

That to Secure These Rights . . . Annexation, Taxation, and Representation



Secure: v. To fix or attach something so that it cannot be moved or lost.

Two hundred fifty years ago, fifty-six men changed the course of history by pledging their lives, their fortunes, and their sacred honor to a declaration. They rejected the idea that political power—and the right to control property—flowed from God to Kings, to be dispensed at royal whim. They refused to accept that a monarch could seize, tax, or regulate a citizen's property with the flick of a finger.

The Declaration of Independence gave political expression to a philosophical revolution most clearly articulated by John Locke, who argued that property rights precede government. They belong to individuals who mix their labor with raw materials to produce and improve. Government's role, therefore, is not to control or redistribute property at will, but to *secure* what nature—and nature's God—has already ordained.

That principle shaped early American views of taxation. Citizens had a duty to support government—but also a right to representation in it. Thus, men like James Otis gave full-throated voice to the cry, “No Taxation without Representation,” and the Declaration itself proclaimed that government derives its “just powers from the consent of the governed.”

With the establishment of American independence, private property became the economic cornerstone of the freest and most prosperous nation in the world. Yet property rights, though foundational, are continually tested. One modern flashpoint is municipal annexation—the process by which land outside a city is incorporated into and becomes part of a city.

Voluntary annexation is straightforward. Cities offer water and sewer services, police and fire protection, parks and libraries, walkable neighborhoods, and proximity to shopping and employment. Developers increase land value by subdividing, and buyers who prefer convenience over acreage often welcome city incorporation. Voluntary annexation reflects core principles of mutual benefit and consent—consistent with our constitutional heritage.

Forced annexation is different.

Until 2024, Idaho remained one of the few states that still allowed it. A city council-elected solely by residents inside city limits—could vote to annex up to 100 lots external to the city with no notice, no hearings, and no consent. Property owners without no representative voice in the process could suddenly face higher taxes, new regulations, and tens of thousands of dollars in mandatory costs to connect to city services.

Compounding this problem, Idaho's annexation statute was a tangled web of sometimes contradictory provisions making it ripe for dispute. Even the author of Idaho's land-use planning manual publicly acknowledged the law could not be untangled with confidence. Though only a few cities continued to initiate forced annexations, when they did, litigation routinely followed—and city taxpayers bore the cost.

After unsuccessful reform efforts in 2020 and 2021, Senator VanOrden and I undertook a comprehensive review of the annexation statute in 2022. Working with planners, attorneys, stakeholders, and the Association of Idaho Cities (AIC) we painstakingly reorganized and clarified every section of the statute. Over two years, the draft went through more than a dozen revisions.

We incorporated substantial feedback from AIC. However, a central dispute arose, with AIC seeking to restore provisions which allowed forced annexation; this we could not agree to. Instead, we crafted a compromise: cities may annex "islands" of 30 lots or fewer completely surrounded by the city. Annexation of property outside the city requires consent from at least 60% of property owners representing 50% of the land area. Consent may be required as a condition of receiving city services—but it must be express and in writing, not just implied.

A statewide survey of cities confirmed that the vast majority had not forcibly annexed property for decades. As the bill advanced in 2024, opposition came primarily from the few cities still engaging in forced annexation. Publicly, no one defended forced annexation. Yet, the few remaining objections focused squarely on the provisions that prevented it. At its core, this disagreement reflected frustration over loss of a unilateral tool to expand city tax bases. Legislators nonetheless recognized the reform's merits and broadly supported its passage into law.

Is the new statute perfect? Perhaps not. But it codifies widely recognized best practices and delivers what was lacking: clarity where there was confusion, due process where there was none, consent rather than coercion.

Debates over annexation, taxation, and representation will continue. They should. But 250 years after that bold Declaration, government still exists not to generate revenue, absorb property, or expand power for its own sake, but to secure the natural rights of each individual—subject to the consent of the governed.