax credit “a parent satisfaction and engagement survey to evaluate the performance of the nonpublic school that the eligible student attended. The survey

shall include, but not be limited to, the quality of school leadership, school safety, student engagement, quality of academic instruction, and quality of learning outcomes.” I.C. §§ 63-3029N(2)(d), (14), (15). This survey is then summarized and included in a report to the Governor, the Senate Local Government and Taxation Committee, the House Revenue and Taxation Committee and the Joint Finance-Appropriations Committee beginning in 2027. I.C. § 63-3029N(14). Notably, the report is not required to be provided to the State Board of Education or the State Superintendent of Public Instruction.

54. Private schools receiving public funds from parents who are awarded tax credits thus need not be open to all students, and are not prohibited from excluding or discriminating against students on the bases of religion, sexual orientation, gender identity, political affiliation, academic performance, standardized test scores and even disability status. *Id.* Private schools receiving public funds from the Program likewise need not comply with the same academic standards imposed on public schools.

55. HB 93 makes clear that private schools benefitting from the public funds disbursed from the Program are not subject to any State oversight or requirements, allowing the “private” nature of private schools to remain firmly intact despite the public nature of the funds paid to them.

V. FIRST CAUSE OF ACTION

56. Petitioners incorporate the preceding paragraphs as if set out here in full.

57. Article IX, section 1 of the Idaho Constitution states: “The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be

the duty of the legislature of Idaho, to establish and maintain a general, uniform and thorough system of public, free common schools.” IDAHO CONST. art. IX, §1.

58. The Program unconstitutionally appropriates public funds raised from State taxpayers to be paid out to and used by families for payment of private school tuition and fees.

59. This appropriation of public funds will directly benefit private schools, essentially creating a system of eligible private schools that are funded with public funds but not subject to any State oversight or regulation—a separate system of nonpublic education that is not required to be generally uniform in curriculum, adequately funded to provide thorough education, public and open to all children, and free to all children.

60. The Legislature has the constitutional *mandate* under Article IX, section 1 of the Idaho Constitution to establish and maintain a *single* system of public schools—the Constitution grants it no authority to publicly fund or establish separate education systems or programs, and limits the Legislature from doing so, particularly where the systems or programs are exempt from the requirements of being “general, uniform, [] thorough . . . public [and] free.” IDAHO CONST. art. IX, §1.

VI. SECOND CAUSE OF ACTION

61. Petitioners incorporate the preceding paragraphs as if set out here in full.

62. This Court has held that “it is a fundamental constitutional limitation upon the powers of government that activities engaged in by the state, funded by tax revenues, must have primarily a public rather than a private purpose.” *Idaho Water Res. Bd. v. Kramer*, 97 Idaho 535, 558, 548 P.2d 35, 59 (1976).

63. In order for a government program to satisfy the “public purpose” doctrine, it must “serve[] to benefit the community as a whole” and be “directly related to the functions of government.” *Id.*

64. Using the taxing power of the State to fund and benefit private schools does not benefit the community as a whole, as the primary benefit flows to a limited number of private individuals and entities.

65. Private schools are not conducting activities directly related to the functions of government based on Idaho’s history, especially when they are not publicly accountable or subject to State requirements.

66. Even if private schools’ provision of education were considered to theoretically be a public benefit, the Program is so lacking in standards or accountability incumbent on public education that public funds could actually be used to fund education services that are antagonistic to the public interest. Thus, the Program is in violation of Idaho’s public purpose doctrine.

VII. PRAYER FOR RELIEF

Petitioners respectfully request that this Court:

1. Expedite this petition for review to prevent the implementation of the Program prior to applications for the Program opening on January 15, 2026;
2. Set deadlines for any briefing and conduct any hearing the Court may require pursuant to Idaho Appellate Rule 5(d);

3. Issue a writ of prohibition preventing the Respondent Tax Commission from implementing the Program and distributing tax credits due to the unconstitutionality of the Program;

4. Award attorney fees and costs of this action to Petitioners pursuant to Idaho Appellate Rule 5(g) and the private attorney general doctrine, as Petitioners have pursued this cause of action under the necessity for private enforcement to protect the public and uphold the Idaho Constitution; *see* Mooney Decl. ¶¶ 16-17; Mickelsen Decl. ¶ 15 (evidencing the Idaho Attorney General's declination of pursuing a suit to enforce the Idaho Constitution and have HB 93 declared unconstitutional);

5. Award attorney's fees and costs of this action to Petitioners the Committee, MWEG, the IEA, Jerry Evans, Marta Hernandez, Stephanie Mickelsen, Alexis Morgan and Kristine Anderson pursuant to Idaho Appellate Rule 5(g) and Idaho Code section 12-117(1), and to Petitioner Moscow School District pursuant to Idaho Code section 12-117(4), due to the State's unreasonableness in enacting a facially unconstitutional statute in HB 93;

6. Award attorney's fees and costs of this action to Petitioners pursuant to Idaho Appellate Rule 5(g) and Idaho Code section 12-121 as this action is effectively a suit against the state of Idaho itself; and

7. For any other relief the Court deems just and equitable under these extraordinary circumstances.

Dated: September 17, 2025

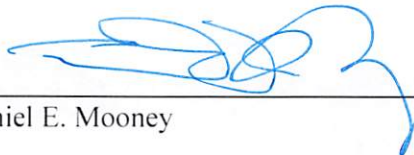
HAWLEY TROXELL ENNIS & HAWLEY LLP

By: /s/ Marvin M. Smith
Marvin M. Smith, ISB No. 2236
Attorneys for Petitioners

VERIFICATION

Daniel E. Mooney, being first duly sworn upon oath, deposes and says:

That I am the President of the Committee to Protect and Preserve the Idaho Constitution, Inc., a Petitioner in the above-entitled action, and have reviewed the foregoing petition, that I know of the contents thereof, and that the matters and allegations therein set forth are true to the best of my knowledge and belief.



Daniel E. Mooney

STATE OF IDAHO)
) ss.
County of Ada)

I, Christa L. Smith, a Notary Public, do hereby certify that on this 16th day of September, 2025, personally appeared before me Daniel E. Mooney, who, being by me first duly sworn, declared that he is the President of the Committee to Protect and Preserve the Idaho Constitution, Inc., that he signed the foregoing document as President of the Committee to Protect and Preserve the Idaho Constitution, Inc., and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

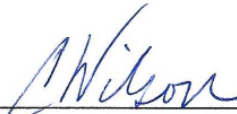


Christa L. Smith
Notary Public for Idaho
Residing at Boise, ID
My commission expires 9/22/28

VERIFICATION

Cindy Wilson, being first duly sworn upon oath, deposes and says:

That she is the Idaho State Director for the Mormon Women for Ethical Government, a Petitioner in the above-entitled action, and has reviewed the foregoing petition, that I know of the contents thereof, and that the matters and allegations therein set forth are true to the best of my knowledge and belief.

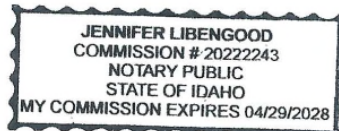



Cindy Wilson

STATE OF IDAHO)
) ss.
County of Ada)

I, Jennifer Libengood, a Notary Public, do hereby certify that on this 16 day of September, 2025, personally appeared before me Cindy Wilson, who, being by me first duly sworn, declared that she is the Idaho State Director of Mormon Women for Ethical Government, that she signed the foregoing document as Idaho State Director for Mormon Women for Ethical Government, and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.






Notary Public for Idaho
Residing at Mendham, ID
My commission expires 04/29/28

VERIFICATION

Paul Stark, being first duly sworn upon oath, deposes and says:

That he is the Executive Director of Idaho Education Association, Inc., a Petitioner in the above-entitled action, and has reviewed the foregoing petition, that I know of the contents thereof, and that the matters and allegations therein set forth are true to the best of my knowledge and belief.



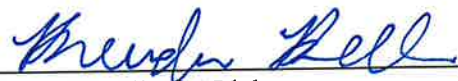
Paul Stark

STATE OF IDAHO)
) ss.
County of Ada)

I, Brendan Bell, a Notary Public, do hereby certify that on this 16th day of September, 2025, personally appeared before me Paul Stark, who, being by me first duly sworn, declared that he is the Executive Director of Idaho Education Association, Inc., that he signed the foregoing document as Executive Director of the Idaho Education Association, Inc., and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.





Notary Public for Idaho
Residing at Boise, ID
My commission expires 3.11.2029

VERIFICATION

Jerry Evans, being first duly sworn upon oath, deposes and says:

That he is a Petitioner in the above-entitled action, and has reviewed the foregoing petition, that I know of the contents thereof, and that the matters and allegations therein set forth are true to the best of my knowledge and belief.



Jerry Evans

STATE OF IDAHO)
) ss.
County of Ada)

I, Brendan Bell, a Notary Public, do hereby certify that on this 16th day of September, 2025, personally appeared before me Jerry Evans, who, being by me first duly sworn, declared that he signed the foregoing document, and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

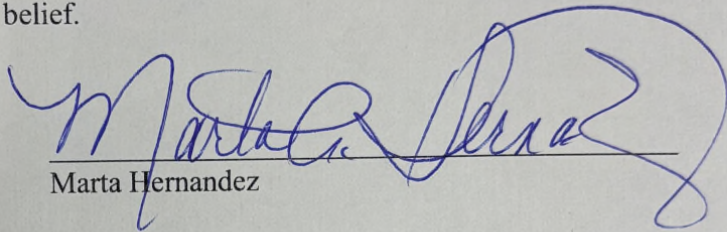



Notary Public for Idaho
Residing at Boise, ID
My commission expires 3.11.2029

VERIFICATION

Marta Hernandez, being first duly sworn upon oath, deposes and says:

That she is a Petitioner in the above-entitled action, and has reviewed the foregoing petition, that I know of the contents thereof, and that the matters and allegations therein set forth are true to the best of my knowledge and belief.

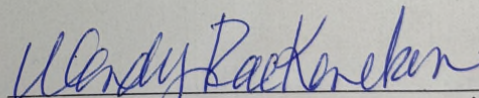

Marta Hernandez

STATE OF IDAHO)
) ss.
County of Cassia)

I, Wendy Rae Kanekoa, a Notary Public, do hereby certify that on this 16 day of September, 2025, personally appeared before me Marta Hernandez, who, being by me first duly sworn, declared that she signed the foregoing document, and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

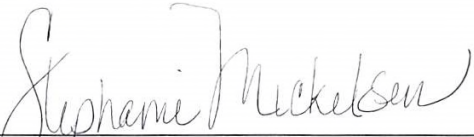



Notary Public for Idaho
Residing at Cassia Co., Burley, ID
My commission expires June 2026

VERIFICATION

Stephanie Mickelsen, being first duly sworn upon oath, deposes and says:

That she is a Petitioner in the above-entitled action, and has reviewed the foregoing petition, that I know of the contents thereof, and that the matters and allegations therein set forth are true to the best of my knowledge and belief.



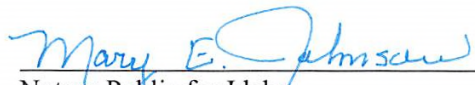
Stephanie Mickelsen

STATE OF IDAHO)
) ss.
County of Ada)

I, Mary E Johnson, a Notary Public, do hereby certify that on this 16 day of September, 2025, personally appeared before me Stephanie Mickelsen, who, being by me first duly sworn, declared that she signed the foregoing document, and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.





Notary Public for Idaho
Residing at Rigby, ID
My commission expires 9/28/2025

VERIFICATION

Kristine Anderson, being first duly sworn upon oath, deposes and says:

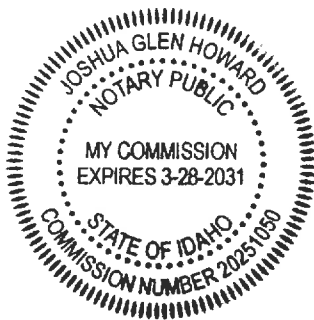
That she is a Petitioner in the above-entitled action, and has reviewed the foregoing petition, that I know of the contents thereof, and that the matters and allegations therein set forth are true to the best of my knowledge and belief.

Kristine Anderson
Kristine Anderson

STATE OF IDAHO)
) ss.
County of Madison)

16th I, Joshua Howard, a Notary Public, do hereby certify that on this 16th day of September, 2025, personally appeared before me Kristine Anderson, who, being by me first duly sworn, declared that she signed the foregoing document, and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

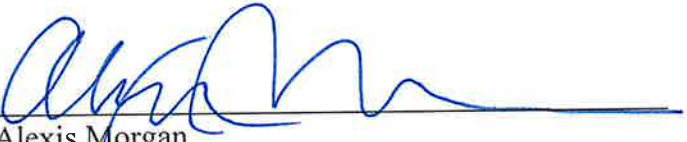


Joshua Howard
Notary Public for Idaho
Residing at 65 S. Center St. Rexburg ID 87440
My commission expires 3-28-2031

VERIFICATION

Alexis Morgan, being first duly sworn upon oath, deposes and says:

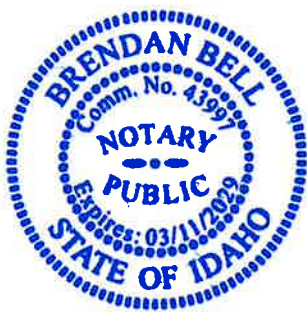
That she is a Petitioner in the above-entitled action, and has reviewed the foregoing petition, that I know of the contents thereof, and that the matters and allegations therein set forth are true to the best of my knowledge and belief.



Alexis Morgan

STATE OF IDAHO)
) ss.
County of Ada)

I, Brendan Bell, a Notary Public, do hereby certify that on this 16th day of September, 2025, personally appeared before me Alexis Morgan, who, being by me first duly sworn, declared that she signed the foregoing document, and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.




Notary Public for Idaho
Residing at Boise, ID
My commission expires 3.11.2029

VERIFICATION

Shawn Tiegs, being first duly sworn upon oath, deposes and says:

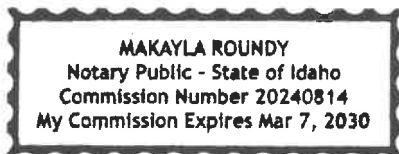
That he is the Superintendent of School District No. 281, Latah County, State of Idaho, a Petitioner in the above-entitled action, and has reviewed the foregoing petition, that I know of the contents thereof, and that the matters and allegations therein set forth are true to the best of my knowledge and belief.



Shawn Tiegs

STATE OF IDAHO)
) ss.
County of Latah)

I, Makayla Roundy, a Notary Public, do hereby certify that on this 16th day of September, 2025, personally appeared before me Shawn Tiegs, who, being by me first duly sworn, declared that he is the Superintendent of School District No. 281, Latah County, State of Idaho, that he signed the foregoing document as Superintendent, and that the statements therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.




Notary Public for Idaho
Residing at 520 Empire Ln #19 Moscow, ID 83843
My commission expires March 7, 2030

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I caused to be served a true copy of the foregoing VERIFIED PETITION FOR WRIT OF PROHIBITION by filing through the Court's e-filing and serve system, and addressed to each of the following:

Idaho Attorney General
700 W. Jefferson Street, Suite 210
Boise, ID 83720
aglabrador@ag.idaho.gov

Dated: September 17, 2025

/s/ Marvin M. Smith

Marvin M. Smith, ISB No. 2236

EXHIBIT A

Marvin M. Smith, ISB No. 2236
Marvin K. Smith, ISB No. 6978
Craig L. Meadows, ISB No. 1081
Brandon Helgeson, ISB No. 11615
Jean Schroeder, ISB No. 12205
HAWLEY TROXELL ENNIS & HAWLEY LLP
2010 Jennie Lee Drive
Idaho Falls, ID 83404
Telephone: 208.529.3005
Facsimile: 208.529.3065
Email: mmsmith@hawleytroxell.com
mksmith@hawleytroxell.com
cmeadows@hawleytroxell.com
bhelgeson@hawleytroxell.com
jschroeder@hawleytroxell.com

Attorneys for Petitioners

IN THE SUPREME COURT OF THE STATE OF IDAHO

COMMITTEE TO PROTECT AND
PRESERVE THE IDAHO CONSTITUTION,
INC.; MORMON WOMEN FOR ETHICAL
GOVERNMENT; SCHOOL DISTRICT NO.
281, LATAH COUNTY, STATE OF IDAHO;
IDAHO EDUCATION ASSOCIATION,
INC.; JERRY EVANS; MARTA
HERNANDEZ; STEPHANIE MICKELSEN;
ALEXIS MORGAN, on behalf of herself and
her minor children; KRISTINE ANDERSON,
on behalf of herself and her minor children;
each of the foregoing individually and as
private attorneys general on behalf of the
public of the State of Idaho,

Petitioners,

vs.

STATE OF IDAHO, acting by and through the
IDAHO STATE TAX COMMISSION,

Respondent.

Case No. _____

DECLARATION OF DANIEL E.
MOONEY

DANIEL E. MOONEY, pursuant to Idaho R. Civ. P. 2.7 and Idaho Code § 9-1406, declares and states as follows:

1. I am a licensed attorney practicing in Boise, Idaho, and I serve as the President of the Committee to Protect and Preserve the Idaho Constitution, Inc. (“Committee”), an Idaho organization dedicated to upholding the principles and protections embodied in our State Constitution.

2. I have extensive experience in litigation and appellate practice, which provides me with a deep understanding of Idaho constitutional law and its application to current legal and policy issues.

3. I am a third-generation Idahoan with deep roots in the community.

4. As the father of one Idaho public school student and another future Idaho public school student, I have a personal stake in the quality and constitutional integrity of public education in this state.

5. Our Committee’s mission is to safeguard the Idaho Constitution from legislative overreach that exceeds the authority granted to the state government or infringes upon constitutional guarantees, including in the realm of education.

6. I am committed to upholding the constitutional principles that protect Idaho’s education system for all children, regardless of their backgrounds or circumstances.

7. The Committee has a proven record of challenging legislative acts that it believes infringe on the constitutional rights of Idahoans.

8. In 2021, the Committee—together with Reclaim Idaho—successfully invoked the Idaho Supreme Court’s original jurisdiction to challenge recently enacted legislation aimed at

hampering the people's fundamental constitutional right to legislate directly through the initiative and referendum process. *See Reclaim Idaho v. Denney*, 169 Idaho 406, 497 P.3d 160 (2021). The Court unanimously struck down this legislation as unconstitutional and awarded the Committee and Reclaim Idaho attorney fees and costs pursuant to the private attorney general doctrine.

9. In this case, the Committee again seeks to protect and preserve the Idaho Constitution as a private attorney general where the State's elected Attorney General will not.

10. Specifically, the Committee opposes House Bill 93 ("HB 93") because it violates the Idaho Constitution's mandate to "establish and maintain a general, uniform, and thorough system of public free common schools" under Article IX, section 1.

11. HB 93 diverts public funds to private and predominantly religious institutions, thereby undermining this constitutional requirement under Article IX, section 1.

12. Further, HB 93 conflicts with Article IX, section 5, which explicitly prohibits public funding for sectarian or religious schools. This provision reflects Idaho's commitment to a strict separation of church and state, which HB 93 disregards by channeling taxpayer resources to religious schools.

13. The constitutional protections provided by Article IX, sections 1 and 5, are essential to ensuring that taxpayer funds support a public, secular school system open to all Idaho students.

14. As both a parent and former student, I have witnessed the crucial role public schools play in nurturing diverse student populations and providing equitable learning opportunities.

15. The Committee has petitioned the Idaho Supreme Court to prohibit implementation of HB 93 on these constitutional grounds, as it violates clear constitutional mandates and jeopardizes the future of Idaho's public education system.

16. On August 20, 2025, the Committee and fellow petitioners Rep. Stephanie Mickelsen and former Superintendent Jerry L. Evans made demand on Idaho Attorney General Raúl Labrador to fulfill his oath of office and defend the Constitution against the implementation of HB 93. A true and correct copy of the email I sent to Attorney General Labrador, along with the attached demand letter, are collectively attached hereto and incorporated herein as **Exhibit A**.

17. Unfortunately, in an August 22, 2025 email reply, the Office of the Attorney General declined the demand, necessitating this petition. A true and correct copy of this reply is attached hereto and incorporated herein as **Exhibit B**.

18. It is a matter of public importance to uphold Idaho's Constitution and preserve the right for all children to have access to education regardless of their background or circumstance.

I certify and declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

DATED THIS 16th day of September, 2025.

/s/ Daniel E. Mooney
Daniel E. Mooney

EXHIBIT A

Letter to Attorney General

Monday, September 15, 2025 at 09:59:35 Mountain Daylight Time

Subject: Idaho Parental Choice Tax Credit law, House Bill 93
Date: Wednesday, August 20, 2025 at 4:50:43 PM Mountain Daylight Time
From: Daniel Mooney
To: aglabrador@ag.idaho.gov
CC: phil.broadbent@ag.idaho.gov
Priority: High
Attachments: 2025-08-20 Letter to AG Labrador re HB 93.pdf

Dear Attorney General Labrador,

Please see the attached.

Sincerely,

Daniel E. Mooney, President
Committee to Protect and Preserve the Idaho Constitution

48845.0002.4918-5125-7449.1

August 20, 2025

Hon. Raúl Labrador, Attorney General of Idaho

aglabrador@ag.idaho.gov

cc. Phil Broadbent

phil.broadbent@ag.idaho.gov

Re: Idaho Parental Choice Tax Credit law, House Bill 93

Dear Attorney General Labrador:

As you know, the Idaho Legislature passed what they styled as a “school choice” bill this session, which for the first time in Idaho history will publicly subsidize the education of private school students. House Bill 93, which Governor Little signed into law, will provide an education tax credit of \$5,000 per student (\$7,500 for special needs students) for attendance at private schools, including religious schools.

The framers of the Idaho Constitution undoubtedly thought they had definitively dealt with the school choice issue. They placed a high priority on providing a foundational education for every Idaho child. Article IX, section 1, of the Constitution states: “The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the legislature of Idaho, to establish and maintain a general, uniform and thorough system of public, free common schools.” In the ISEEO litigation, the Idaho Supreme Court held that the Legislature was required to provide an adequate level of funding, both for student instruction and school facilities, to properly educate Idaho children. The state has chronically underfunded both student instruction and school facilities in flagrant violation of the Constitution.

The framers gave nary a hint that public monies could ever be used to pay for private education. Private schools are not a system, they are not uniform, they are not open to all Idaho kids, they are not thorough, they are not general, they are not common and they are not free. Financing any type of private education with public money is violative of the Idaho Constitution.

The framers also made it crystal clear in Article IX, section 5, that no public money could ever be used to finance any form of religious schooling. That prohibition still applies today. The Supreme Court has decided two cases dealing with this type of prohibition in recent years and neither case has overruled it. In the latest case, [*Carson v. Makin*](#), Chief Justice John Roberts wrote: “A State need not subsidize private education. But once a State decides to do so, it cannot disqualify some private schools solely because they are religious.” When House Bill 93 was passed by the Legislature earlier this year, legislators had been made fully aware that subsidizing private education would require the state to

subsidize religious education. Experience with subsidy programs in other states establishes that the lion's share of tax credits under HB 93 will go to support religious education. The Legislature blatantly opened a back door to using public funds for religious education. This conscious constitutional violation must be rendered void by the courts.

The framers provided in Article IX, section 2, that "the general supervision of the state educational institutions...shall be vested in a state board of education..." It is obvious that the framers intended to ensure that public education funds be spent and accounted for by an entity with deep experience in the education arena. Placing the administration of an educational program under the State Tax Commission is violative of the Constitution. HB 93 will drain the state treasury, with no accountability for the funds. It will also divert funds from public schools, which have been underfunded for decades in violation of our Constitution.

As the state's chief legal officer, it is incumbent on you to defend the Constitution against this unconstitutional statute. Your oath of office requires that you "support" the Constitution of the State of Idaho. Please advise if you will do so within 10 days of the date of this message. If you decline to defend the Constitution against the HB 93 law, it may be necessary for legal action by private parties to protect our Constitution against this legislative overreach.

We believe the case fits perfectly within the category of cases that our Supreme Court has designated as appropriate for application of the private attorney general theory. That is, as the Court outlined in *Reclaim Idaho v. Denney*, 169 Idaho 406 (2021): (1) the strength or societal importance of the public policy vindicated by the litigation, (2) the necessity for private enforcement and the magnitude of the resultant burden on the plaintiff, (3) the number of people standing to benefit from the decision.

We look forward to hearing from you no later than September 2, 2025.

Sincerely,

Daniel E. Mooney, President, Committee to Protect and Preserve the Idaho Constitution
Stephanie Mickelsen, Member of Idaho House of Representatives, District 32
Jerry L. Evans, former Idaho Superintendent of Public Instruction

EXHIBIT B

Office of Attorney General

August 22, 2025 Email

Monday, September 15, 2025 at 10:02:10 Mountain Daylight Time

Subject: RE: Idaho Parental Choice Tax Credit law, House Bill 93
Date: Friday, August 22, 2025 at 6:00:47 PM Mountain Daylight Time
From: Phil Skinner
To: daniel.e.mooney@cppic.org
Attachments: image001.png

Mr. Mooney,

Thank you for your letter and your desire to defend Idaho's Constitution. The Attorney General disagrees with your assertion that the Idaho Parental Choice Tax Credit violates the Idaho Constitution. It is the duty of the Attorney General to defend the laws enacted by the people's elected legislature. We are prepared to defend the statute in court if necessary.

Best regards,



Phil N Skinner | Chief of Staff
Attorney General Raúl R. Labrador
Office of the Attorney General | State of Idaho
O: 208-947-8776 | W: ag.idaho.gov

From: Daniel Mooney <daniel.e.mooney@cppic.org>
Sent: Wednesday, August 20, 2025 4:51 PM
To: Constituent Mailbox <aglabrador@ag.idaho.gov>
Cc: Phil Broadbent <Phil.Broadbent@ag.idaho.gov>
Subject: Idaho Parental Choice Tax Credit law, House Bill 93
Importance: High

You don't often get email from daniel.e.mooney@cppic.org. [Learn why this is important](#)
Dear Attorney General Labrador,

Please see the attached.

Sincerely,

Daniel E. Mooney, President
Committee to Protect and Preserve the Idaho Constitution

NOTICE: This message, including any attachments, is intended only for the individual(s) or entity(ies) named above and may contain information that is confidential, privileged, attorney work product, or otherwise exempt from disclosure under applicable law. If you are not the intended recipient, please reply to the sender that you have received this transmission in error, and then please delete this email.

48845.0002.4918-5125-7449.1

EXHIBIT B

Marvin M. Smith, ISB No. 2236
Marvin K. Smith, ISB No. 6978
Craig L. Meadows, ISB No. 1081
Brandon Helgeson, ISB No. 11615
Jean Schroeder, ISB No. 12205
HAWLEY TROXELL ENNIS & HAWLEY LLP
2010 Jennie Lee Drive
Idaho Falls, ID 83404
Telephone: 208.529.3005
Facsimile: 208.529.3065
Email: mmsmith@hawleytroxell.com
mksmith@hawleytroxell.com
cmeadows@hawleytroxell.com
bhelgeson@hawleytroxell.com
jschroeder@hawleytroxell.com

Attorneys for Petitioners

IN THE SUPREME COURT OF THE STATE OF IDAHO

COMMITTEE TO PROTECT AND
PRESERVE THE IDAHO CONSTITUTION,
INC.; MORMON WOMEN FOR ETHICAL
GOVERNMENT; SCHOOL DISTRICT NO.
281, LATAH COUNTY, STATE OF IDAHO;
IDAHO EDUCATION ASSOCIATION,
INC.; JERRY EVANS; MARTA
HERNANDEZ; STEPHANIE MICKELSEN;
ALEXIS MORGAN, on behalf of herself and
her minor children; KRISTINE ANDERSON,
on behalf of herself and her minor children;
each of the foregoing individually and as
private attorneys general on behalf of the
public of the State of Idaho,

Petitioners,

vs.

STATE OF IDAHO, acting by and through the
IDAHO STATE TAX COMMISSION,

Respondent.

Case No. _____

DECLARATION OF CINDY WILSON

CINDY WILSON, pursuant to Idaho R. Civ. P. 2.7 and Idaho Code § 9-1406, declares and states as follows:

1. I currently serve as the Idaho State Director for Mormon Women for Ethical Government (“MWEG”), a nationwide organization that promotes ethical governance through advocacy and civic empowerment.

2. I am a lifelong Idaho resident and educator with over 30 years of experience teaching history, government, and civics in public schools in all regions of Idaho, including Boise, West Ada, Orofino, and Shelley school districts.

3. I have also served on the Idaho Governor’s Education Reform Task Force and I am the former candidate for Idaho Superintendent of Public Instruction in 2018.

4. MWEG is a Utah nonprofit corporation and a nationwide organization whose members include hundreds of Idaho women. The current chair of MWEG’s Board of Directors is also an Idaho resident.

5. MWEG’s membership is a cross-partisan, ideologically diverse coalition of women who hold views all across the political spectrum and are dedicated to building a more peaceful, just, and ethical world through advocacy, and civic empowerment, and engagement.

6. As a structured nonprofit with a substantial membership base in Idaho, MWEG acts on behalf of its constituents who are parents, taxpayers and advocates for ethical governance. They stand united in affirmation of core principles such as the separation of church and state and constitutional governance.

7. One of MWEG’s principles of ethical government is the government’s duty to adhere to the rule of law.

8. MWEG believes that House Bill 93 (“HB 93”) violates this principle because it is in violation of Idaho’s organic law—the Idaho Constitution.

9. Article IX, section 1 of the Idaho Constitution, mandates the legislature to establish and maintain a general, uniform, and thorough system of public, free, common schools for the intelligence and stability of our republican form of government. By authorizing and allocating taxpayer funds in the form of voucher subsidies for parents to use to pay for tuition and expenses at non-public schools, HB 93 is effectively creating and funding a separate system of eligible private schools in violation of the Idaho Constitution.

10. HB 93 also lacks essential accountability, transparency, and oversight measures. Unlike public schools, private schools receiving funds under HB 93 are not subject to state academic standards, nondiscrimination policies, or teacher certification rules contravening principles of uniformity and public accountability.

11. Additionally, HB 93’s mechanisms deviate from constitutional mandates on public education funding, religious neutrality, and fiscal transparency.

12. For these reasons, MWEG formally petitions the Idaho Supreme Court to declare HB 93 unconstitutional.

I certify and declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

DATED THIS 16th day of September, 2025.

/s/ Cindy Wilson
Cindy Wilson

EXHIBIT C

Marvin M. Smith, ISB No. 2236
Marvin K. Smith, ISB No. 6978
Craig L. Meadows, ISB No. 1081
Brandon Helgeson, ISB No. 11615
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Attorneys for Petitioners

IN THE SUPREME COURT OF THE STATE OF IDAHO

COMMITTEE TO PROTECT AND
PRESERVE THE IDAHO CONSTITUTION,
INC.; MORMON WOMEN FOR ETHICAL
GOVERNMENT; SCHOOL DISTRICT NO.
281, LATAH COUNTY, STATE OF IDAHO;
IDAHO EDUCATION ASSOCIATION,
INC.; JERRY EVANS; MARTA
HERNANDEZ; STEPHANIE MICKELSEN;
ALEXIS MORGAN, on behalf of herself and
her minor children; KRISTINE ANDERSON,
on behalf of herself and her minor children;
each of the foregoing individually and as
private attorneys general on behalf of the
public of the State of Idaho,

Petitioners,

vs.

STATE OF IDAHO, acting by and through the
IDAHO STATE TAX COMMISSION,

Respondent.

Case No. _____

DECLARATION OF SHAWN TIEGS

SHAWN TIEGS pursuant to Idaho R. Civ. P. 2.7 and Idaho Code § 9-1406, declares and states as follows:

1. I am over the age of 18, and I am competent to testify truthfully to the matters herein.

2. I am the current Superintendent of the Moscow School District, No. 281, located in Moscow, Idaho and am acting at the direction of the Moscow School Board.

3. District No. 281 currently serves over 2,100 students across elementary, middle, and high schools.

4. District No. 281 is responsible for providing public education to all students in its boundaries, including educating students with disabilities that require an Individualized Education Program.

5. The district's student population is diverse, drawing from both urban/suburban and rural backgrounds and benefits from strong parent involvement and volunteer support.

6. Significant nonpublic schooling exists within the service area and boundaries of the Moscow School District, whether that be private elementary and secondary schools or other organized home schooling pods.

7. It is my belief that private schools, learning pods and home school populations in the Moscow area do not reflect the demographic diversity of the public school district as a whole and have a history of exclusionary practices.

8. It is my belief that the private schools, learning pods and home school populations in Moscow and in neighboring communities tend to draw from more homogenous populations relative to our district and have the ability to exclude students based on religion, disability, or other

factors, failing to serve the broad racial, ethnic, and socioeconomic diversity of the wider community.

9. This lack of representation and inclusivity shows that private schools within our district will not provide an equitable alternative to all students in our district and will only exacerbate discrimination and educational inequality in the region.

10. All members of the Moscow School District Board, whom I am representing in this declaration, swear an oath to uphold the State of Idaho Constitution prior to commencing their terms as board members.

11. HB 93 conflicts with this commitment to serve the best interests of the Moscow School District students and to uphold the mandates of the State Constitution.

12. The implementation of HB 93 will lead to a decreased enrollment in Moscow's public schools, and throughout the entire state of Idaho and thereby divert state funding from our district to private schools, learning pods and home schools that do not offer the same level of academic quality or inclusiveness.

13. Losing these students around the state and in our district, will jeopardize our financial base and also jeopardize the educational opportunities for all students in the district and the community at large.

I certify and declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

Dated: September 17, 2025

/s/ Shawn Tiegs
SHAWN TIEGS

EXHIBIT D

Marvin M. Smith, ISB No. 2236
Marvin K. Smith, ISB No. 6978
Craig L. Meadows, ISB No. 1081
Brandon Helgeson, ISB No. 11615
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Attorneys for Petitioners

IN THE SUPREME COURT OF THE STATE OF IDAHO

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INC.; JERRY EVANS; MARTA
HERNANDEZ; STEPHANIE MICKELSEN;
ALEXIS MORGAN, on behalf of herself and
her minor children; KRISTINE ANDERSON,
on behalf of herself and her minor children;
each of the foregoing individually and as
private attorneys general on behalf of the
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STATE OF IDAHO, acting by and through the
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Respondent.

Case No. _____

DECLARATION OF PAUL STARK

PAUL STARK, pursuant to Idaho R. Civ. P. 2.7 and Idaho Code § 9-1406, declares and states as follows:

1. I am the Executive Director of the Idaho Education Association (“IEA”), the state’s largest nonprofit professional organization representing public school educators, staff, and administrators.

2. I have worked with the IEA for over fourteen (14) years, first as general counsel and now as Executive Director.

3. The IEA’s mission for over 130 years has been to empower Idaho’s education professionals to provide excellent public education for every child and fight for high standards in education, fair treatment of teachers, and adequate funding for schools, adapting to various challenges while promoting quality education for all students.

4. IEA is made up of thousands of public school educators from across Idaho; teachers, educational support professionals, counselors, administrators, and other school staff in every district and community statewide, delivering instruction and support in public schools that are open and accountable to all families.

5. Idaho educators and schools already face significant resource constraints; educators regularly demonstrate extraordinary support to their students, but they need fair and adequate funding from the state to maintain quality programs, ensure equitable access, and foster student well-being.

6. House Bill 93 (“HB 93”) undermines these goals and eliminates meaningful public accountability for taxpayer spending.

7. Private schools face no requirements to disclose academic outcomes, uphold anti-discrimination standards, or guarantee enrollment for every student.

8. As a result HB 93 worsens an already uneven playing field for Idaho students and families. The absence of transparency and public oversight risks deepening inequities and eroding Idaho citizens' ability to ensure that their tax dollars advance a public purpose.

9. For these reasons, I strongly oppose HB 93 and urge the Idaho Supreme Court to prioritize support for Idaho's public schools, uphold constitutional guarantees of free and uniform public education, and reject voucher schemes that harm students, families, and communities statewide.

I certify and declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

DATED THIS 16th day of September, 2025.



Paul Stark

EXHIBIT E

Marvin M. Smith, ISB No. 2236
Marvin K. Smith, ISB No. 6978
Craig L. Meadows, ISB No. 1081
Brandon Helgeson, ISB No. 11615
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HERNANDEZ; STEPHANIE MICKELSEN;
ALEXIS MORGAN, on behalf of herself and
her minor children; KRISTINE ANDERSON,
on behalf of herself and her minor children;
each of the foregoing individually and as
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Respondent.

Case No. _____

DECLARATION OF JERRY EVANS

JERRY EVANS pursuant to Idaho R. Civ. P. 2.7 and Idaho Code § 9-1406, declares and states as follows:

1. I am over the age of 18, and I am competent to testify truthfully to the matters herein.

2. I am an adult resident of Ada County, Idaho. I served as Idaho State Superintendent of Public Instruction from 1979 until 1995.

3. During my tenure, I was responsible for overseeing the implementation and compliance of Idaho's public education system, working in accordance with the Idaho Constitution and applicable state laws.

4. I am opposed to Idaho House Bill 93 ("HB 93") because it violates the Idaho Constitution.

5. Article IX, Section 1 of the Idaho Constitution mandates that "the stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the legislature of Idaho, to establish and maintain a general, uniform and thorough system of public, free common schools."

6. Article IX, Section 2 of the Idaho Constitution empowers the State Board of Education to exercise "general supervision of the state educational institutions and public school system of the state of Idaho."

7. The Idaho constitutional requirement emphasizes a singular system, one that is general, uniform, and thorough. This constitutional mandate requires the legislature to provide a free, uniform educational opportunity through a single public school system available to all children in the state.

8. The constitutional framers intended this system to be cohesive and reliable as the primary venue to fulfill the state's fundamental responsibility for educating its youth to safeguard the republic and promote informed citizenships.

9. While Idaho law recognizes alternative means of education, including homeschooling and private schooling, these do not diminish nor replace the constitutional obligation to maintain a free, single public school system that meets standards of uniformity and thoroughness.

10. Throughout my service, I regularly advised policymakers and communities that opposing or circumventing this free, unified public school system risked fragmenting undermining standardization and weakening support for children's educational needs.

11. Efforts to reimagine public education as multiple disparate systems, or to divert public funding away from this constitutional public school system, raises significant legal and policy concerns about compliance with Idaho's constitutional education mandate.

12. Article VII, Section 7 provides, in part: "The duties heretofore imposed upon the state board of equalization by the Constitution and laws of this state shall be performed by the state tax commission and said commission shall have such other powers and perform such other duties as may be prescribed by law" Nothing therein authorizes it to evaluate and approve education expenses.

13. HB 93 puts administration of the education tax credit program under the State Tax Commission, who have no expertise in education issues and no educational authority under the Idaho Constitution.

14. Effective school governance requires competent, education-focused administration, which can only be provided by the State Board of Education and State Superintendent as mandated by Idaho law.

15. The Idaho State Board of Education is charged with the general supervision and governance of Idaho's public education institutions and the school system to ensure a uniform and thorough education system. The Board sets statewide policy, approves budgets, adopts rules, and oversees the execution of public education.

16. The State Superintendent of Public Instruction implements the Board's policies, manages day-to-day operations of the public school system, and ensures compliance with state and federal education laws.

17. By placing the administration of the tax credit program with the State Tax Commission, the Legislature has misallocated the authority to an improper and inexperienced group, which weakens public education, undermines constitutional mandates, and threatens the fair and thorough schooling Idaho children deserve.

18. This affidavit is intended to affirm the constitutional duty Idaho bears to its public school system and to ask the Idaho Supreme Court to hold policymakers accountable with regard to their responsibility in current and future educational reforms.

I certify and declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

Dated: September 17, 2025

/s/ Jerry Evans
JERRY EVANS

EXHIBIT F

Marvin M. Smith, ISB No. 2236
Marvin K. Smith, ISB No. 6978
Craig L. Meadows, ISB No. 1081
Brandon Helgeson, ISB No. 11615
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Attorneys for Petitioners

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INC.; JERRY EVANS; MARTA
HERNANDEZ; STEPHANIE MICKELSEN;
ALEXIS MORGAN, on behalf of herself and
her minor children; KRISTINE ANDERSON,
on behalf of herself and her minor children;
each of the foregoing individually and as
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vs.

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Respondent.

Case No. _____

DECLARATION OF MARTA
HERNANDEZ

MARTA HERNANDEZ pursuant to Idaho R. Civ. P. 2.7 and Idaho Code § 9-1406, declares and states as follows:

1. I am over the age of 18, and I am competent to testify truthfully to the matters herein.

2. I was born in San Juan, Texas, to migrant farmworkers. I grew up in Alamo, Texas, and attended elementary and junior high school in the Pharr, San Juan, Alamo Public School District.

3. I have been a resident of Idaho since 1979.

4. I attended Minidoka County School District from ninth grade to twelfth grade. That is where I met my current husband.

5. I am the mother of two children, who both work for the federal government.

6. I received my GED from Pan American University in Edinburg, Texas. I attended the Valley School of Business in McAllen, Texas, and received an Associate Degree of Arts in Elementary Education from the College of Southern Idaho in Twin Falls. I earned a Bachelor of Arts in Elementary Education from Idaho State University in Pocatello, and a Master of Education in Curriculum and Instruction (Bilingual Education/ESL) from Boise State University.

7. I am a licensed educator in the State of Idaho and current teacher for the Cassia County School District.

8. My teaching positions have included: Reading, Math, U.S. History, Geography, and Language Arts. I currently teach at Burley Junior High School, seventh grade Geography, seventh and eighth grade History, and Culture of Ballet Folklorico.

9. I served as the eighth grade advisor for Burley Junior High School Student Council for 15 years. I continue to serve as the Burley Junior High School Spanish Club and Spanish Club Dancers advisor.

10. I have been teaching for 30 years in Cassia County.

11. I serve on the Idaho Education Association Board of Directors and on the Human and Civil Rights Committee representing Region 4.

12. I have firsthand experience with the challenges faced by Latinos and Latinas in rural public schools, including limited resources, and am a firm believer that I must lead by example; if I expect my students to take risks and get involved, then I must be the role model for them.

13. Latinos and Latinas constitute more than 13 percent of the demographic population of Idaho.

14. I am opposed to Idaho House Bill 93 ("HB 93") because the proposed Parental Choice Tax Credit diverts critical funding from public schools to private education institutions, disproportionately harming educational opportunities for rural students.

15. My opposition is based on my professional experience and observation of rural students' educational needs and the adverse impacts HB 93 may cause.

16. In the current education climate, my class sizes are growing at a rapid rate along with the needs for individualized attention.

17. There are also high requirements for teachers within the public school system. This includes teacher evaluations, including an analysis of students' academic growth in relation to

federal requirements. Public school educators are required to recertify every five years and, depending on grade taught, are required to have specific courses and/or endorsements.

18. With the shift of students from public to private schools, this will disincentivize teachers to stay within the public education system.

19. Idaho teachers are subject to rigorous professional standards, including obtaining and maintaining educator certification under Idaho Administrative Code (IDAPA) 08.01.02.

20. All teachers participate in annual evaluations that assess instructional effectiveness, classroom management, adherence to curriculum standards, and contributions to student achievement, as required by Idaho Code Sections 33-514 and 33-514a.

21. Our profession demands a significant commitment of time beyond classroom instruction, including lesson planning, grading, attending professional development workshops, engaging with parents, and supporting students' social and emotional needs.

22. Teachers commonly work well beyond the standard school day, often exceeding 40 hours a week, to meet these demands and fulfill contractual and statutory obligations.

23. HB 93 proposes to redirect public education funds toward private schooling through tax credits.

24. This diversion threatens the financial resources of public schools like mine, making it increasingly difficult to retain qualified teachers, maintain reasonable class sizes, and offer comprehensive educational programs.

25. The resulting strain will exacerbate teacher burnout and turnover, as staff face larger workloads, diminished support, and fewer resources.

26. Public schools accept everyone under the Constitution – not only those gifted and talented who speak English.

27. Such outcomes undermine the very public school system Idaho legislators are constitutionally bound to protect: a general, uniform, and thorough system that serves every Idaho child.

28. Education is meant for all children to have an equitable education, which benefits the child themselves and the community at large.

29. Public schools are essential community institutions that rely on sustained funding to uphold high education standards and equitable access.

30. HB 93 shifts funds away from the essential public resources available to Idaho children and families and threatens educational quality and teacher well-being across the state.

I certify and declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

Dated: September 16, 2025_____

/s/ Marta Hernandez
MARTA HERNANDEZ

EXHIBIT G

Marvin M. Smith, ISB No. 2236
Marvin K. Smith, ISB No. 6978
Craig L. Meadows, ISB No. 1081
Brandon Helgeson, ISB No. 11615
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Respondent.

Case No. _____

DECLARATION OF STEPHANIE
MICKELSEN

STEPHANIE MICKELSEN pursuant to Idaho R. Civ. P. 2.7 and Idaho Code § 9-1406, declares and states as follows:

1. I am over the age of 18, and I am competent to testify truthfully to the matters herein.

2. I am a resident of Idaho Falls, Idaho, a taxpayer in the State of Idaho, and currently serve as a member of the Idaho House of Representatives for District Number 32A. I am a grandmother of 18 children, with 12 within the Idaho public school system.

3. I assumed office as a member of the Idaho House of Representatives for District 32A on December 1, 2022, and have served in that office ever since.

4. My District includes two public school districts, Districts 91 and 93. Idaho Falls has five major high schools: Idaho Falls, Skyline, Hillcrest, Bonneville, and Thunder Ridge High School.

5. With a student population of approximately 13,500, District 93 (“D93”), Bonneville School District, is the 5th largest district in Idaho. District 93 has 14 elementary schools serving students in K-6, three middle schools serving students in grades 7-8, and three high schools serving students in grades 9-12, including an alternative high school. D93 also offers curriculum online for grades K-12 through Bonneville Online. The Bonneville School District employs approximately 1,600 people, of whom nearly 600 are certificated personnel.

6. Idaho Falls School District 91 (“D91”) serves the educational needs of over 10,000 students in 19 schools, with approximately 1,063 students with IEPs. D91 has 12 elementary schools serving students in K-6, two middle schools serving students in grades 7-8,

and two high schools serving students in grades 9-12, along with an alternative high school. There are approximately 600 teachers within D91.

7. I reviewed and participated in discussions regarding the passing of House Bill 93 (“HB 93”), which establishes a Parental Choice Tax Credit program.

8. The primary sponsor of House Bill 93 in the Idaho House of Representatives was Representative Wendy Horman. During the 2023 legislative session, Representative Horman told me that Idaho voters would reject legislation to “direct or appropriate public tax dollars to private K-12 schools, including private religious and for-profit schools.” She was referring to that session’s House Bill 339, which called for that question to be submitted as an advisory question to the voters in the 2024 general election. HB 339 was rejected, depriving voters of any say in the matter.”

9. I voted against the education tax credit legislation, HB 93, because the bill does not adequately support the school districts and my constituents within my district.

10. Another reason I voted against HB 93 is because I strongly believe that religious teaching of any faith should not be financed or subsidized with public money. Article IX, section 5 of the Idaho Constitution strongly prohibits the practice.

11. Private schools may exercise selective admissions, including religion or ability-based exclusions, while State public schools are required to educate every child regardless of background, ability or need.

12. On the first day of the 2025 legislative session, I received an email on my official account that was styled as a Legislative Alert, warning against financing private education with public money. A copy of that email, which was sent by the Committee to Protect and Preserve the

Idaho Constitution, is attached and incorporated as **Exhibit 1**. It stated that the prohibition was still effective but that it might be evaded if the Legislature were to authorize the use of public funds for any kind of private education.

13. I contest HB 93 on the grounds that it is unconstitutional and reallocates taxpayer dollars from public schools to private schools, risking the integrity and funding of Idaho's public education systems. The Idaho Constitution mandates that "the stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the legislature of Idaho, to establish and maintain a general, uniform and thorough system of public, free common schools."

14. HB 93 does not serve any interests of the majority of my constituents and their children.

15. On August 15, 2025, I joined former Idaho Superintendent of Public Instruction Jerry Evans and Daniel Mooney, the President of the Committee to Protect and Preserve the Idaho Constitution, in sending a message to Idaho Attorney General Raul Labrador, urging that he bring suit to have the tax credit subsidy law declared in violation of Idaho's Constitution. A copy of the message is attached and incorporated as **Exhibit 2**. The Attorney General's office declined to do so, necessitating our present action.

16. My duties as both a taxpayer, concerned grandmother, and legislator compel me to provide this affidavit under penalty of perjury. My grandchildren who attend school in rural Idaho do not have an option for a nearby private school, thus HB 93 offers little actual choice to my grandchildren while weakening their public schools.

I certify and declare under penalty of perjury pursuant to the law of the State of Idaho
that the foregoing is true and correct.

Dated: September 16th, 2025

/s/ Stephanie Mickelsen
Stephanie Mickelsen

EXHIBIT 1
Legislative Alert Email

From: jim jones <jimjust27@gmail.com>

Sent: Monday, January 6, 2025 9:12 AM

To: Representative Cornel Rasor <crasor@house.idaho.gov>; Representative Mark Sauter <MSauter@house.idaho.gov>; Representative Dale Hawkins <DHawkins@house.idaho.gov>; Representative Heather Scott <HScott@house.idaho.gov>; Representative Vito Barbieri <VBar@house.idaho.gov>; Representative Jordan Redman <JRedman@house.idaho.gov>; Representative Joe Alfieri <JAlfieri@house.idaho.gov>; Representative Elaine Price <EPrice@house.idaho.gov>; Representative Ron Mendive <RMendive@house.idaho.gov>; Representative Tony Wisniewski <TWisniewski@house.idaho.gov>; Representative Lori McCann <LMcCann@house.idaho.gov>; Representative Brandon Mitchell <BMitchell@house.idaho.gov>; Representative Kyle Harris <kharris@house.idaho.gov>; Representative Charlie Shepherd <CShepherd@house.idaho.gov>; Representative Faye Thompson <fthompson@house.idaho.gov>; Representative Robert Beiswenger <rbeiswenger@house.idaho.gov>; Representative Judy Boyle <jboyle@house.idaho.gov>; Representative John Shirts <jshirts@house.idaho.gov>; Representative Mike Moyle <mmoyle@house.idaho.gov>; Representative Bruce Skaug <BSkaug@house.idaho.gov>; Representative Lucas Cayler <lcayler@house.idaho.gov>; Representative Kent Marmon <kmarmon@house.idaho.gov>; Representative Jeff Cornilles <JCornilles@house.idaho.gov>; Representative Jaron Crane <JCrane@house.idaho.gov>; Representative Brent Crane <bcrane@house.idaho.gov>; Representative Steve Tanner <stanner@house.idaho.gov>; Representative Ted Hill <THill@house.idaho.gov>; Representative Josh Tanner <JTanner@house.idaho.gov>; Representative Steve Berch <SBerch@house.idaho.gov>; Representative Soñia Galaviz <SGalaviz@house.idaho.gov>; Representative Todd Achilles <tachilles@house.idaho.gov>; Representative Megan Egbert <megbert@house.idaho.gov>; Representative John L. Gannon <JGannon@house.idaho.gov>; Representative Brooke Green <BGreen@house.idaho.gov>; Representative Ilana Rubel <IRubel@house.idaho.gov>; Representative Chris Mathias <CMathias@house.idaho.gov>; Representative Monica Church <mchurch@house.idaho.gov>; Representative James Holtzclaw <JHoltzclaw@house.idaho.gov>;

Representative Joe A. Palmer <jpalmer@house.idaho.gov>; Representative Jeff Ehlers <JEhlers@house.idaho.gov>; Representative James Petzke <JPetzke@house.idaho.gov>; Representative Jason Monks <JMonks@house.idaho.gov>; Representative John Vander Woude <JVanderWoude@house.idaho.gov>; Representative Chris Bruce <cbruce@house.idaho.gov>; Representative Shawn Dygert <sdygert@house.idaho.gov>; Representative Clint Hostetler <chostetler@house.idaho.gov>; Representative Steve Miller <SMiller@house.idaho.gov>; Representative Lance W. Clow <LClow@house.idaho.gov>; Representative Gregory Lanting <GLanting@house.idaho.gov>; Representative Mike Pohanka <mpohanka@house.idaho.gov>; Representative Jack Nelsen <jnelson@house.idaho.gov>; Representative Clay Handy <CHandy@house.idaho.gov>; Representative Douglas T. Pickett <DPickett@house.idaho.gov>; Representative Richard Cheatum <RCheatum@house.idaho.gov>; Representative Dan Garner <DGarner@house.idaho.gov>; Representative Dustin Manwaring <DManwaring@house.idaho.gov>; Representative Tanya Burgoyne <tburgoyne@house.idaho.gov>; Representative David Cannon <DCannon@house.idaho.gov>; Representative Ben Fuhriman <bfuhriman@house.idaho.gov>; Representative Rod Furniss <RFurniss@house.idaho.gov>; jpaymond@house.idaho.gov <jpaymond@house.idaho.gov>; Representative Wendy Horman <WendyHorman@house.idaho.gov>; Representative Stephanie Mickelsen <SMickelsen@house.idaho.gov>; Representative Barbara Ehardt <BEhardt@house.idaho.gov>; Representative Marco Erickson <MErickson@house.idaho.gov>; Representative Britt Raybould <BRaybould@house.idaho.gov>; Representative Jon Weber <JWeber@house.idaho.gov>; Representative Kevin Andrus <KAndrus@house.idaho.gov>; Representative Josh Wheeler <JWheeler@house.idaho.gov>; Senator Jim Woodward <jwoodward@senate.idaho.gov>; Senator Phil Hart <PHart@senate.idaho.gov>; Senator Doug Okuniewicz <Dougo@senate.idaho.gov>; Senator Ben Toews <BToews@senate.idaho.gov>; Senator Carl Bjerke <CBjerke@senate.idaho.gov>; Senator Dan Foreman <DForeman@senate.idaho.gov>; Senator Cindy Carlson <CCarlson@senate.idaho.gov>; Senator Christy Zito <czito@senate.idaho.gov>; Senator Brandon Shippy <bshippy@senate.idaho.gov>; Senator Tammy Nichols <TNichols@senate.idaho.gov>; Senator Camille Blaylock <cblaylock@senate.idaho.gov>; Senator Ben Adams <BAdams@senate.idaho.gov>; Senator Brian Lenney <BLenney@senate.idaho.gov>; Senator Scott Grow <SGrow@senate.idaho.gov>; Senator Codi Galloway <cgalloway@senate.idaho.gov>; Senator Ali Rabe <ARabe@senate.idaho.gov>; Senator Carrie Semmelroth <CSemmelroth@senate.idaho.gov>; Senator Janie Ward-Engelking <JWardEngelking@senate.idaho.gov>; Senator Melissa Wintrow <mwintrow@senate.idaho.gov>; Senator Josh Keyser <jkeyser@senate.idaho.gov>; Senator Treg Bernt <TBernt@senate.idaho.gov>; Senator Lori Den Hartog <LDenHartog@senate.idaho.gov>; Senator Todd Lakey <TLakey@senate.idaho.gov>; Senator Glenneda Zuiderveld <GZuiderveld@senate.idaho.gov>; Senator Josh Kohl <jkohl@senate.idaho.gov>; Senator Ron Taylor <RTaylor@senate.idaho.gov>; Senator Kelly Anthon <KAnthon@senate.idaho.gov>; Senator Jim Guthrie <JGuthrie@senate.idaho.gov>; Senator James Ruchti <JRuchti@senate.idaho.gov>; Senator Julie VanOrden <JVanOrden@senate.idaho.gov>; Senator Van Burtenshaw <VBurtenshaw@senate.idaho.gov>; Senator Kevin Cook <KCook@senate.idaho.gov>; Senator Dave Lent <DLent@senate.idaho.gov>; Senator Doug Ricks <dricks@senate.idaho.gov>; Senator Mark Harris <MHarris@senate.idaho.gov>
Cc: andy.snook@gov.idaho.gov <andy.snook@gov.idaho.gov>; superintendent@sde.idaho.gov <superintendent@sde.idaho.gov>

Subject: Legislative alert regarding religious school subsidies

To: All members of the 2025 session of the Idaho Legislature

From: The Committee to Protect and Preserve the Idaho Constitution

Dear Legislator:

This alert is to advise legislators of the legal strategy the Committee is expecting to employ against any legislation that may be enacted in the 2025 session to authorize the use of public funds for private and religious schooling. It is important that legislators are fully advised of the potential legal pitfalls ahead of time so that they cannot plead ignorance of the legal consequences after the fact. That is essential to the Committee's litigation strategy. The alert will likely be offered in evidence in any ensuing legal action. This legislative alert is not intended to constitute legal advice. Legislators are encouraged to seek their own legal advice regarding the matters contained herein.

Idaho's Constitution prohibits using public funds for religious education

Article IX, section 5 of the Idaho Constitution clearly states:

"SECTARIAN APPROPRIATIONS PROHIBITED. Neither the legislature nor any county, city, town, township, school district, or other public corporation, shall ever make any appropriation, or pay from any public fund or moneys whatever, anything in aid of any church or sectarian or religious society, or for any sectarian or religious purpose, or to help support or sustain any school, academy, seminary, college, university or other literary or scientific institution, controlled by any church, sectarian or religious denomination whatsoever; nor shall any grant or donation of land, money or other personal property ever be made by the state, or any such public corporation, to any church or for any sectarian or religious purpose"

This provision is often referred to as the Blaine Amendment. Some people, who simply don't know what they are talking about, falsely claim the Blaine Amendment is a "dead letter" or that it has been overruled by the United States Supreme Court. They argue that the Amendment should be removed from the Idaho Constitution because it is just meaningless verbiage. That is patently false. The Supreme Court has decided two cases dealing with the Blaine Amendment in recent years and neither case has overruled it. In the latest case, *Carson v. Makin*, Chief Justice John Roberts wrote: "A State need not subsidize private education. But once a State decides to do so, it cannot disqualify some private schools solely because they are religious." The words may seem familiar because the Chief Justice previously stated them to be the law of the land in a 2020 Montana case.

Roberts' words are a warning regarding the religious consequences of using public money to subsidize private education. The Court was saying that if, and only if, a state provides taxpayer money for private schooling, it must also provide money for religious schooling. Some are trying, for the first time in Idaho history, to require Idaho taxpayers to foot the bill for private schooling, which would then open the back door to making taxpayers pay for religious schooling. So-called "school choice" legislation is a workaround to evade and subvert Article IX, Section 5.

Any scheme to divert taxpayer funds to subsidize private education, whether it is called a school voucher, a tax credit, a school choice payment, a savings account, or whatever else, would necessarily result in subsidization of religious schooling, in direct violation of our Constitution. Indeed, most of the public subsidy would go to religious education. There is solid evidence that about 91% of 2024 subsidy recipients across the country attend religious schools. That would likely be the case in Idaho.

Some contend that a tax credit should be treated differently than a direct payment from the state treasury. The Court would not buy such an argument. Both a tax credit and a direct payment reduce the amount of money available to meet government obligations.

In any litigation filed to challenge a subsidy law, the Committee would show the Court that legislators were fully advised beforehand of the unconstitutionality of the scheme and that they knowingly and deliberately chose to violate the constitutional prohibition. The Legislature can continue to follow the strict prohibition against using public money to subsidize any form of private education by simply voting down subsidy legislation.

Idaho's Constitution does not provide for private school funding

The framers of the Idaho Constitution undoubtedly thought they had definitively dealt with the school choice issue. They placed a high priority on providing a foundational education for every Idaho child. Article IX, section 1 of the Constitution states:

“The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the legislature of Idaho, to establish and maintain a general, uniform and thorough system of public, free common schools.”

The framers gave nary a hint that public monies could ever be used to pay for private education. They intended to fund a “system” of free public schools that would be fully financed by the Legislature.

The framers provided in Article IX, section 9, that the “legislature may require by law that every child shall attend the public schools of the state, throughout the period between the ages of six and eighteen years, unless educated by other means, as provided by law.” The Legislature did enact a compulsory attendance law, but gave parents the choice of educating their kids by other approved means without the benefit of public money. There was obviously no intent to finance the “other means” and certainly not any alternate “system” of education. So, Idaho parents have always had a school choice—they could either send their kids to taxpayer-funded public schools, or they could pay out-of-pocket for any authorized form of private schooling. Idahoans have firmly believed and followed this basic understanding of the law for over 130 years. Well, until out-of-state, dark-money interests began their recent efforts to open up Idaho’s treasury to subsidize all kinds of private/religious schooling.

A Court would have good reason to agree that the Constitution does not countenance public funds being used for any schooling besides that provided in the public school system, which has been in operation since before statehood. Idaho's major political party has adopted the rationale that state funds should not be used for any purpose not authorized by the Idaho Constitution. Article I, section 1F of the Idaho Republican Party's 2024 Platform says:

We believe the state legislature should appropriate funds only for purposes and to the extent required to meet government's constitutional obligations. Any current programs, functions, or activities of government that are not required by the constitution should be repealed, defunded, and left to the private sector.

Of course, since the Constitution makes no provision whatsoever for contributing public money to finance private education of any sort, subsidy proponents are out of luck. We might well call the GOP chairman as a witness to support this aspect of the lawsuit.

A subsidy law would substantially reduce funding for public education

Idaho’s constitutional framers made it an overriding responsibility for the Legislature to properly fund the public school system, both for the instruction of Idaho kids and for the construction and

maintenance of school buildings. They undoubtedly believed that future legislatures would honor the constitutional mandate to maintain a “thorough system” of education, primarily funded out of the state treasury. They would be profoundly amazed and saddened to learn that legislators have seriously and consistently violated this sacred duty.

Thanks to the school funding lawsuit filed against the state in 1990, it is well known that Idaho legislators have failed to adequately fund the instructional side of public education during the last three decades. Because of pressure brought to bear by the Reclaim Idaho school funding initiative, the state significantly upped the ante of public funding in the special legislative session in 2022, but there is still an enormous shortfall. Idaho has long been at the bottom of the national per-student spending ladder. Every state bordering Idaho provides more funding per student, giving their kids a competitive advantage over Idaho students. The most recent NEA report (2023-24) ranked Idaho 51st in the country with \$9,808 per-student spending. Montana ranked 32nd with per-student spending of \$15,323 and Wyoming was ranked 14th with \$22,032. Local school districts have been left with the choice of doing without adequate resources or saddling local property taxpayers with indebtedness.

In 2005, the Idaho Supreme Court ruled in the funding case that the Legislature had utterly failed to fulfill its obligation to fund the construction and maintenance of school buildings, improperly placing the lion’s share of that burden upon local property taxpayers. I participated in the decision, but wrote a separate opinion calling for a more-exacting method of proving legislative failure to comply with the constitutional mandate. I believe that the tougher method can be met under our present circumstances.

According to a 2022 legislative report, the cost of bringing existing school buildings up to just “good” condition was about \$1 billion three years ago. It has continued to increase since then. That does not take into account the billions it will take to build new school buildings for public school kids as Idaho’s population continues to increase. Senator Dave Lent was able to convince the Legislature to take a step toward addressing the issue last year, but that step has fallen woefully short of adequately addressing the problem. Unless facilities funding is dramatically increased by the Legislature this year, school districts will either have to try educating kids in substandard, sometimes hazardous buildings, or hit up local property owners with hefty school bonds.

If a subsidy law is passed this year, it will undoubtedly reduce the overall funding for public schools in a commensurate amount. Anyone who has observed the Legislature in recent years knows this to be the case. If legislators fork over \$60 million tax dollars to pay the religious school expenses of primarily wealthy parents whose kids are not presently enrolled in public schools, that money will undoubtedly reduce the public school appropriation by a comparable amount. There is very substantial evidence that voucher schemes seriously diminish the amount of funding provided to public school systems. As the Idaho Center for Fiscal Policy points out:

School voucher...programs enacted across the country—which include tax credits, grants, and savings accounts—have consistently demonstrated that states with voucher programs tend to expand them over time. These expansions dramatically increase the amount of public funds diverted to private education while state investment in public education remains stagnant or decreases.

The Committee will show the Court how Idaho has consistently failed to meet its constitutional obligation to adequately fund both the instructional side of the public education system and the school facilities side. Competent expert testimony will demonstrate the additional damage that is bound to flow from diverting substantial amounts of educational funds from public education to private/religious education.

Additional issues under consideration for legal action

While the claims outlined above should, separately or together, result in a decision invalidating a subsidy law, the Committee is currently researching additional claims that might be brought. They include: (1) the disadvantage rural public school districts would suffer, having no private schools within reasonable driving distance; (2) the unfair treatment of religions that do not operate religious schools; and (3) the likely failure of any law to provide standards and accountability for the use of public monies. This is not a complete list. Additional issues may be identified, based on the provisions of legislative proposals that are brought forward during the session. Since legal research is ongoing, there will only be brief discussion of these three potential claims.

Rural kids would suffer the brunt of school choice schemes. Twenty-seven of Idaho's 44 counties have zero or one private school. Just 3 counties—Ada, Canyon and Kootenai—have over 63% of private school kids in the state and almost 40% of them are in Ada County. What possible benefit would public school kids in rural Idaho receive from a voucher law, particularly if it resulted in their school district receiving less funding from the state? This may present an "equal benefit" issue under Article I, section 1 of the Idaho Constitution.

Several religions in Idaho operate religious schools and quite a number do not. The lion's share of subsidy recipients attend religious schools and subsidy payments would allow those religions to advocate principles of their faith with public money. This could produce troubling results. One of the main proponents of vouchers, Representative Wendy Horman, was asked, "if taxpayers would have to support private schools that were satanic, or that didn't allow education on the Holocaust, or that "(changed) the way we look at race issues." Horman answered, "we would have to support that" but most families wouldn't enroll their children at a satanic school. If parents want their children to be "taught that the Holocaust is a myth, that's your right as a parent. But my opinion is that's not what Idahoans are going to choose." Concerns have also been expressed that public money would be used to subsidize Christian nationalist schools of the type that Doug Wilson of Moscow is affiliated with across the country. Such concerns have been amplified by some of Wilson's troubling comments regarding a mainstream Idaho faith.

The Church of Jesus Christ of Latter-Day Saints has a strong and historic presence in the State of Idaho. Church members have been stalwart supporters of public education, but the church does not operate a system of religious schools. Many communities of the church's faithful are located in rural areas around the state, particularly in the southern part of the state. These factors indicate that Mormon public school patrons may suffer disadvantages in a subsidized system—no public funding for church members and a diminishment of support for rural and other public schools that their kids attend. It will be interesting to see whether or how voucher proponents address these disadvantages.

One common concern raised about voucher schemes is the question of accountability. In the event that voucher proponents disregard Idaho's constitutional prohibition against funding religious education and pass a subsidy law, there had best be specific standards for making monetary grants and for requiring accountability for the usage of funds. It would be legislative malpractice to allow public funds to be disbursed without requiring strict accountability for every category of use—private schools, religious schools and home schools. Any legislative proposal will be carefully examined in this regard.

One final observation. Both Agenda47, Donald Trump's education plan, and the plan of Project 2025, of which the Mountain States Policy Center is a member, call for universal school choice. The plans both propose federal tax credits. School voucher advocates would be better advised to focus their efforts on obtaining federal subsidies, rather than constitutionally-infirm state subsidies.

This alert has been prepared and circulated by the Committee to Protect and Preserve the Idaho Constitution. The Committee is a nonprofit Idaho corporation dedicated to upholding the Idaho Constitution. The Committee does not solicit or accept contributions, nor does it employ lobbyists. The Committee did participate in the successful challenge to the law designed to cripple the peoples' use of initiatives and referenda in 2021.

Jim Jones, Committee director and spokesman.

Links:

Carson v. Makin:

https://www.supremecourt.gov/opinions/21pdf/20-1088_dbfi.pdf

About 91% of 2024 subsidy recipients:

<https://www.washingtonpost.com/nation/2024/06/03/tax-dollars-religious-schools/>

State significantly upped the ante:

<https://www.idahostatesman.com/opinion/from-the-opinion-editor/article264814144.html>

Most recent NEA report:

https://www.nea.org/sites/default/files/2024-04/2024_rankings_and_estimates_report.

Idaho Supreme Court ruled:

<https://casetext.com/case/iseeo-v-state>

2022 legislative report:

<https://legislature.idaho.gov/wp-content/uploads/OPE/Reports/R2201.pdf>

Primarily wealthy parents:

<https://www.ncpecoalition.org/voucher-recipients>

Idaho Center for Fiscal Policy points out:

<https://idahofiscal.org/wp-content/uploads/2024/01/Full-Factsheet-Series.pdf>

Rural kids would suffer the brunt of school choice:

<https://idahocapitalsun.com/2024/12/31/low-income-students-religious-schools-urban-areas-who-will-benefit-from-a-school-choice-program/>

Wendy Horman, was asked:

<https://www.idahoednews.org/top-news/horman-gramer-spar-over-private-school-choice>

Doug Wilson of Moscow:

<https://www.idahoednews.org/top-news/a-look-inside-christian-nationalism-with-an-idaho-emphasis/>

Wilson's troubling comments:

https://substack.com/home/post/p-153422851?utm_campaign=post&utm_medium=web

Agenda47:

https://substack.com/home/post/p-153422851?utm_campaign=post&utm_medium=web

Project 2025:

<https://www.edweek.org/policy-politics/project-2025-and-gop-aim-for-universal-school-choice-what-would-that-look-like/2024/08>

Successful challenge to the law:

<https://idahocapitalsun.com/2021/08/23/idaho-supreme-court-blocks-says-new-ballot-initiative-law-violates-state-constitution/>

EXHIBIT 2

Letter to Attorney General

August 20, 2025

Hon. Raúl Labrador, Attorney General of Idaho

aglabrador@ag.idaho.gov

cc. Phil Broadbent

phil.broadbent@ag.idaho.gov

Re: Idaho Parental Choice Tax Credit law, House Bill 93

Dear Attorney General Labrador:

As you know, the Idaho Legislature passed what they styled as a “school choice” bill this session, which for the first time in Idaho history will publicly subsidize the education of private school students. House Bill 93, which Governor Little signed into law, will provide an education tax credit of \$5,000 per student (\$7,500 for special needs students) for attendance at private schools, including religious schools.

The framers of the Idaho Constitution undoubtedly thought they had definitively dealt with the school choice issue. They placed a high priority on providing a foundational education for every Idaho child. Article IX, section 1, of the Constitution states: “The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the legislature of Idaho, to establish and maintain a general, uniform and thorough system of public, free common schools.” In the ISEEO litigation, the Idaho Supreme Court held that the Legislature was required to provide an adequate level of funding, both for student instruction and school facilities, to properly educate Idaho children. The state has chronically underfunded both student instruction and school facilities in flagrant violation of the Constitution.

The framers gave nary a hint that public monies could ever be used to pay for private education. Private schools are not a system, they are not uniform, they are not open to all Idaho kids, they are not thorough, they are not general, they are not common and they are not free. Financing any type of private education with public money is violative of the Idaho Constitution.

The framers also made it crystal clear in Article IX, section 5, that no public money could ever be used to finance any form of religious schooling. That prohibition still applies today. The Supreme Court has decided two cases dealing with this type of prohibition in recent years and neither case has overruled it. In the latest case, [Carson v. Makin](#), Chief Justice John Roberts wrote: “A State need not subsidize private education. But once a State decides to do so, it cannot disqualify some private schools solely because they are religious.” When House Bill 93 was passed by the Legislature earlier this year, legislators had been made fully aware that subsidizing private education would require the state to

subsidize religious education. Experience with subsidy programs in other states establishes that the lion's share of tax credits under HB 93 will go to support religious education. The Legislature blatantly opened a back door to using public funds for religious education. This conscious constitutional violation must be rendered void by the courts.

The framers provided in Article IX, section 2, that "the general supervision of the state educational institutions...shall be vested in a state board of education..." It is obvious that the framers intended to ensure that public education funds be spent and accounted for by an entity with deep experience in the education arena. Placing the administration of an educational program under the State Tax Commission is violative of the Constitution. HB 93 will drain the state treasury, with no accountability for the funds. It will also divert funds from public schools, which have been underfunded for decades in violation of our Constitution.

As the state's chief legal officer, it is incumbent on you to defend the Constitution against this unconstitutional statute. Your oath of office requires that you "support" the Constitution of the State of Idaho. Please advise if you will do so within 10 days of the date of this message. If you decline to defend the Constitution against the HB 93 law, it may be necessary for legal action by private parties to protect our Constitution against this legislative overreach.

We believe the case fits perfectly within the category of cases that our Supreme Court has designated as appropriate for application of the private attorney general theory. That is, as the Court outlined in *Reclaim Idaho v. Denney*, 169 Idaho 406 (2021): (1) the strength or societal importance of the public policy vindicated by the litigation, (2) the necessity for private enforcement and the magnitude of the resultant burden on the plaintiff, (3) the number of people standing to benefit from the decision.

We look forward to hearing from you no later than September 2, 2025.

Sincerely,

Daniel E. Mooney, President, Committee to Protect and Preserve the Idaho Constitution
Stephanie Mickelsen, Member of Idaho House of Representatives, District 32
Jerry L. Evans, former Idaho Superintendent of Public Instruction

EXHIBIT H

Marvin M. Smith, ISB No. 2236
Marvin K. Smith, ISB No. 6978
Craig L. Meadows, ISB No. 1081
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Attorneys for Petitioners

IN THE SUPREME COURT OF THE STATE OF IDAHO

COMMITTEE TO PROTECT AND
PRESERVE THE IDAHO CONSTITUTION,
INC.; MORMON WOMEN FOR ETHICAL
GOVERNMENT; SCHOOL DISTRICT NO.
281, LATAH COUNTY, STATE OF IDAHO;
IDAHO EDUCATION ASSOCIATION,
INC.; JERRY EVANS; MARTA
HERNANDEZ; STEPHANIE MICKELSEN;
ALEXIS MORGAN, on behalf of herself and
her minor children; KRISTINE ANDERSON,
on behalf of herself and her minor children;
each of the foregoing individually and as
private attorneys general on behalf of the
public of the State of Idaho,

Petitioners,

vs.

STATE OF IDAHO, acting by and through the
IDAHO STATE TAX COMMISSION,

Respondent.

Case No. _____

DECLARATION OF ALEXIS MORGAN

ALEXIS MORGAN pursuant to Idaho R. Civ. P. 2.7 and Idaho Code § 9-1406, declares and states as follows:

1. I am over the age of 18, and I am competent to testify truthfully to the matters herein.

2. I am an adult resident of Eagle, Idaho, and the legal parent of four children, two graduated and two within the public school system.

3. I served as President of the Idaho Parent Teacher Association (PTA) until May 31, 2025, and currently serve as the Director of Public Policy for the Idaho PTA.

4. I have also served as a member of the Lewiston School District Board of Directors, where I worked to promote inclusive and equitable public education policies.

5. Throughout my public role, I have consistently advocated for educational equity, religious freedom, and the rights of all families to access quality education in Idaho.

6. I regularly post articles, podcasts, and commentary online and through national press addressing education policy, parental rights, and the impact of legislation like House Bill 93 (“HB 93”) on Idaho families and public schools.

7. In Fall 2020, I applied for my daughter’s admission to a local private school based on our personal choices and the needs of our daughter.

8. I complied fully with the application requirements and provided all necessary documentation.

9. During the tour of the school and interview with the headmaster and admission employee, when the admission employee learned I was a particular “brand” of Christian, they let

me know that during the late “middle school year,” curriculum is taught that is disparaging against my religion. My daughter’s application was denied after this tour and interview.

10. This denial is a form of religious discrimination prohibited under Idaho law and inconsistent with principles of equal educational opportunity.

11. This experience was disappointing and limited our ability to choose which school our child could attend, restricting the options available to both our child and our family. My daughter’s story, along with many others, has fueled my commitment to advocate for religious tolerance and educational access across Idaho.

12. I firmly oppose HB 93 because it facilitates public funds flowing into private educational entities, including those that practice religious exclusion and discrimination against families like mine.

13. HB 93 jeopardizes the stability and funding of Idaho’s public school system, which is constitutionally mandated to serve all children with fairness and equity.

14. The bill’s tax credit mechanism risks exacerbating education inequities, weakening public education, and undermining the protections for students with diverse backgrounds and needs.

15. My professional and advocacy experience informs my position that HB 93 is detrimental to public education and to families seeking fair, inclusive education opportunities in Idaho.

I certify and declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

Dated: September 16, 2025

/s/ Alexis Morgan
ALEXIS MORGAN

EXHIBIT I

Marvin M. Smith, ISB No. 2236
Marvin K. Smith, ISB No. 6978
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Attorneys for Petitioners

IN THE SUPREME COURT OF THE STATE OF IDAHO

COMMITTEE TO PROTECT AND
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IDAHO EDUCATION ASSOCIATION,
INC.; JERRY EVANS; MARTA
HERNANDEZ; STEPHANIE MICKELSEN;
ALEXIS MORGAN, on behalf of herself and
her minor children; KRISTINE ANDERSON,
on behalf of herself and her minor children;
each of the foregoing individually and as
private attorneys general on behalf of the
public of the State of Idaho,

Petitioners,

vs.

STATE OF IDAHO, acting by and through the
IDAHO STATE TAX COMMISSION,

Respondent.

Case No. _____

DECLARATION OF KRISTINE
ANDERSON

KRISTINE ANDERSON pursuant to Idaho R. Civ. P. 2.7 and Idaho Code § 9-1406, declares and states as follows:

1. I am over the age of 18, and I am competent to testify truthfully to the matters herein.

2. I am the parent of four children, with three of my four children residing in Rexburg, Idaho, in the county of Madison, and attending school within the Madison County Public School District.

3. I have been a resident of Idaho for 13 years.

4. Two of my children currently enrolled in the Madison School District have an Individualized Education Program (“IEP”) in place designed to provide specialized support.

5. Both of my children with the IEPs have been diagnosed with disabilities including a speech impairment and a speech disability.

6. As a part of my son’s IEP, he is guaranteed access to essential special education services including Speech-Language Pathology (SLP) services, tailored goals, and legal protections under federal and Idaho state law.

7. For my son, his IEP represents not only a customized education plan but also the only structured and enforceable pathway to progress, inclusion, and safety within the school environment.

8. The IEP process ensures regular evaluations, specialized professional support, and accountability, none of which are offered or guaranteed in private schools in our area.

9. Private schools typically do not accept children with developmental or speech disabilities, and even where admission is possible, essential therapies, resources, and legal safeguards are unavailable.

10. House Bill 93 (“HB 93”) will leave my son without any meaningful educational options.

11. The loss of IEP services would cause irreparable harm to my son’s development and our family’s ability to secure his right to a thorough and appropriate education.

12. HB 93 uses my taxpaying dollars to fund schools that practice selective admissions, including religion or ability-based exclusions, while Idaho’s public schools remain responsible for educating every child regardless of background, ability or need.

13. The discriminatory effect of HB 93 is amplified by the fact that the program is administered by the Idaho Tax Commission, an agency with no expertise in education or special education policy.

14. HB 93 systematically privileges those whose children are admitted to private schools, broadening gaps in access and equity, excluding children with the greatest need, like my children.

15. I make this affidavit on behalf of my children and other children like mine.

I certify and declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

13. The discriminatory effect of HB 93 is amplified by the fact that the program is administered by the Idaho Tax Commission, an agency with no expertise in education or special education policy.

14. HB 93 systematically privileges those whose children are admitted to private schools, broadening gaps in access and equity, excluding children with the greatest need, like my children.

15. I make this affidavit on behalf of my children and other children like mine.

I certify and declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

Dated: 9/14/2025


KRISTINE ANDERSON

EXHIBIT J

Marvin M. Smith, ISB No. 2236
Marvin K. Smith, ISB No. 6978
Craig L. Meadows, ISB No. 1081
Brandon Helgeson, ISB No. 11615
Jean Schroeder, ISB No. 12205
HAWLEY TROXELL ENNIS & HAWLEY LLP
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mksmith@hawleytroxell.com
cmeadows@hawleytroxell.com
bhelgeson@hawleytroxell.com
jschroeder@hawleytroxell.com

Attorneys for Petitioners

IN THE SUPREME COURT OF THE STATE OF IDAHO

COMMITTEE TO PROTECT AND
PRESERVE THE IDAHO CONSTITUTION,
INC.; MORMON WOMEN FOR ETHICAL
GOVERNMENT; SCHOOL DISTRICT NO.
281, LATAH COUNTY, STATE OF IDAHO;
IDAHO EDUCATION ASSOCIATION,
INC.; JERRY EVANS; MARTA
HERNANDEZ; STEPHANIE MICKELSEN;
ALEXIS MORGAN, on behalf of herself and
her minor children; KRISTINE ANDERSON,
on behalf of herself and her minor children;
each of the foregoing individually and as
private attorneys general on behalf of the
public of the State of Idaho,

Petitioners,

vs.

STATE OF IDAHO, acting by and through the
IDAHO STATE TAX COMMISSION,

Respondent.

Case No. _____

DECLARATION OF KARLI HOSMAN

KARLI HOSMAN pursuant to Idaho R. Civ. P. 2.7 and Idaho Code § 9-1406, declares and states as follows:

1. I am over the age of 18, and I am competent to testify truthfully to the matters herein.

2. I am the parent of four children residing in the County of Ada County, Idaho.

3. I am a member of the Church of Jesus Christ of Latter-day Saints.

4. In August of 2021, I applied for my children to attend a Christian private school located in Twin Falls, Idaho.

5. I completed all aspects of the admissions process, including submitting the required documentation and attending interviews with the principal.

6. I was willing to include Jesus and biblical stories into my children's curriculum and follow the required mission of the school, despite our faith.

7. However, on or about August 13, 2021, and completing the interview process, the principal determined that our religious views would interfere with the school's mission and that some parts of our two religions were not aligned, making us an unqualified candidate for their school.

8. Upon inquiry into the reason for the denial, I was informed directly that our family's religious beliefs as members of the LDS Church were not aligned with the school's admissions criteria.

9. This experience deprived my children access to a private education solely based on our religious beliefs, causing disappointment and concern over equal education opportunities for my children.

10. House Bill 93 (“HB 93”) provides public funding to support private school tuition and education expenses, but this program does not address or resolve discriminatory admissions practices at private schools like the one that excluded my children.

11. As a result, my children are denied access to private schooling even as the law allocates taxpayer dollars to these institutions, effectively excluding families like mine from benefitting while using our tax contributions to support schools we cannot attend.

12. HB 93 enables public funding for private schools while permitting continued discrimination against families like mine on the basis of religion.

13. I submit this affidavit to document my experience and to highlight how HB 93 fails to ensure equal access for all Idaho students and risks further marginalizing families like mine.

I certify and declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

Dated: September 17, 2025

/s/ Karli Hosman

KARLI HOSMAN

EXHIBIT K

Marvin M. Smith, ISB No. 2236
Marvin K. Smith, ISB No. 6978
Craig L. Meadows, ISB No. 1081
Brandon Helgeson, ISB No. 11615
Jean Schroeder, ISB No. 12205
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mksmith@hawleytroxell.com
cmeadows@hawleytroxell.com
bhelgeson@hawleytroxell.com
jschroeder@hawleytroxell.com

Attorneys for Petitioners

IN THE SUPREME COURT OF THE STATE OF IDAHO

COMMITTEE TO PROTECT AND
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GOVERNMENT; SCHOOL DISTRICT NO.
281, LATAH COUNTY, STATE OF IDAHO;
IDAHO EDUCATION ASSOCIATION,
INC.; JERRY EVANS; MARTA
HERNANDEZ; STEPHANIE MICKELSEN;
ALEXIS MORGAN, on behalf of herself and
her minor children; KRISTINE ANDERSON,
on behalf of herself and her minor children;
each of the foregoing individually and as
private attorneys general on behalf of the
public of the State of Idaho,

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Respondent.

Case No. _____

DECLARATION OF KATHLEEN ROSS

KATHLEEN ROSS pursuant to Idaho R. Civ. P. 2.7 and Idaho Code § 9-1406, declares and states as follows:

1. I am over the age of 18, and I am competent to testify truthfully to the matters herein.

2. I am the mother of a child with a disability residing in Ada County, Idaho, attending school within the Boise School District.

3. I am passionate about equal access to education for all and have been an advocate for the disabled students community for over ten years.

4. I am opposed to House Bill 93 (“HB 93”) as it diverts funding that should benefit all children, especially disabled students in public schools, toward private institutions without adequate oversight or guaranteed inclusive services. My opposition is informed by both my professional background and my personal experience as a parent navigating special education services and resources in Idaho.

5. I have worked as a secretary in the public schools, specifically Longfellow Elementary in Boise, Idaho.

6. While working at Longfellow Elementary, I was introduced to a number of private school children and parents who, while attending their private school, would have to come to Longfellow to receive the appropriate services their children needed and qualified for because their private school did not meet their needs.

7. Private school parents would also access Longfellow Elementary’s resources for the purpose of performing a special education assessment.

8. My daughter (now thirteen (13) years old) utilized these available resources through the public school system, like incorporating an Individualized Education Plan (“IEP”), speech therapy, and other resources, specifically through the extended resources available within the public schools.

9. This also included attending some of these classes with private school students.

10. Because of her access to resources early and often, my daughter is now able to participate in daily classes and benefit from a 504 and other resources only available through the public school system.

11. The passing and implementation of HB 93 is crippling to the safety net of what public education is supposed to be: a uniform, equitable, and accessible education for every Idaho child.

12. Parents of students with disabilities will continue to need the services and resources available through the public school system.

13. The integrity of the public school system must stay intact, and the passing of HB 93 discourages this.

I certify and declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

Dated: September 16, 2025

/s/ Kathleen Ross
KATHLEEN ROSS

EXHIBIT L

Marvin M. Smith, ISB No. 2236
Marvin K. Smith, ISB No. 6978
Craig L. Meadows, ISB No. 1081
Brandon Helgeson, ISB No. 11615
Jean Schroeder, ISB No. 12205
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cmeadows@hawleytroxell.com
bhelgeson@hawleytroxell.com
jschroeder@hawleytroxell.com

Attorneys for Petitioners

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GOVERNMENT; SCHOOL DISTRICT NO.
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IDAHO EDUCATION ASSOCIATION,
INC.; JERRY EVANS; MARTA
HERNANDEZ; STEPHANIE MICKELSEN;
ALEXIS MORGAN, on behalf of herself and
her minor children; KRISTINE ANDERSON,
on behalf of herself and her minor children;
each of the foregoing individually and as
private attorneys general on behalf of the
public of the State of Idaho,

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Respondent.

Case No. _____

DECLARATION OF SUE PETERSON

SUSAN M. PETERSON pursuant to Idaho R. Civ. P. 2.7 and Idaho Code § 9-1406, declares and states as follows:

1. I am over the age of 18, and I am competent to testify truthfully to the matters herein.

2. I am an adult resident of Boise, Idaho, and the grandmother and legal guardian of two children within the Boise School District. I have raised them since they were 3 years old, and 3 days old. They call me mom, and my husband dad.

3. The eldest boy was diagnosed with severe, level 3, non-speaking autism at age 2.

4. He is not integrated into the general classroom but is placed within a Structured Living Center (“SLC”) in the Boise School District at Hillside Jr. High.

5. This classroom is a specialized self-contained classroom that provides intensive, structured support for students with significant cognitive disabilities, providing continuous supervision and individualized instruction.

6. Because he is non-speaking and requires constant care and highly specialized interventions, only the public school’s structured program can deliver.

7. According to his Individualized Education Program (“IEP”), he will stay ub a SLC classroom for the entirety of his schooling until graduation.

8. Private schools do not offer the level of support, expertise, or legal protections required to meet his needs; without public schools’ specialized programs, he would be left without any viable educational or therapeutic options.

9. HB 93 will reduce and threaten the essential services and professional staff upon whom my son’s safety, wellbeing, and education depend.

I certify and declare under penalty of perjury pursuant to the law of the State of Idaho
that the foregoing is true and correct.

Dated: September 16, 2025

/s/ Susan M. Peterson
SUSAN M. PETERSON

EXHIBIT M

Marvin M. Smith, ISB No. 2236
Marvin K. Smith, ISB No. 6978
Craig L. Meadows, ISB No. 1081
Brandon Helgeson, ISB No. 11615
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Attorneys for Petitioners

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INC.; JERRY EVANS; MARTA
HERNANDEZ; STEPHANIE MICKELSEN;
ALEXIS MORGAN, on behalf of herself and
her minor children; KRISTINE ANDERSON,
on behalf of herself and her minor children;
each of the foregoing individually and as
private attorneys general on behalf of the
public of the State of Idaho,

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Respondent.

Case No. _____

DECLARATION OF MCKENZIE
MCFARLAND

MCKENZIE MCFARLAND pursuant to Idaho R. Civ. P. 2.7 and Idaho Code § 9-1406, declares and states as follows:

1. I am over the age of 18, and I am competent to testify truthfully to the matters herein.

2. I am the parent of six children residing in the County of Canyon County, Idaho.

3. I grew up in Eastern Idaho and attended school in the West Jefferson School District.

4. Before the 2024 school year began, I applied for admission of my children to a private school in Nampa Idaho.

5. I am a former member of the Church of Jesus Christ of Latter-day Saints. My husband grew up non-denominational Christian.

6. The private school denied admission to my children, and representatives indicated the denial was based upon my religious affiliation.

7. I believe this constitutes unlawful discrimination based on religion.

8. As a result of being denied admission, I am unable to send my children to the private school of their choice.

I certify and declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

Dated: September 16, 2025

/s/ McKenzie McFarland
MCKENZIE MCFARLAND

EXHIBIT N

Marvin M. Smith, ISB No. 2236
Marvin K. Smith, ISB No. 6978
Craig L. Meadows, ISB No. 1081
Brandon Helgeson, ISB No. 11615
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jschroeder@hawleytroxell.com

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ALEXIS MORGAN, on behalf of herself and
her minor children; KRISTINE ANDERSON,
on behalf of herself and her minor children;
each of the foregoing individually and as
private attorneys general on behalf of the
public of the State of Idaho,

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Case No. _____

DECLARATION OF SHANE
WILLIAMS

SHANE WILLIAMS pursuant to Idaho R. Civ. P. 2.7 and Idaho Code § 9-1406, declares and states as follows:

1. I am over the age of 18, and I am competent to testify truthfully to the matters herein.

2. I am the current superintendent of West Jefferson School District (“WJSD”) and submit this affidavit in my personal capacity as an advocate for the children and families served by our public schools. I am not speaking on behalf of or at the direction of my school board or district administration.

3. WJSD is a small, rural district with limited financial resources but a strong commitment to serving all students equitably.

4. WJSD adheres to the open enrollment policy designed to provide educational opportunities for all students, both within and beyond district boundaries. Enrollment decisions are not made on the basis of disability, race, ethnicity, socioeconomic status, or any other protected characteristic.

5. Due to this open enrollment structure, WJSD is particularly vulnerable to fluctuations in student enrollment, which complicates planning and budgeting for all programs and personnel, especially in special education services that require consistent staffing and resources.

6. I am opposed to House Bill 93 (“HB 93”) because it creates a refundable tax credit for private and religious school tuition, but in my district, there are no private or religious schools within a reasonable driving distance for the majority of families. Thus, the program is inaccessible to nearly all students in my district and community.

7. As a result, the families in my district will not be able to benefit from HB 93 due to geographic barriers and lack of available institutions.

8. HB 93 also disproportionately benefits families who already send their children to private religious schools.

9. The majority of children in my district belong to churches that do not operate their own schools, and instead receive religious instruction at home, in places of worship, or in privately-funded seminaries not subsidized by public funds.

10. The tax credit established by HB 93 will result in public funds supporting religious instruction for a limited number of families.

11. As a superintendent, I see firsthand the impact of budget constraints on our classrooms and staff. My district is already among the most underfunded in the state.

12. As a result, my district faces challenges in meeting the individualized needs of students enrolled in special education programs, which require specialized staff, services, and consistent funding to comply with federal and state mandates.

13. I am openly opposed to HB 93 as it exacerbates the problems that small rural districts like West Jefferson already face.

14. The \$50 million earmarked for this private school tuition credit program diverts resources away from the Legislature's constitutional obligation to fund Idaho's public schools thoroughly and uniformly.

15. Until that obligation is met, particularly with respect to instructional funding, administrative staffing, and facility needs, no state funds should be directed toward programs that benefit only a select few and exclude the majority of Idaho's children.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 17, 2025

/s/ *Shane Williams*
SHANE WILLIAMS

EXHIBIT O

Marvin M. Smith, ISB No. 2236
Marvin K. Smith, ISB No. 6978
Craig L. Meadows, ISB No. 1081
Brandon Helgeson, ISB No. 11615
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jschroeder@hawleytroxell.com

Attorneys for Petitioners

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INC.; JERRY EVANS; MARTA
HERNANDEZ; STEPHANIE MICKELSEN;
ALEXIS MORGAN, on behalf of herself and
her minor children; KRISTINE ANDERSON,
on behalf of herself and her minor children;
each of the foregoing individually and as
private attorneys general on behalf of the
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Case No. _____

DECLARATION OF KEVIN RAMSEY

KEVIN RAMSEY pursuant to Idaho R. Civ. P. 2.7 and Idaho Code § 9-1406, declares and states as follows:

1. I am over the age of 18, and I am competent to testify truthfully to the matters herein.

2. I am the former Superintendent and current educator within the South Lemhi School District No. 292, located in Leadore, Idaho. Our district is one of the smallest and most rural in the state, serving approximately 96 students across all grade levels in a single PreK-12 school. This also includes the one-room (K-4th grade) school in Tenody.

3. South Lemhi faces significant challenges due to its remote location, limited tax base, and small student population.

4. Our operational costs are high relative to enrollment because essential services such as transportation, special education, and basic staffing must be maintained regardless of student numbers.

5. The financial viability of our district depends heavily on stable and adequate state funding, which supports not only educational programs but also the basic infrastructure enabling our school to function as the heart of our community.

6. House Bill 93 (“HB 93”) will divert critical funds from our public school to private institutions. Such a diversion would create irreparable harm to South Lemhi, forcing severe cutbacks or even closure of our only school.

7. Unlike more urban areas where private school options may be plentiful, rural communities like ours lack an alternative education institution nearby.

8. Consequently, HB 93 offer little real choice to families within our district and instead weakens the only school available.

9. For a small rural district like ours, even a modest reduction in classroom size and funding can lead to drastic measures, including program cuts, teacher layoffs, reduced transportation, and threats to school closure.

10. This outcome will harm the students within our district and destabilize our community that relies on our school as the center for social, cultural and economic life.

11. HB 93 will accelerate these negative trends at a time when rural schools already face significant challenges, undermining the constitutional promise of a uniform, general, and thorough education system accessible to all Idaho children regardless of geography.

I certify and declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

Dated: 15 Sept 2025

KEVIN RAMSEY

A handwritten signature in black ink, appearing to read 'Kevin Ramsey', with a long horizontal flourish extending to the right.

EXHIBIT P

Marvin M. Smith, ISB No. 2236
Marvin K. Smith, ISB No. 6978
Craig L. Meadows, ISB No. 1081
Brandon Helgeson, ISB No. 11615
Jean Schroeder, ISB No. 12205
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mksmith@hawleytroxell.com
cmeadows@hawleytroxell.com
bhelgeson@hawleytroxell.com
jschroeder@hawleytroxell.com

Attorneys for Petitioners

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INC.; JERRY EVANS; MARTA
HERNANDEZ; STEPHANIE MICKELSEN;
ALEXIS MORGAN, on behalf of herself and
her minor children; KRISTINE ANDERSON,
on behalf of herself and her minor children;
each of the foregoing individually and as
private attorneys general on behalf of the
public of the State of Idaho,

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Respondent.

Case No. _____

DECLARATION OF BRADY
DICKINSON

BRADY DICKINSON pursuant to Idaho R. Civ. P. 2.7 and Idaho Code § 9-1406, declares and states as follows:

1. I am over the age of 18, and I am competent to testify truthfully to the matters herein.

2. I currently serve as the Superintendent of the Twin Falls School District in the State of Idaho and am an Idaho resident. I have worked within the Twin Falls School District since 1995.

3. Prior to serving as the Twin Falls School District Superintendent, I taught for 12 years in the classroom within the Twin Falls School District, primarily for 9th grade social studies at Robert Stuart Junior High School, and also have experience coaching several sports, as well as a school administrator and principal.

4. The Twin Falls School District serves approximately 9,000 students across 16 schools, including elementary, middle, and high schools.

5. Twin Falls is a growing community with diverse demographics. The student population is growing rapidly, and the district faces distinct challenges related to socioeconomic diversity; around 50 percent of the students within my district are eligible for free or reduced-price lunches, indicating significant economic need among families. Over the past three years we have lost enrollment due to the opening of charter schools and lower birth rates.

6. A considerable number of students in the district receive special education services or are classified as having disabilities requiring individualized education programs (“IEPs”), including speech, occupational, and behavioral supports that are resource-intensive but essential for their development.

7. As Superintendent I have observed a growing trend among parents outside our school system, i.e. private school students, seeking to test their children for disabilities, sometimes driven by financial incentives or benefits connected to disability status.

8. While many of these families truly require support, some may pursue this classification to access additional funding or resources, which complicates resource allocation and strains the district's ability to serve all students effectively.

9. I openly oppose House Bill 93 as it exacerbates these challenges by diverting public funds away from districts like ours, already stretched to meet diverse student needs, toward private schools that may not provide equivalent services or protections for students with disabilities.

10. This undermines our capacity to deliver a uniform and thorough education and places additional burdens on families and educators striving to support the vulnerable students of my district.

I certify and declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

Dated: September 16, 2025

/s/ Brady Dickinson
BRADY DICKINSON

EXHIBIT Q

Marvin M. Smith, ISB No. 2236
Marvin K. Smith, ISB No. 6978
Craig L. Meadows, ISB No. 1081
Brandon Helgeson, ISB No. 11615
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jschroeder@hawleytroxell.com

Attorneys for Petitioners

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INC.; JERRY EVANS; MARTA
HERNANDEZ; STEPHANIE MICKELSEN;
ALEXIS MORGAN, on behalf of herself and
her minor children; KRISTINE ANDERSON,
on behalf of herself and her minor children;
each of the foregoing individually and as
private attorneys general on behalf of the
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Respondent.

Case No. _____

DECLARATION OF HOME SCHOOL
IDAHO

Linda Patchin pursuant to Idaho R. Civ. P. 2.7 and Idaho Code § 9-1406, declares and states as follows:

1. I am over the age of 18, and I am competent to testify truthfully to the matters herein.

2. I am the current chairman of Homeschool Idaho and founder of CHOIS who merged with Homeschool Idaho in 2018.

3. Homeschool Idaho, Inc. is an Idaho non-profit 501(c)(3), run by a volunteer board of directors, representing families who privately homeschool their children within the state of Idaho. All board members are Idaho residents and parents of children who are benefiting, or have benefited from, a homeschool education.

4. Since 1992 the mission of Homeschool Idaho has been to promote and protect lawful homeschooling practices in compliance with Idaho law.

5. Homeschool Idaho supports educational freedom and provides resources, community, and advocacy to families who choose to homeschool their children outside of the public school system.

6. Idaho's Constitution and statutory framework recognize and respect the rights of parents to direct and control the education of their children, including through homeschooling, as an alternative to the state-operated public school system in accordance with Idaho Code § 33-202.

7. While Idaho mandates a "general, uniform and thorough system of public, free common schools" as the state's constitutional duty, this does not preclude or diminish the rights of parents to educate their children at home.

8. In 2009, Homeschool Idaho worked with Idaho legislators and the Governor's Task Force on Children at Risk to amend Idaho Code § 33-202 to incorporate the language: "To accomplish this, a parent or guardian shall either cause the child to be privately instructed by, or at the direction of, his parent or guardian; or enrolled in a public school or public charter school,..." This language was passed and is now incorporated into Idaho Code § 33-202.

9. The families we represent independently fund and manage their children's education, providing curricula, instruction, and oversight, privately, without reliance on public dollars.

10. Education in Idaho has historically been broken down into three distinct groups: 1) public schools - including charters, virtual schools, and a few specialized sub-types - that are provided tuition-free to all Idaho residents, and are funded by public dollars; 2) private or parochial schools, funded by private dollars exchanged between private parties for educational services rendered; and, 3) homeschools, funded by private dollars retained by individual families. These distinct systems have historically operated independent of each other, separated into clear categories by virtue of their funding mechanism.

11. The Idaho Parental Choice Tax Credit negatively affects privately funded homeschool families, and the broader education ecosystem, by turning all educational options into publicly funded options, obliterating the historic and clear distinctions between education options in the state. This is particularly dangerous for the autonomy of homeschool families in Idaho.

12. The Idaho Parental Choice Tax Credit creates a new, undefined category of education outside the State's constitution, statutes, and established educational policy. This

additional undefined category threatens to reduce true education choice by encompassing existing independent education options under a government funding umbrella.

13. Homeschoolers have never sought public funding of their choice to educate at home, and have always resisted efforts to do so, precisely because such funding establishes both an obligation and a mechanism whereby the state can regulate homeschooling.

14. While some homeschool families occasionally utilize public educational resources as provided by Idaho Code 33-203, the Dual Enrollment provision, engagement with this public resource is supplemental and voluntary; it does not replace the primary responsibility of homeschooling parents to provide a thorough education at home.

15. Homeschool Idaho opposed the Idaho Parental Choice Tax Credit because it threatens historic homeschool autonomy. This is evidenced by the fact that school choice legislation, in every other state where it has passed, has immediately led to efforts to increase burdensome regulation on homeschoolers receiving funding as well as ongoing efforts to add entirely new regulations on homeschoolers not receiving funding.

16. Homeschool Idaho opposed the Idaho Parental Choice Tax Credit because it subsidizes the cost of educational resources primarily utilized by the homeschool community. Homeschooling families in Idaho have already experienced substantial increases in the cost of materials and services traditionally used by their community as public funds become available to reimburse related fees. This pattern is plainly demonstrated in Idaho and other states with the precipitous rise of private school tuition after school choice legislation passes. The same inflationary mechanisms affect the homeschool marketplace, effectively driving privately funded homeschool families out of the education market in Idaho.

17. Homeschool Idaho opposed the Idaho Parental Choice Tax Credit because it establishes refundable tax credits for a broad variety of home education expenses without sufficient clarity or regulatory oversight.

18. The Idaho Parental Choice Tax Credit delegates significant regulatory authority over education, funding, and eligibility to the Idaho State Tax Commission. The provision leaves the definition of uniquely homeschool terms to either the Idaho State Tax Commission—an agency without expertise in public, private, or home education—or to the Idaho Department of Education, which has not been involved in homeschooling for decades. This delegation risks subjecting homeschoolers to regulation by administrative fiat rather than by statute.

19. The ambiguity of the Idaho Parental Choice Tax Credit exposes homeschool families to indeterminate rules and procedures. Granting broad implementation authority to an agency lacking substantive knowledge of, or ties to, Idaho education, increases the likelihood that homeschoolers will be subject to unwarranted regulation.

20. Imposing broad educational oversight and funding implementation duties on the Idaho State Tax Commission jeopardizes the financial well-being and credit health of homeschool families by linking their tax returns to unclear educational expectations and outcome standards.

21. The Idaho Parental Choice Tax Credit creates an ipso facto registry of homeschool students that is currently not required by the state of Idaho. The annual report required by the Idaho Parental Choice Tax Credit, tracking income, amount of tax credit received, number of applicants, geographic location, waiting list, and types of expenses, as well as “a portfolio of evidence or learning record,” subject to audit, creates a category of oversight of homeschool families not

homeschool families not permitted by Idaho law. There are also no provisions to protect the privacy of homeschool families or even to notify them that such data collection is not currently required of homeschool families.

22. This Court must preserve the integrity of Idaho's established educational framework and continue to respect homeschooling as a constitutionally protected and independently funded educational pathway.

I certify and declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

Dated: 9/15/25



Linda Patchin