

Idaho's Constitution Doesn't Need HJR 5

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Vote NO! on HJR 5. Two years ago, Idahoans rejected HJR 2. Idaho voters properly rejected the Legislature's attempt to permanently invade Executive discretion and prohibit Judicial oversight of the relationship between the Executive and Legislative branches of government within rulemaking. This year, voters are being presented with virtually an identical constitutional amendment, HJR 5. I hope you will join me in agreeing that this amendment should once again be rejected. HJR 5 ignores the will of the people as expressed just two years ago. More importantly, HJR 5 threatens to permanently invade the Executive and Judicial Branches of Idaho's government, disrupting the balance and separation of powers contemplated by Idaho's founders. HJR 5 also permanently encourages lobbyists to influence Idaho's policymakers at virtually every level of state government.

At its most basic level, HJR 5 reflects Legislative contempt for the will of the voters. The resubmission of this constitutional amendment reflects government telling the people what they want, as opposed to government serving the will of the people. The primary reason for resubmitting this constitutional amendment is that "the voters didn't know what they were doing and voters need to be educated better." In essence, the proponents of the amendment are claiming that they know better than Idaho voters what Idaho voters want. This power grab should be rejected and government reminded that it is a reflection of the will of the people, not the other way around.

Idaho's founders carefully balanced Idaho's government into three branches: An Executive; a Legislative; and a Judicial. The Constitution is carefully crafted to insure no branch holds unchecked power over the others. Currently, through statutes and the case *Mead v. Arnell*, the Legislature already holds the power they want to constitutionalize. But, this unnecessary amendment threatens to place this power permanently into the Constitution and consolidate power within the Legislature. By retaining the status quo, Idaho's Judiciary retains the ability to revisit *Mead v. Arnell* to appropriately measure and preserve Idaho's separation and balance of powers between the branches of government. The proposed amendment threatens to strip the Judiciary of this constitutionally assigned power. The proposed amendment will remove the ability of the Judiciary to evaluate Legislative delegations of authority to the Executive branch and install the Legislature as the final say on Executive exercise of authority. Further, this proposed amendment will allow the Legislature to permanently invade the discretion of the Executive branch and second-guess many policy decisions by substituting the Legislature's judgment for that of the Executive branch. This permanent

legislative take-over of powers, historically in the Judicial and Executive branches, erodes Idaho's separation of powers and should be rejected.

Finally, under HJR 5, lobbyist influence will increase within Idaho's government. The current system insulates much of Executive rulemaking from lobbyist influence based on the notice and hearing process by which rules must be adopted. But, that process is disrupted through lobbyist encouraged Legislative interference. Recognizing that the Executive agencies often make rules based upon cultivated expertise within their respective areas designed to administer a collective benefit, there will always be individuals unhappy with that process. Lobbyists with decreased influence within Executive branch agencies will flex their muscle within the Legislative branch to overturn negotiated, publicly driven rulemaking processes in order to advance narrow paid for agendas. This is an existing weakness within the current regime and should not be placed permanently within Idaho's constitution. HJR 5 will permanently allow well-heeled individual interests to overturn the open negotiated process of rulemaking by hiring a lobbyist, who can then influence the Legislature to reject rules based on narrow lobbied interests. HJR 5 will permanently substitute the influence of lobbyists for the will of the people and should be rejected.

I hope you will agree with me that HJR 5 is an unnecessary addition to Idaho's Constitution. The existing balance and separation of powers is good for Idaho and her citizens. Please join me in rejecting HJR 5.