

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

YSURSA, SECRETARY OF STATE OF IDAHO, ET AL. *v.*
POCATELLO EDUCATION ASSOCIATION ET AL.CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT

No. 07–869. Argued November 3, 2008—Decided February 24, 2009

Idaho’s Right to Work Act permits public employees to authorize payroll deductions for general union dues, but prohibits such deductions for union political activities. Respondents—a group of Idaho public employee unions—sued, alleging that the ban on payroll deductions for political activities violated the First and Fourteenth Amendments. The District Court upheld the ban at the state level, but struck it down as it applies to local governments. In affirming, the Ninth Circuit stated that, while Idaho has the ultimate control over local governmental units, it did not actually operate or control their payroll deduction systems. The court applied strict scrutiny to hold that the statute was unconstitutional as applied at the local level.

Held: Idaho’s ban on political payroll deductions, as applied to local governmental units, does not infringe the unions’ First Amendment rights. Pp. 5–11.

(a) Content-based restrictions on speech are “presumptively invalid” and subject to strict scrutiny. *Davenport v. Washington Ed. Assn.*, 551 U. S. 177, _____. The First Amendment does not, however, impose an obligation on government to subsidize speech. See *Regan v. Taxation With Representation of Wash.*, 461 U. S. 540, 549. Idaho’s law does not restrict political speech, but rather declines to promote that speech by allowing public employee checkoffs for political activities. Idaho’s public employee unions are free to engage in such speech as they see fit. They simply are barred from enlisting the State in support of that endeavor. Idaho’s decision to limit public employee payroll deductions as it has does not infringe the unions’ First Amendment rights. The State accordingly need only demonstrate a rational basis to justify the ban. Idaho’s justification is the

Syllabus

interest in avoiding the reality or appearance of government favoritism or entanglement with partisan politics. See, e.g., *Civil Service Comm’n v. Letter Carriers*, 413 U. S. 548, 565. And the State’s response to the problem is limited to its source—political payroll deductions. Cf. *Davenport, supra*. The ban plainly serves the State’s interest in separating public employment from political activities. Pp. 5–8.

(b) The ban at issue is valid at the local level. The same deferential review applies whether the ban is directed at state or local governmental entities. Political subdivisions have never been considered sovereign entities but are instead “subordinate governmental instrumentalities.” *Reynolds v. Sims*, 377 U. S. 533, 575. The State’s legislative action is subject to First Amendment scrutiny whether it is applicable at the state level, the local level, both, or some subpart of either, but no case suggests that a different analysis applies depending on the level of government affected. The ban furthers Idaho’s interest in separating the operation of government from partisan politics, and that interest extends to all public employers at whatever level of government. Pp. 9–11.

504 F. 3d 1053, reversed.

ROBERTS, C. J., delivered the opinion of the Court, in which SCALIA, KENNEDY, THOMAS, and ALITO, JJ., joined, and in which GINSBURG, J., joined as to Parts I and III. GINSBURG, J., filed an opinion concurring in part and concurring in the judgment. BREYER, J., filed an opinion concurring in part and dissenting in part. STEVENS, J., and SOUTER, J., filed dissenting opinions.