

Jennifer M. Jensen (ISB # 9275)
Anne Henderson Haws (ISB #10412)
HOLLAND & HART LLP
800 W. Main Street, Suite 1750
Boise, ID 83702-7714
Telephone: 208.342.5000
jmjensen@hollandhart.com
ahhaws@hollandhart.com

Attorneys for Petitioner

IN THE SUPREME COURT OF THE STATE OF IDAHO

IDAHOANS UNITED FOR WOMEN AND
FAMILIES,

Petitioner,

vs.

RAUL R. LABRADOR, in his official
capacity as the Idaho Attorney General; PHIL
MCGRANE, in his official capacity as the
Idaho Secretary of State; LORI WOLFF, in
her official capacity as Administrator of the
Idaho Division of Financial Management; and
the IDAHO DIVISION OF FINANCIAL
MANAGEMENT,

Respondents.

Docket No. 52636-2025

**DECLARATION OF MELANIE
FOLWELL IN SUPPORT OF PETITION
FOR WRITS AND MOTION TO
EXPEDITE**

I, Melanie Folwell, declare under penalty of perjury as follows:

1. I am the executive director and a member of Petitioner Idahoans United for Women and Families Inc. (“Idahoans United”). I have held this leadership position since 2024. In this role, I organize volunteers, coordinate strategic priorities, manage staff, fundraise, communicate with media, draft initiative proposals, coalition-build, and travel the state to recruit volunteers and leaders.

2. I am a life-long Idahoan and mother of two who has a history of both volunteer and paid work around issue and policy advocacy here in Idaho, particularly those policies that impact the well-being and health of women and children.

3. Idahoans United is a non-partisan, grassroots, Idaho-based 501(c)(4) non-profit entity. Its mission is to advocate for and restore access to comprehensive reproductive health care while promoting the well-being of women, children, and families in Idaho. As of the date of this filing, Idahoans United has more than 3,000 members and volunteers across the state.

4. In or around August 2022, Idahoans United commissioned a poll of Idahoans, conducted by FM3 Research, a well-respected political research firm that specializes in conducting surveys for candidate and ballot measure campaigns. A true and correct copy of this polling report is attached hereto as **Exhibit A**.

5. In line with the positions reflected in polling and the wishes of Idahoans United's broad membership, Idahoans United is working to get the Initiative on the 2026 general election ballot. A true and correct copy of the Initiative is attached hereto as **Exhibit B**.

6. On November 20, 2024, on behalf of Idahoans United, I sent a copy of the Initiative petition to the Secretary of State signed by at least twenty qualified electors of the state. Together with the petition, Idahoans United provided a proposed funding source statement. A true and correct copy of the transmittal to the Secretary of State is attached hereto as **Exhibit C**.

7. On December 20, 2024, the Secretary of State transmitted to Idahoans United the Secretary of State's fiscal impact statement for the Initiative ("FIS") along with its assumptions ("Assumptions") and the Attorney General's certificate of review. A true and correct copy of the FIS including the Assumptions, and Certificate of Review is attached hereto as **Exhibit D**.

8. On December 26, 2024, Idahoans United submitted a letter to the Attorney General, requesting short and long ballot titles for the Initiative. A true and accurate copy of the letter is attached hereto as **Exhibit E**.

9. On January 10, 2025, the Attorney General provided short and long ballot titles for the Initiative. A true and correct copy of the ballot titles is attached hereto as **Exhibit F**.

10. On January 24, 2025, I submitted an Idaho Public Record Acts request to the Division of Financial Management seeking public records related to the preparation of the fiscal impact statement. A true and correct copy of the public records produced in response to that request is attached hereto as **Exhibit G**.

11. Idahoans United brings this legal challenge on behalf of myself and the other members who seek to place the Initiative on the ballot so that Idaho voters can consider and decide the scope of reproductive and privacy rights afforded Idahoans.

12. I and the other members of Idahoans United have been harmed by the Attorney General's ballot titles for the Initiative and the Division of Financial Management's FIS. No signatures can be gathered for the Initiative until the Court certifies the ballot titles and FIS for the Initiative. Petitions with the requisite and valid signatures must be submitted to the appropriate county clerk by May 1, 2026, to qualify the Initiative for the ballot. The county clerks then have 60 days from the deadline to submit signatures to verify that each name, address, and signature match a qualified elector in the appropriate county.

13. Given that not all signatures will be valid due to voters moving addresses, getting dropped from the voter rolls, or providing a signature that does not match their signature on their original voter registration form, we plan to gather over 100,000 signatures. Idaho's expansive geography and qualification requirements across 18 legislative districts make the gathering of the

required number of signatures an onerous task, requiring thousands of volunteer shifts and considerable effort. With the delay in signature gathering caused by the defective ballot titles and FIS, the chances of qualifying the ballot measure decreases, harming me and many others who support it.

14. Without a decision from this Court by April 15, 2025, at the latest, Idahoans United will have to postpone numerous kick-off events across the state designed to train and motivate volunteers, which must be scheduled early enough in the election cycle to provide ample time for volunteers to collect signatures. Each additional week beyond that date without ballot titles and a fiscal impact statement that comply with the law will further prejudice Idahoans United by depriving them of essential signature-gathering periods, such as state fairs, county fairs, and late-summer community events throughout Idaho.

15. Additionally, the ballot titles and FIS cause harm because they will confuse the electorate about the purpose and key characteristics of the initiative and the fact that it will not result in any new costs for state and local governments.

16. The short title does not convey two distinctive elements of the proposed measure. The Initiative has three key characteristics or distinctive elements. The Initiative: (1) codifies the right to make personal decisions about reproductive health care that directly impact a person's own body; (2) establishes the right to abortion up to fetal viability and in medical emergencies; and (3) protects a patient's right to privacy in consultation with health care providers.

17. The short title also fails to use language by which the measure is commonly referred to or spoken of. The short title uses the term "fetus viability" which is found nowhere in the Initiative itself and is not of common usage by voters in Idaho.

18. The long title also uses this uncommon term “fetus viability” inconsistently, which is confusing to voters, a likely argument against the Initiative, and prejudicial to the Initiative.

19. The fiscal impact statement lacks clarity and conciseness, includes legal citations, and is based on unfounded budgetary assumptions and references.

20. The confusing and inaccurate ballot titles and fiscal impact statement would be prejudicial to my efforts—and other Idahoans United members’ efforts—to obtain signatures.

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

DATED: January 30, 2025

/s/Melanie Folwell
Melanie Folwell

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of January, 2025, I caused to be filed, via iCourt, and served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Div. of Financial Management
P.O. Box 83720
Boise, ID 83720-0032
info@dfm.idaho.gov

- U.S. Mail
- Hand Delivered
- Overnight Mail
- Email/iCourt/eServe:

Administrator Lori Wolff
Idaho Division of Financial Management
P.O. Box 83720
Boise, ID 83720-0032
info@dfm.idaho.gov

- U.S. Mail
- Hand Delivered
- Overnight Mail
- Email/iCourt/eServe:

Office of the Attorney General
700 W. Jefferson Street, Suite 210
P.O. Box 83720
Boise, ID 83720-0010
aglabrador@ag.idaho.gov

- U.S. Mail
- Hand Delivered
- Overnight Mail
- Email/iCourt/eServe:

Idaho Secretary of State
P.O. Box 83720
Boise, ID 83720-0080
secretary@sos.idaho.gov

- U.S. Mail
- Hand Delivered
- Overnight Mail
- Email/iCourt/eServe:

/s/ Jennifer M. Jensen

Jennifer M. Jensen
FOR HOLLAND & HART LLP

34104776_v1



August 2022 Polling Memo:
Research & Findings in the Wake of Idaho's Trigger Ban



OPINION
RESEARCH
& STRATEGY

Executive Summary

In the wake of the Supreme Court’s landmark Dobbs decision, Idaho’s abortion trigger ban went into effect on August 25, 2022, criminalizing and making abortion illegal in Idaho with few and narrow exceptions. A poll conducted by FM3 Research revealed that—though Idaho voters’ feelings towards abortion in general are complex—the severe restrictions imposed by the legislature are broadly and emphatically unpopular.

Not only do 3 in 5 Idahoans believe that abortion should be legal in some or almost all cases, but findings also indicate that:

- A broad majority (63%) believe abortion should be a decision between a woman, her family, and her doctor...
- ...and even more (69%) believe we should not impose our views of abortion on others.
- An overwhelming majority (82%) believe abortion should be an option when the mother’s life is at risk...
- ...and even more (89%) support the right to medical and sexual privacy.
- Sixty-three percent (63%) of Idahoans oppose felony criminal charges for a healthcare provider who performs an abortion.

Broad, ideologically diverse majorities of Idahoans trust and value the expertise of doctors and nurses when it comes to setting policy and making decisions around sensitive medical issues like abortion. In fact, politicians (including Idaho’s governor and Idaho State Legislators) were least trusted regarding abortion decisions.

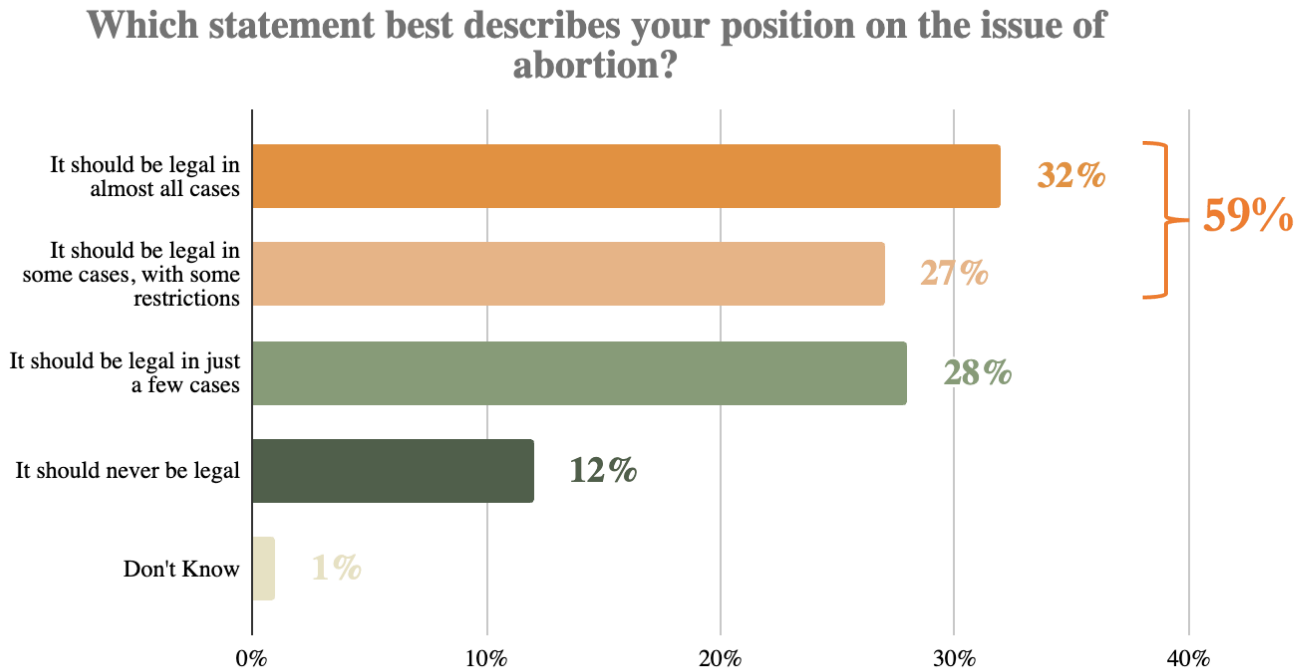
Survey Methodology

Dates	August 13-18, 2022
Survey Type	Dual-Mode Voter Survey
Research Population	Likely November 2022 Idaho Voters
Sample Size	n=603
Margin of Error	±4.0% at the 95% Confidence Level
Contact Methods	Telephone Calls, Email Invitations, Text Invitations
Data Collection Modes	Telephone Interviews, Online Interviews

Three in five Idahoans believe abortion should be legal in *some* or *almost all* cases.

Polling revealed that the vast majority of Idahoans (3 in 5) believed that abortion should be legal in almost all cases (32%) or legal in some cases with some restrictions (27%.) Significantly, only 12% of Idahoans support a full and total ban on abortion with no legal exceptions.

FIGURE 1:

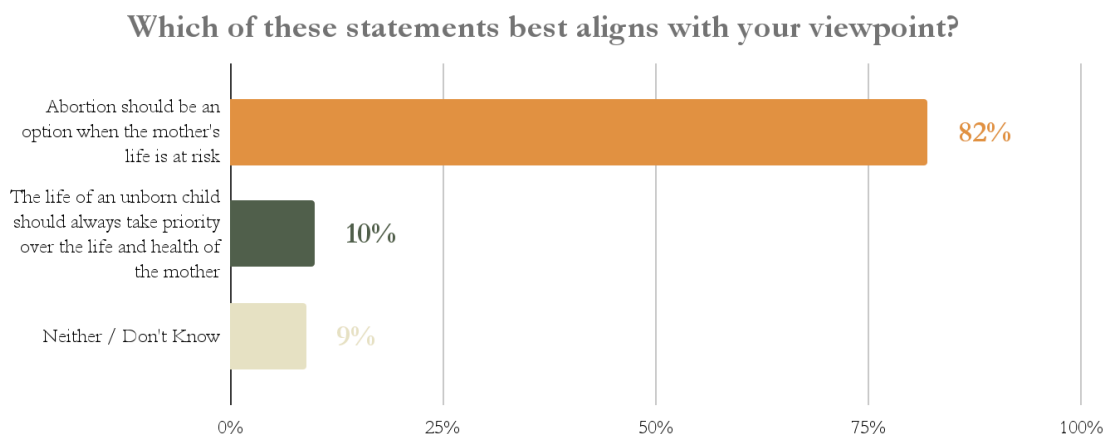


The pro-choice/pro-life binary falls short in accurately capturing the more complex views of Idahoans on abortion. Polling reveals a preference for more nuanced positions, which indicates that the majority of people don't strictly adhere to the absolute stances implied by the binary labels. It suggests that a more refined framework would be useful to fully understand, interpret, discuss and report on the varied perspectives on abortion within the community.

By overwhelming majority, Idahoans believe abortion should always be an option when the mother's life is at risk.

By a stark 72-point margin, 82% of Idaho voters believe abortion should be an option when the mother's life is at risk. Only a slim 10% believe that an unborn child should take priority over the life and health of the mother.

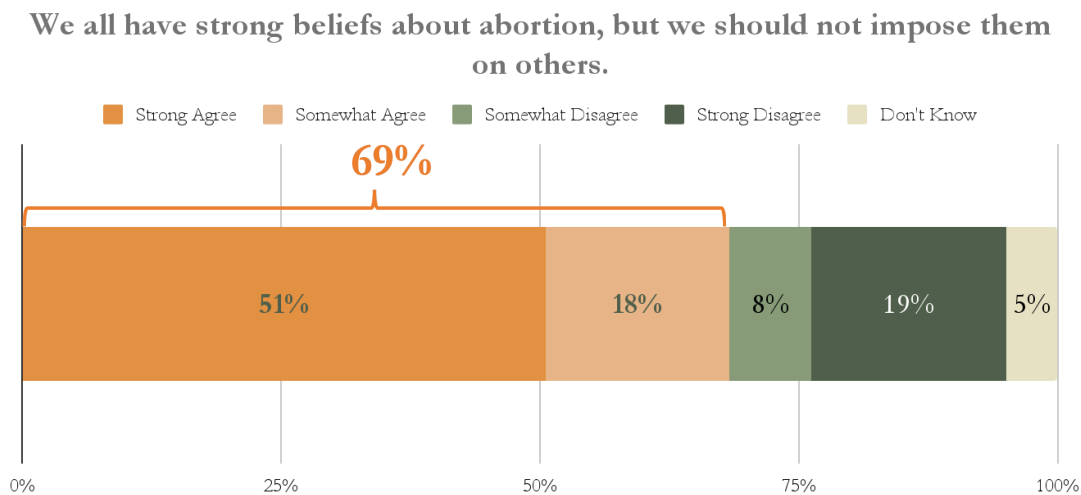
FIGURE 2:



No matter their views on abortion, over two-thirds of Idahoans believe we *should not* impose our views of abortion on others.

An overwhelming majority of Idahoans (69%) believe that, though we all have strong beliefs regarding abortion, we should not impose our views of abortion on others.

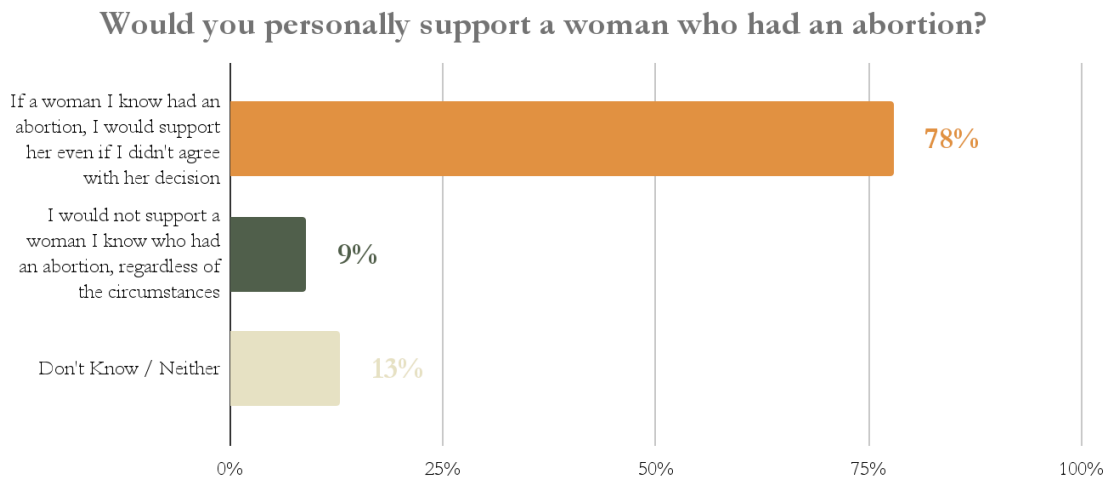
FIGURE 3:



Idahoans would support a woman they know seeking an abortion, even if they don't agree with her decision.

Besides indicating a belief that abortion decisions are personal and private, Idahoans also demonstrated majority support towards women they know who might seek abortion: a staggering 78% of them would offer support for a woman seeking an abortion even if they didn't personally agree with her decision.

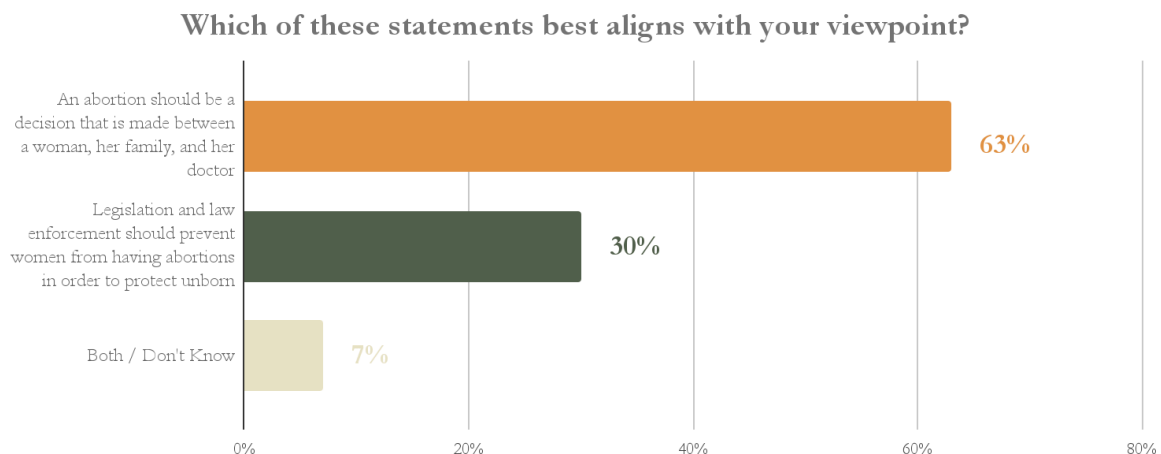
FIGURE 4:



When presented with two statements, 63% of Idahoans believe abortion should be between a woman, her family, and doctor...

... while only 30% believe that “legislation and law enforcement should prevent women from having abortions in order to protect unborn babies.”

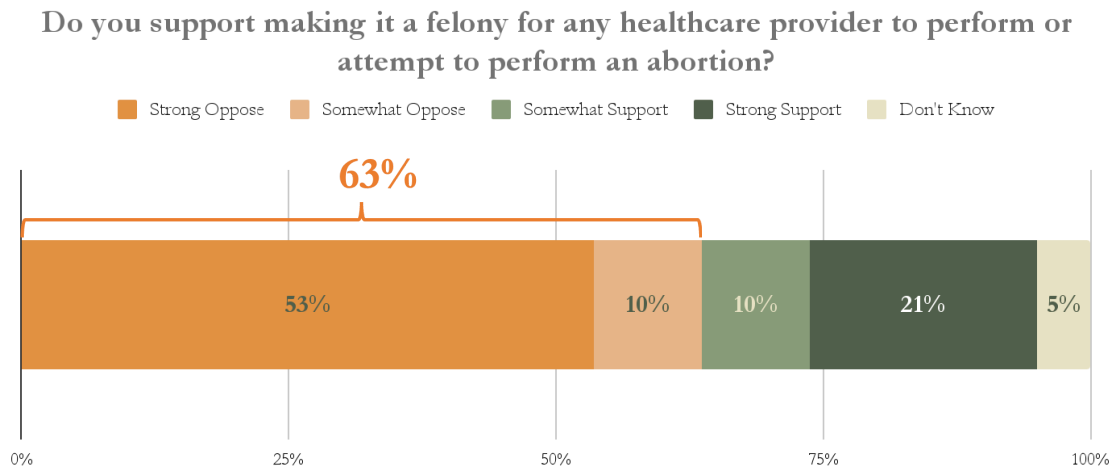
FIGURE 5:



Felony criminal charges for doctors are supported by only a minority of Idahoans.

Sixty-three percent (63%) of Idahoans oppose felony charges for a healthcare provider who performs an abortion, and only 21% strongly support a criminalization policy.

FIGURE 6:



Regarding abortion decisions, Idahoans trust nurses and doctors the most...and legislators the least.

When presented with a battery of persons and organizations who might be involved in abortion decisions or setting policy around reproductive care, Idahoans ranked healthcare professionals like nurses and doctors the most trustworthy. Notably, 67% of respondents also indicated that pregnant women and women who have experienced an unplanned pregnancy were very or somewhat trustworthy, ranking them just below medical professionals. No politician was ranked as trustworthy by a majority of Idahoans, and Idahoans were most suspicious of Idaho legislators, ranking them as least trustworthy.

FIGURE 7a:

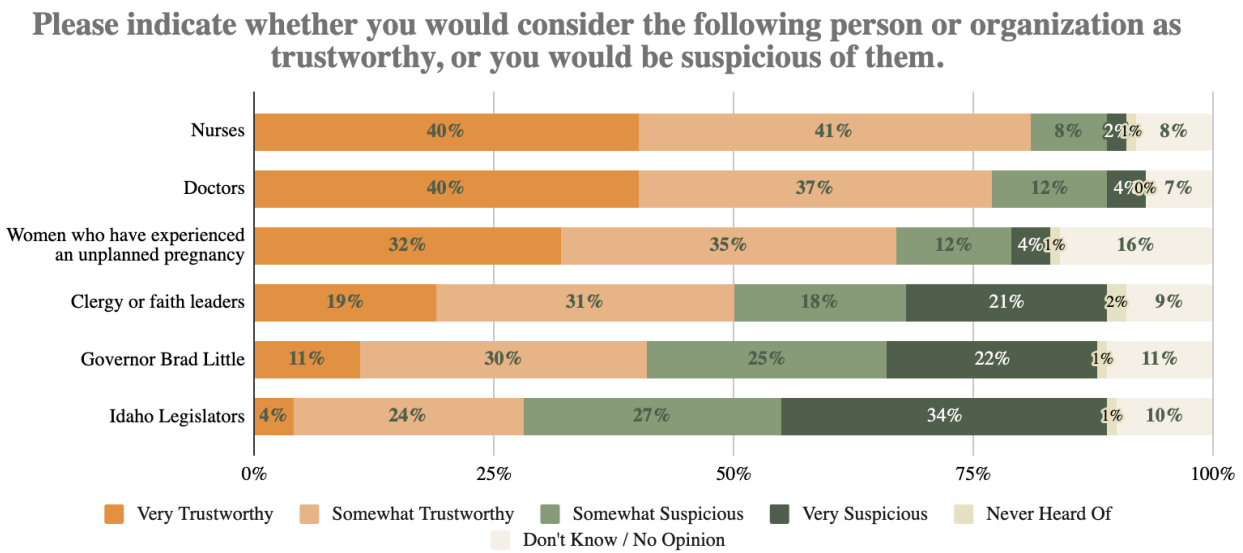


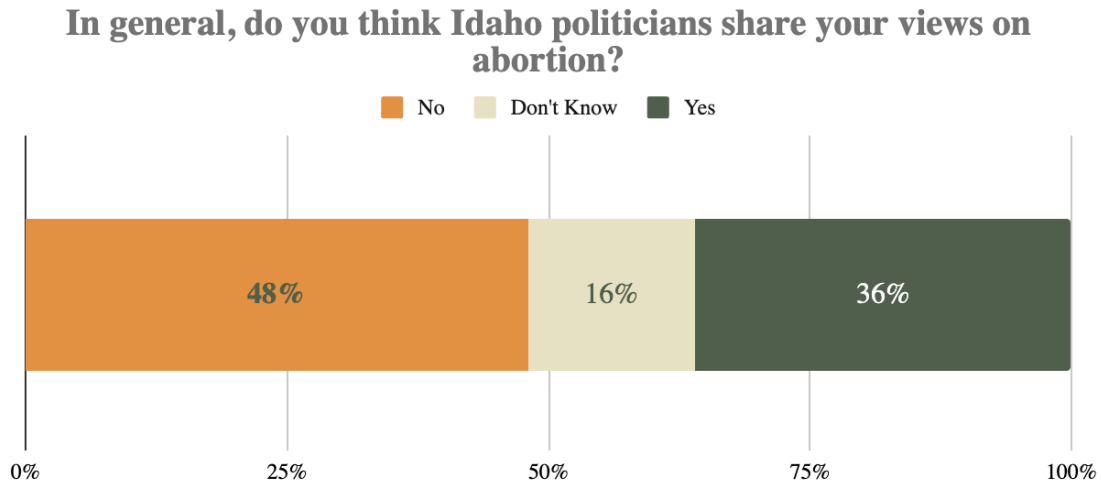
FIGURE 7b:

Person / Organization:	Total Trust	Total Suspicious
Nurses	81%	10%
Doctors	77%	16%
Women who have experienced an unplanned pregnancy	67%	16%
Clergy or faith leaders	50%	39%
Governor Brad Little	41%	47%
Idaho Legislators	28%	61%

Most Idahoans think Idaho politicians don't share their views.

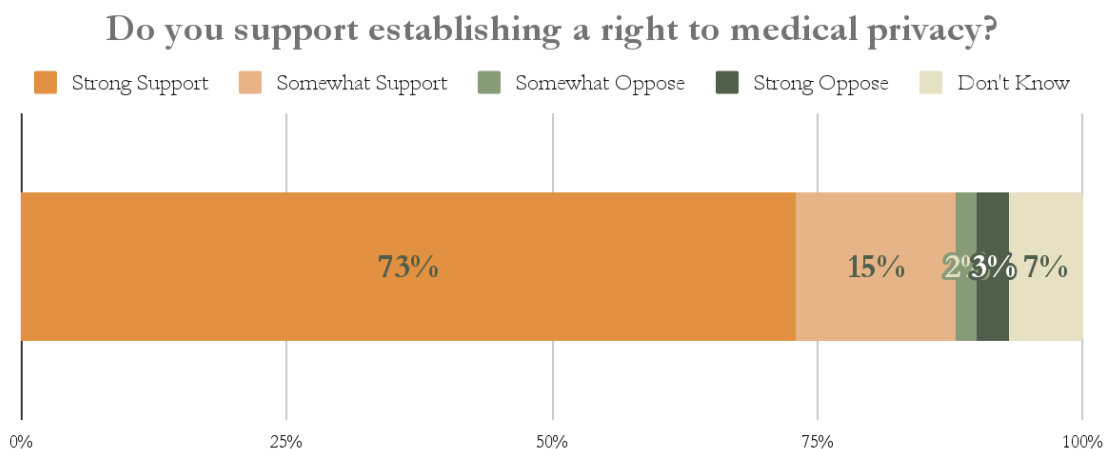
Unsurprisingly given respondents' attitudes towards the need for medical privacy and the current Idaho laws, only 36% of Idahoans felt that Idaho politicians shared or represented their views on abortion.

FIGURE 8:



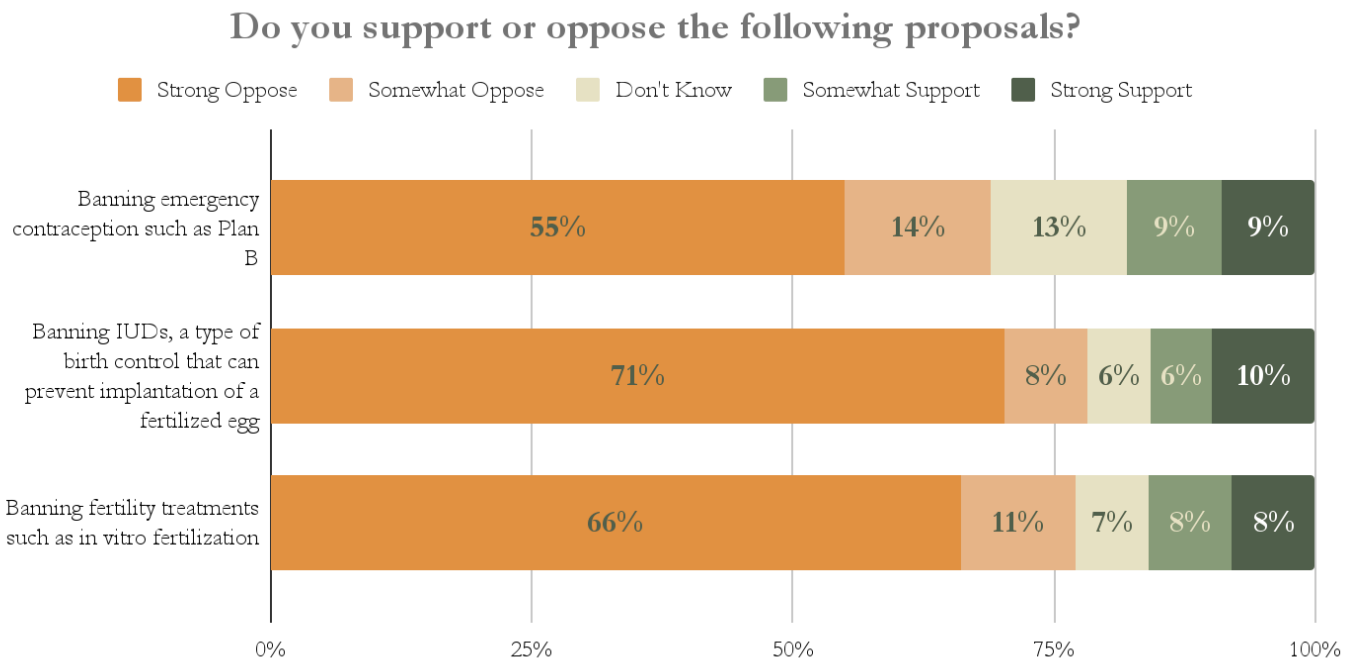
Additionally, Idahoans overwhelmingly support the right to medical privacy...

FIGURE 9:



...and strongly oppose banning contraception and IVF.

FIGURE 10:



About IDUWF

Launched in 2024, Idahoans United for Women & Family (IDUWF) is a 501(c)(4) organization based in Idaho committed to advocating for and restoring access to comprehensive reproductive healthcare while promoting the well-being of women, children, and families in Idaho.

Be it enacted by the people of the State of Idaho:

SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 8, Title 39, Idaho Code, and to read as follows:

39-801. SHORT TITLE. This act shall be known and may be cited as the “Reproductive Freedom and Privacy Act.”

39-802. STATEMENT OF PURPOSE. The Reproductive Freedom and Privacy Act recognizes that reproductive health care choices—such as the use of contraception, fertility treatments, childbirth care, miscarriage care, the decision to continue one’s own pregnancy, and abortion—are deeply private matters that should be decided by a person in consultation with their health care provider. This statute upholds a person’s rights to make their own decisions based on their own values, health care needs, and circumstances—free from the fear of external pressures or punitive consequences to them or their health care provider. The act supports a person’s right to reproductive freedom and privacy, protects the confidential nature of the patient-provider relationship, and secures a person’s right to make their own health care decisions without government interference.

39-803. REPRODUCTIVE FREEDOM AND PRIVACY ACT

1. This act establishes a right to make private reproductive health care decisions, including abortion up to fetal viability and in medical emergencies.
2. Notwithstanding any other provision of law to the contrary:
 - a. Every person has the right to reproductive freedom and privacy, which is the right to make personal decisions about reproductive health care that directly impact the person’s own body, including but not limited to the right to make decisions about:
 - i. Abortion;
 - ii. Childbirth care;
 - iii. Contraception;
 - iv. Fertility treatment;
 - v. Miscarriage care; and
 - vi. Prenatal, pregnancy, and postpartum care.
 - b. The right to reproductive freedom and privacy includes the right of privacy in making personal decisions about reproductive health care in consultation with a health care provider.
 - c. A person’s voluntary exercise of the right to reproductive freedom and privacy shall not be burdened, interfered with, discriminated against, deprived, or prohibited by the state, directly or indirectly, in any manner, unless such state action is narrowly tailored to improve or maintain the health of the person seeking reproductive health care through

the least restrictive means.

- d. Any person or entity may voluntarily advise, assist, facilitate, inform, refer, or otherwise aid another person exercising the right to reproductive freedom and privacy, and the state shall not burden, interfere with, discriminate against, deprive, or prohibit such acts, directly or indirectly, in any manner, unless such state action is narrowly tailored to improve or maintain the health of the person seeking reproductive health care through the least restrictive means.
 - e. In no case may reproductive health care provided consistent with this act by a health care provider be a basis for professional discipline, civil liability, or criminal liability as to a health care provider solely on the basis that the health care provider knowingly advised, assisted, facilitated, informed, referred, or otherwise aided a person in exercising their right to reproductive freedom and privacy.
3. Provided further that as this act specifically applies to abortion:
- a. After the point of fetal viability, it shall not be a violation of the right to reproductive freedom and privacy for the state to regulate abortion, except in cases of medical emergency.
4. The provisions of this act are to be liberally construed in favor of reproductive freedom and privacy and are intended to control over any other section of Idaho Code, consistent with the following:
- a. Nothing in this act shall be construed to limit any right or access to reproductive health care, including but not limited to abortion, that currently exists or is otherwise provided for or guaranteed by law.
 - b. This act does not create a financial obligation on the state, its agencies, or their programs to pay for, fund, or subsidize the reproductive health care protected by this act.
 - c. Nothing in this act will be deemed to bar or otherwise apply to a claim of medical malpractice against a health care provider for failing to comply with the applicable community standard of health care practice, as set forth in Section 6-1012, Idaho Code.
 - d. Nothing in this act will infringe on the protections and accommodations regarding a health care provider's freedom of conscience, as set forth in Section 18-611, Idaho Code.
 - e. If the application of any provision of this act is declared invalid for any reason including by the application thereof, such invalidity shall not affect the validity of the remaining portions of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

5. Definitions. As used in this act:

- a. “Abortion” means a medical treatment that is intended to terminate a pregnancy.
- b. “Childbirth care” means the medical treatment provided by health care providers in the processes of labor and delivery, including all stages of labor, the act of giving birth, and any medical procedures related to the delivery of a child, whether by vaginal birth or cesarean section.
- c. “Contraception” means any act of preventing pregnancy including the use of any device, drug, procedure, or biological product intended for use in the prevention of pregnancy.
- d. “Fetal viability” means the point in a pregnancy when, on the basis of a physician’s good faith medical judgment, based on the facts known at the time, and determined on a case-by-case basis, the fetus has a significant likelihood of sustained survival outside of the uterus without extraordinary medical measures.
- e. “Fertility Treatment” means the treatment of infertility and related conditions, including but not limited to assisted reproductive technology and in vitro fertilization.
- f. “Health care provider” means a licensed person or an entity that provides health care or medical treatment.
- g. “Medical emergency” means a physical medical condition that, on the basis of a physician’s good faith medical judgment, based on the facts known at the time, and determined on a case-by-case basis, complicates the physical medical condition of a pregnant patient as to warrant an abortion:
 - i. To protect a pregnant patient’s life; or
 - ii. For which a delay may:
 - a. Place the health of a pregnant patient in serious jeopardy;
 - b. Cause serious impairment to a bodily function of a pregnant patient; or
 - c. Cause serious dysfunction of any bodily organ or part of a pregnant patient’s body.
- h. “Miscarriage care” means the treatment and management of pregnancy loss.
- i. “Physician” means a person licensed to practice medicine and/or surgery or osteopathic medicine and surgery in this state as provided in Chapter 18, Title 54. A physician is a health care provider as defined in this act.
- j. “Prenatal, pregnancy, and postpartum care” means health care and other medical services provided before, during, and after childbirth, including but not limited to exams, treatments, diagnostic testing, postpartum recovery and support, and any other care necessary for the health of the patient.

- k. “Reproductive health care” means health care and other medical services related to the reproductive processes, functions, and systems. It includes but is not limited to abortion, contraception, childbirth, fertility treatment, miscarriage care, and prenatal, pregnancy, and postpartum care.

SECTION 2. This act shall be in full force and effect on and after January 1, 2027.

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IDAHOANS UNITED *for*
Women & Families



NOV 21 '24 PM 1:06
IDAHO SECRETARY OF STATE

November 20, 2024

To the Honorable Phil McGrane
Secretary of State
Idaho Secretary of State's Office
700 W Jefferson St, Room E205
Boise, Idaho 83720

Re: Reproductive Freedom and Privacy Act Initiative – Resubmission

Dear Secretary McGrane,

This letter accompanies our resubmission of the enclosed Reproductive Freedom and Privacy Act Initiative, which would establish a right to make private reproductive health care decisions, including abortion up to fetal viability and in medical emergencies.

We are submitting the Initiative with a new petition making slight revisions to the prior version to address typos and clarify key terms, including to further clarify that the Initiative does not create a financial obligation on the state, its agencies, or their programs to pay for, fund, or subsidize the reproductive health care protected by the Initiative. Because of this change accompanied by a new petition, we respectfully ask that your Office request that the official fiscal impact statement for the Initiative from the Division of Financial Management be issued to reflect the enclosed Initiative's further clarified provision. Care has been taken to avoid substantive changes to the operative portions of the Initiative, including those addressed by the issued titles, while enhancing clarity and ensuring the language accurately reflects its purpose and intent.

Very truly yours,

A handwritten signature in cursive script that reads 'Melanie Folwell'. The signature is written in black ink and is positioned above the printed name.

Melanie Folwell

WARNING

It is a felony for anyone to sign any initiative or referendum petition with any name other than his own, or to knowingly sign his name more than once for the measure, or to sign such a petition when he is not a qualified elector.

INITIATIVE PETITION

To the Honorable Phil McGrane, Secretary of State of the State of Idaho:

We, the undersigned citizens and qualified electors of the State of Idaho, respectfully demand that the following proposed law the "Reproductive Freedom and Privacy Act," set forth in full below, shall be submitted to the qualified electors of the State of Idaho, for their approval or rejection at the regular general election, to be held on the third day of November, A.D., 2026, and each for himself says: I have personally signed this petition; I am a qualified elector of the State of Idaho; my residence and legislative district are correctly written after my name.

Signature	Printed Name	Residence Street and Number	City	Date	Legislative District
	Loren Colson	408 N. Mobley Dr.	Boise	11/20/24	19
	Katherine Kerner	329 W. Warren St.	Boise	11/20/24	
	Emily Corrigan	3002 N 28th St.	Boise	11/20/24	19
	Terry Elizabeth Woodruff	2012 W. Ridenbaugh	Boise	11/20/24	19
	Rebecca Vinnen-Brown	1470 N. Thistle Dr.	Kuna	11/20/24	
	Angelina St. Clair Dent	1402 W. Franklin St.	Boise	11/20/24	19
	Zachary Reider	3701 W. Morris Hill Rd Apt 13	Boise	11/20/24	
	Martin Folwell	23, N, Roosevelt St	Boise	11/21/24	
	Bryan Folwell	23 N. ROOSEVELT ST.	BOISE	11/21/24	
	Eleanora Folwell	23 N. Roosevelt st.	Boise	11/21/2024	
	Tiffani Deems	11301 W. High Rock Dr	Boise	11/21/2024	17
	Chelsea Harada	7216 W. Alderbrook Dr.	Boise	11/21/2024	17
	Laura Miller	4170 N. Azalea Ln.	Boise	11/21/2024	16
	Ashley Prince	1424 S Loveland St	Boise	11/21/2024	
	Andrew Little	8097 W. Rygate Ln	Boise	11/21/2024	
	JAMIE LE WEBSTER	2 S. CYPRESS ST.	BOISE	11/21/2024	17
	Megan Egbert	1630 S. Rand St.	Boise	11/21/2024	17
	Barbara Bayer	2299 E. Independence	Boise	11/21/2024	
	Miranda Cold	5201 N Eugene St	Boise	11/21/2024	19
	CHERYL A MILLER	1752 E CANOVA DR	BOISE	11/21/2024	18

Any person signing a petition may remove their signature pursuant to Section, 34-1803B, Idaho Code.

WARNING

It is a felony for anyone to sign any initiative or referendum petition with any name other than his own, or to knowingly sign his name more than once for the measure, or to sign such a petition when he is not a qualified elector.

INITIATIVE PETITION

To the Honorable Phil McGrane, Secretary of State of the State of Idaho:

We, the undersigned citizens and qualified electors of the State of Idaho, respectfully demand that the following proposed law the "Reproductive Freedom and Privacy Act," set forth in full below, shall be submitted to the qualified electors of the State of Idaho, for their approval or rejection at the regular general election, to be held on the third day of November, A.D., 2026, and each for himself says: I have personally signed this petition; I am a qualified elector of the State of Idaho; my residence and legislative district are correctly written after my name.

Signature	Printed Name	Residence Street and Number	City	Date	Legislative District
	Alexis Pickering	772 W. Bayhill St.	Boise	11/21/24	16

Any person signing a petition may remove their signature pursuant to Section, 34-1803B, Idaho Code.

Be it enacted by the people of the State of Idaho:

SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 8, Title 39, Idaho Code, and to read as follows:

39-801. SHORT TITLE. This act shall be known and may be cited as the “Reproductive Freedom and Privacy Act.”

39-802. STATEMENT OF PURPOSE. The Reproductive Freedom and Privacy Act recognizes that reproductive health care choices—such as the use of contraception, fertility treatments, childbirth care, miscarriage care, the decision to continue one’s own pregnancy, and abortion—are deeply private matters that should be decided by a person in consultation with their health care provider. This statute upholds a person’s rights to make their own decisions based on their own values, health care needs, and circumstances—free from the fear of external pressures or punitive consequences to them or their health care provider. The act supports a person’s right to reproductive freedom and privacy, protects the confidential nature of the patient-provider relationship, and secures a person’s right to make their own health care decisions without government interference.

39-803. REPRODUCTIVE FREEDOM AND PRIVACY ACT

1. This act establishes a right to make private reproductive health care decisions, including abortion up to fetal viability and in medical emergencies.
2. Notwithstanding any other provision of law to the contrary:
 - a. Every person has the right to reproductive freedom and privacy, which is the right to make personal decisions about reproductive health care that directly impact the person’s own body, including but not limited to the right to make decisions about:
 - i. Abortion;
 - ii. Childbirth care;
 - iii. Contraception;
 - iv. Fertility treatment;
 - v. Miscarriage care; and
 - vi. Prenatal, pregnancy, and postpartum care.
 - b. The right to reproductive freedom and privacy includes the right of privacy in making personal decisions about reproductive health care in consultation with a health care provider.
 - c. A person’s voluntary exercise of the right to reproductive freedom and privacy shall not be burdened, interfered with, discriminated against, deprived, or prohibited by the state, directly or indirectly, in any manner, unless such state action is narrowly tailored to improve or maintain the health of the person seeking reproductive health care through

the least restrictive means.

- d. Any person or entity may voluntarily advise, assist, facilitate, inform, refer, or otherwise aid another person exercising the right to reproductive freedom and privacy, and the state shall not burden, interfere with, discriminate against, deprive, or prohibit such acts, directly or indirectly, in any manner, unless such state action is narrowly tailored to improve or maintain the health of the person seeking reproductive health care through the least restrictive means.
 - e. In no case may reproductive health care provided consistent with this act by a health care provider be a basis for professional discipline, civil liability, or criminal liability as to a health care provider solely on the basis that the health care provider knowingly advised, assisted, facilitated, informed, referred, or otherwise aided a person in exercising their right to reproductive freedom and privacy.
3. Provided further that as this act specifically applies to abortion:
- a. After the point of fetal viability, it shall not be a violation of the right to reproductive freedom and privacy for the state to regulate abortion, except in cases of medical emergency.
4. The provisions of this act are to be liberally construed in favor of reproductive freedom and privacy and are intended to control over any other section of Idaho Code, consistent with the following:
- a. Nothing in this act shall be construed to limit any right or access to reproductive health care, including but not limited to abortion, that currently exists or is otherwise provided for or guaranteed by law.
 - b. This act does not create a financial obligation on the state, its agencies, or their programs to pay for, fund, or subsidize the reproductive health care protected by this act.
 - c. Nothing in this act will be deemed to bar or otherwise apply to a claim of medical malpractice against a health care provider for failing to comply with the applicable community standard of health care practice, as set forth in Section 6-1012, Idaho Code.
 - d. Nothing in this act will infringe on the protections and accommodations regarding a health care provider's freedom of conscience, as set forth in Section 18-611, Idaho Code.
 - e. If the application of any provision of this act is declared invalid for any reason including by the application thereof, such invalidity shall not affect the validity of the remaining portions of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

5. Definitions. As used in this act:

- a. "Abortion" means a medical treatment that is intended to terminate a pregnancy.
- b. "Childbirth care" means the medical treatment provided by health care providers in the processes of labor and delivery, including all stages of labor, the act of giving birth, and any medical procedures related to the delivery of a child, whether by vaginal birth or cesarean section.
- c. "Contraception" means any act of preventing pregnancy including the use of any device, drug, procedure, or biological product intended for use in the prevention of pregnancy.
- d. "Fetal viability" means the point in a pregnancy when, on the basis of a physician's good faith medical judgment, based on the facts known at the time, and determined on a case-by-case basis, the fetus has a significant likelihood of sustained survival outside of the uterus without extraordinary medical measures.
- e. "Fertility Treatment" means the treatment of infertility and related conditions, including but not limited to assisted reproductive technology and in vitro fertilization.
- f. "Health care provider" means a licensed person or an entity that provides health care or medical treatment.
- g. "Medical emergency" means a physical medical condition that, on the basis of a physician's good faith medical judgment, based on the facts known at the time, and determined on a case-by-case basis, complicates the physical medical condition of a pregnant patient as to warrant an abortion:
 - i. To protect a pregnant patient's life; or
 - ii. For which a delay may:
 - a. Place the health of a pregnant patient in serious jeopardy;
 - b. Cause serious impairment to a bodily function of a pregnant patient; or
 - c. Cause serious dysfunction of any bodily organ or part of a pregnant patient's body.
- h. "Miscarriage care" means the treatment and management of pregnancy loss.
- i. "Physician" means a person licensed to practice medicine and/or surgery or osteopathic medicine and surgery in this state as provided in Chapter 18, Title 54. A physician is a health care provider as defined in this act.
- j. "Prenatal, pregnancy, and postpartum care" means health care and other medical services provided before, during, and after childbirth, including but not limited to exams, treatments, diagnostic testing, postpartum recovery and support, and any other care necessary for the health of the patient.

- k. “Reproductive health care” means health care and other medical services related to the reproductive processes, functions, and systems. It includes but is not limited to abortion, contraception, childbirth, fertility treatment, miscarriage care, and prenatal, pregnancy, and postpartum care.

SECTION 2. This act shall be in full force and effect on and after January 1, 2027.



FUNDING SOURCE STATEMENT

No funding source is required for the Reproductive Freedom and Privacy Act as it does not create any new financial obligation on the state. Because no funding source is required, the Act has no impact on income taxes, sales tax, or product taxes.



PHIL McGRANE
IDAHO SECRETARY OF STATE

December 20, 2024

Melanie Folwell
Idahoans United for Women and Families
P.O. Box 6902
Boise, ID 83707

RE: Certificates of Review and DFM Fiscal Impact Statements

Dear Ms. Folwell,

Pursuant to Idaho Code §§ 34-1809 and 34-1812, I have attached the certificate of review and fiscal impact statements for the proposed initiative entitled the “Reproductive Freedom and Privacy Act.”

If you have any questions, please do not hesitate to contact our office at (208) 334-2852.

Sincerely,

A handwritten signature in black ink, appearing to read "Nicole Fitzgerald", written over a horizontal line.

Nicole Fitzgerald
Chief Deputy Secretary of State

Enclosures

Ballot initiative: Reproductive freedom and Privacy Act

100 Word Fiscal Impact

December 17, 2024

The laws affected by the initiative would not impact income, sales, or product taxes. There is no revenue impact to the General Fund fund.

The initiative could change state expenditures in minor ways. Costs associated with the Medicaid and prisoner populations may occur; see Idaho Codes 20-237B and 56-255 and the Medicaid references from Health and Welfare.

Passage of this initiative is likely to cost less than \$20,000 per year. The Medicaid budget for providing services was about \$850 million in FY2024. If passed, nominal costs in the context of the affected total budget are insignificant to the state.

Assumptions

Changes in costs associated with the ballot initiative could impact state funding expenditures for Corrections and Medicaid budgets. The amount of those costs would be dependent on the frequency of need for reproductive services within the agencies. The manner of the budget impacts would be different for Corrections due to the health care provisions used by the agency; there is no expected changes to the Corrections health care budget. Billing history prior to the Dobbs decision suggests that \$20,000 per year is a conservative over-estimate of the costs. Neither of these agencies reverted funding when the Dobbs decision was made in 2022 (and already established legislation in Idaho code took effect). It is assumed that any additional costs due to the passage of this ballot initiative could be absorbed in the Corrections and Health and Welfare budgets should the ballot initiative pass.



DEC 20 12:04:11 PM
IDAHO SECRETARY OF STATE

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
RAÚL R. LABRADOR

December 20, 2024

VIA HAND DELIVERY

The Honorable Phil McGrane
Idaho Secretary of State
Statehouse

RE: Certificate of Review
Re-submitted Proposed Initiative for Adding a New Section to Title 39,
Idaho Code, Providing for a Right to Reproductive Freedom and Privacy.

Dear Secretary of State McGrane:

An initiative petition that was previously submitted on August 15, 2024, has been re-submitted on November 21, 2024, still proposing to amend title 39 of the Idaho Code, with some revisions to the original submission. Pursuant to Idaho Code § 34-1809, this office has reviewed the re-submitted petition and prepared the following advisory comments. Given the strict statutory timeframe within which this office must review the petition, our review can only isolate areas of concern and cannot provide in-depth analysis of each legal or constitutional issue that may present problems. This letter therefore addresses only those matters of substance that are “deemed necessary and appropriate” to address at this time and does not address or catalogue all problems of substance or of form that the proposed initiative may pose under federal or Idaho law. Idaho Code § 34-1809(1)(a). Further, under the review statute, the Attorney General’s recommendations are “advisory only,” and the petitioners are free to “accept or reject them in whole or in part.” *Id.* § 34-1809(1)(b). This office offers no opinion with regard to the policy issues raised by the proposed initiative or the potential revenue impact to the state budget from likely litigation over the initiative’s validity.

MATTERS OF SUBSTANTIVE IMPORT

I. Summary and History of Re-submission of Proposed Initiative

As noted above, this proposed initiative is a re-submission of a previously submitted proposed initiative. This office reviewed the previously submitted initiative—identified as “Right to Reproductive Freedom and Privacy (fetal viability)”—and provided a certificate of review with advisory comments on September 16, 2024. Thereafter, the petitioners revised the proposed initiative and then submitted it and requested the assignment of ballot titles on October 7, 2024. This office responded on October 22, 2024, in accordance with Idaho Code § 34-1809 and provided a short and a long ballot title for the proposed initiative. Petitioners now submit the proposed initiative, effectively re-starting the process, beginning again with the certificate of review. A summary and section by section analysis of the new proposed initiative follows.

The proposed initiative seeks to add to Idaho law, by statute, a right to “reproductive freedom and privacy.” Broadly speaking, the initiative would: 1) remove any restrictions on abortion before the point of “fetal viability;” 2) exempt from criminal liability any abortion performed in the case of a “medical emergency;” 3) create a “right of privacy in making personal decisions about reproductive health care in consultation with a health care provider;” and 4) attempt to place restrictions broadly on future legislation or regulation regarding abortion and “reproductive freedom and privacy.”

1. “Statement of Purpose”

The proposed initiative’s “statement of purpose” sets forth petitioners’ general view of the proposed initiative: that it “recognizes that reproductive health care choices...are deeply private matters that should be decided by a person in consultation with their health care provider.” Pet. § 39-802. And relatedly, that “[t]he act supports a person’s right to reproductive freedom and privacy...and secures a person’s right to make their own health care decisions without government interference.” *Id.*

2. Removing Restrictions on Abortion Before “Fetal Viability”

The proposed initiative would alter Idaho laws by providing a right to abortion for any reason “up to fetal viability.” Pet. §39-803(1). The initiative defines “fetal viability” as “the point in a pregnancy when...the fetus has a significant likelihood of sustained survival outside of the uterus without extraordinary medical measures.” *Id.* § 39-803(5)d. Terms within this definition, such as “significant likelihood of sustained survival” or “extraordinary medical measures” are not defined.

3. Exemption for Abortions Performed for “Medical Emergencies”

The proposed initiative would also change current Idaho law regarding abortion by providing for an exemption from criminal liability for abortions performed “in medical emergencies.” *Id.* § 39-803(1). The initiative defines a “medical emergency,” as a physical medical condition warranting abortion to save the pregnant person’s life, avoid placing the pregnant person’s health “in serious jeopardy;” avoid “serious impairment to a bodily function,” or avoid serious dysfunction of any bodily organ or part.” *Id.* at § 39-803(5)(g).

This exemption for abortions performed “in medical emergencies” kicks in after “fetal viability.” In short, the proposed initiative sets up a framework wherein abortion 1) cannot be “regulated” *before* “fetal viability,” 2) can be “regulated” *after* “fetal viability,” and 3) can *never* be “regulated” or prohibited in cases of “medical emergencies,” as defined by the initiative, regardless of whether it is before or after fetal viability.

4. Restrictions on Future Regulation of Abortion and “Reproductive Freedom and Privacy”

In addition to the specific provisions that change current abortion law in Idaho, the proposed initiative also provides for a broad “right to reproductive freedom and privacy.” Pet. § 39-803(2)a. The initiative provides a non-exhaustive list of six “reproductive decisions” included in the right to “reproductive freedom and privacy.” The “reproductive decisions” the initiative lists out are decisions on:

- i. Abortion;
- ii. Childbirth care;
- iii. Contraception;
- iv. Fertility treatment;
- v. Miscarriage care; and
- vi. Prenatal, pregnancy, and postpartum care.

Id. The initiative provides definitions for all of the above-listed “reproductive decisions.” *Id.* § 39-803(5).

After setting forth this “right to reproductive freedom and privacy,” the proposed initiative articulates limitations on the State’s ability to regulate that right. The proposed initiative uses language commonly associated with fundamental constitutional rights when describing its proposed “right to reproductive freedom and privacy.” *See Planned Parenthood Great Nw. v. State*, 171 Idaho 374, 414, 522 P.3d 1132, 1172 (2023) (citing *Benton v. Maryland*, 395 U.S. 784, 794, 89 S.Ct. 2056, 23 L.Ed.2d 707 (1969) (discussing Fifth Amendment right against Double Jeopardy)). For example, the proposed initiative states that “[t]he right to reproductive freedom

and privacy shall not be burdened, interfered with, discriminated against, deprived, or prohibited by the state...unless such state action is narrowly tailored to improve or maintain the health of the person seeking reproductive care through the least restrictive means.” Pet. § 39-803(2)c.

The proposed initiative also creates a proposed “right to privacy in making personal decisions about reproductive health care in consultation with a health care provider.” *Id.* § 39-803(2)b. This “right of privacy” is not described any further.

5. “Financial Obligation” Statement

The proposed initiative includes a provision stating: “[t]his act does not create a financial obligation on the state, its agencies, or their programs to pay for, fund, or subsidize the reproductive health care protected by this act.” *Id.* § 39-803(4)(b). In their letter included with the proposed initiative, the petitioners requested that an “official fiscal impact statement for the Initiative from the Division of Financial Management be issued to reflect the” information in the financial obligation statement.

II. Analysis of the Proposed Initiative’s Subsections

The matters of substantive import are addressed below, with each of the pertinent substantive subsections discussed in turn.

1. *Subsection (2)b* – No Discussion of “Privacy” and Potential Conflict with Fundamental Rights Protected by the Idaho and U.S. Constitutions

In subsection (2)b there is a lack of specificity regarding “privacy.” The proposed initiative speaks of “a right of privacy,” but the non-exhaustive list of “reproductive decisions” in subsection (2)a seems to deal entirely with freedom (freedom to make those decisions).

Further, the “right of privacy in making personal decisions about reproductive health care in consultation with a health care provider” in subsection (2)b is vague and unclear in its meaning. Depending on how broadly it is interpreted, a right to privacy in making personal decisions about reproductive health care could conflict with fundamental rights recognized by the U.S. Supreme Court. For example, if this right of privacy in making personal decisions about reproductive health care is interpreted as including a right for minor children to make their own reproductive health care decisions without the involvement or consent of their parents, it would likely conflict with the parents’ fundamental right to make health care decisions for their children. *See, e.g., Troxel v. Granville*, 530 U.S. 57, 66 (2000) (“[I]t cannot now be doubted that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children.”); Idaho Code § 32-1015(2) (“Parents have the fundamental right

and duty to make decisions concerning the furnishing of health care services to the minor child.”) To the extent this “right to privacy in making personal health care decisions” conflicts with fundamental rights protected by the U.S. and Idaho Constitutions, it could be found to be unconstitutional.

Notably, there is no explicit “right to privacy” contained within the Idaho Constitution, as there is in other states, where the “right to privacy” is often interpreted expansively by their courts.

2. Subsections (2) and (3) - Ordinary Legislation Cannot Bind Future Legislation or Regulation

The “right to reproductive freedom and privacy” set forth in the initiative would attempt to limit the State’s authority to regulate abortion and the other rights included within the right to reproductive freedom and privacy. Pet. § 39-803(2)-(3). However, this attempt to treat the “right to reproductive freedom and privacy” as a fundamental right and restrict future regulation of abortion violates the principle of legislative authority: ordinary statutes cannot bind or curtail the legislative authority of a future legislature. This principle was recently articulated and re-affirmed in the Idaho Supreme Court’s *Planned Parenthood* decision. See *Planned Parenthood*, 171 Idaho at 452-53.

In *Planned Parenthood*, plaintiffs/petitioners argued that the Defense of Life & Heartbeat Acts were invalid because they conflicted with the Idaho Human Rights Act. See *id.* at 452-53. The Idaho Supreme Court rejected that argument because “no present legislature can bind a future legislature through ordinary legislation.” *Planned Parenthood*, 171 Idaho at 453 (citing *State v. Gallet*, 36 Idaho 178, 179 (1922)). The court went on to note that the legislature, therefore, “may enact any law not expressly or inferentially prohibited by the state or federal constitutions.” *Id.* (cleaned up). The Idaho Supreme Court concluded that because the Human Rights Act was enacted as “ordinary legislation,” it cannot restrict a future legislature’s ability to regulate abortion, even if the Human Rights Act purported to do so (something the Court did not decide and did not need to decide).

The proposed initiative here is a proposal to amend the Idaho Code. In other words, if passed through the ballot initiative process, it would constitute “ordinary legislation.” As such, the initiative cannot bind future legislatures, or a future attempt to amend the law through a future initiative petition and cannot restrict the Idaho legislature’s future regulation of abortion. This squarely conflicts with the initiative, which reads: “the right to reproductive freedom and privacy shall not be burdened, interfered with, discriminated against, deprived, or prohibited by the state...unless such state action is narrowly tailored...through the least restrictive means.” Pet. §39-803(2)c. Moreover, the initiative seeks to bind future legislation even further by dictating that state regulation is only permissible if it is “narrowly

tailored to improve or maintain the health of the person seeking reproductive health care.” *Id.* Under clear Idaho Supreme Court precedent, such an attempt to restrict future legislation is impermissible.

3. Subsection (4) – Does Not Specifically Address Existing Idaho Law

Subsection (4) provides that “[t]he provisions of this act are to be liberally construed in favor of reproductive freedom and privacy and are intended to control over any other section of Idaho Code.” Pet. § 39-803(4). However, the initiative does not specifically address current laws in Idaho regulating abortion, which leaves open questions as to how the initiative would be incorporated into current law. For example, it is unclear what laws and definitions control when the proposed initiative is silent on an issue.

4. Potential Conflict with Right to Life

One issue that may be a concern is whether the initiative’s proposed “right to reproductive freedom and privacy” conflicts with an unborn child’s right to life. Within the initiative’s proposed “right to reproductive freedom and privacy,” there is a right to “abortion.” *Id.* §39-803(1). This right to abortion is inherently in conflict with the life of the unborn child (the “fetus”). This raises the further issue of whether the proposed right may conflict with the unborn child’s right to life, and thus be declared unconstitutional.

The constitutional legal protections of an unborn child have not been expressly addressed in Idaho. But an unborn child’s “inalienable right to life” was one of the earliest justifications for Idaho’s early laws criminalizing abortions. *See Planned Parenthood*, 171 Idaho at 426 (quoting an address by Dr. J.H. Lyons from the year 1907 in which he discussed the “immorality of voluntary abortion ... based on the unborn child’s ‘inalienable right’ to life by the ‘mere fact of its existence’ as a ‘human being’”). Further, Idaho law also currently recognizes that “preborn children have interests in life, health, and well-being.” *See* Idaho Code § 18-8802(1).

CERTIFICATION

I HEREBY CERTIFY that the enclosed measure has been reviewed for form, style, and matters of substantive import. The recommendations set forth above have been communicated to the Petitioner via copy of this Certificate of Review, deposited in the U.S. Mail to Melanie Folwell, P.O Box 6902, Boise, ID 83702.

Sincerely,



RAÚL R. LABRADOR
Attorney General

Analysis by:

James E. M. Craig, Division Chief
Civil Litigation and Constitutional Defense

IDAHOANS UNITED *for*
Women & Families



December 26, 2024

To the Honorable Phil McGrane
Secretary of State
Idaho Secretary of State's Office
700 W. Jefferson Street, Room E205
Boise, Idaho 83720

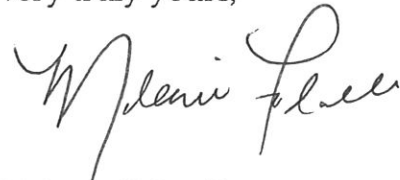
Re: Reproductive Freedom and Privacy Act Initiative – Certificate of Review

Dear Secretary McGrane,

This letter accompanies our return of the enclosed Reproductive Freedom and Privacy Act Initiative for assignment of ballot titles pursuant to Idaho Code section 34-1809(2). After reviewing the Attorney General's Certificate of Review, we did not change the text of the Initiative.

As with the prior submission of the Initiative, the Attorney General's Certificate of Review raised concerns that the Initiative's language could be interpreted as an attempt to impermissibly bind future Legislatures. Idaho Supreme Court precedent has long held that, "*initiative-based legislation [i]s subject to amendment and repeal by the legislature* because, after the law is passed, the constitutional amendment that created the initiative right placed initiative legislation 'on an equal footing' with other legislative acts." *Reclaim Idaho v. Denney*, 169 Idaho 406, 439, 497 P.3d 160, 193 (2021) (emphasis added) (citing *Luker v. Curtis*, 64 Idaho 703, 136 P.2d 978, 979 (1943)). Therefore, the language of the Initiative cannot bind future legislatures by statute, and that is neither the implied nor express intent of the Initiative. We encourage the Attorney General to take the foregoing under consideration when drafting the ballot titles.

Very truly yours,



Melanie Folwell



PHIL McGRANE
IDAHO SECRETARY OF STATE

January 10, 2025

Melanie Folwell
Idahoans United for Women and Families
P.O. Box 6902
Boise, ID 83707

Dear Ms. Folwell,

I am writing to notify you that your petition and the accompanying documents have been approved for circulation. Enclosed is a copy of the petition, signature page, and the short and long ballot titles. Also included is the transmission letter of these titles, as provided to me by the Attorney General.

Pursuant to Idaho Code § 34-1805, there shall be affixed to the petition signatures of legal voters equal in number to not less than six percent (6%) of the qualified electors at the last general election in each of at least 18 Legislative Districts; provided, however, the total number of valid signatures shall be equal to or greater than six percent (6%) (70,725 signatures) of the qualified electors of the state at the time of the last general election. The circulator must sign each signature page, have it notarized, and ensure it contains elector signatures from only one county. All paid circulators must wear a badge as described in Idaho Code § 34-1807.

According to Idaho Code § 34-1802, the last day to collect signatures is April 30, 2026. The signature sheets must be submitted to the County Clerk's Offices for verification no later than the close of business on May 1, 2026.

Please do not hesitate to contact the Secretary of State's office if you have any questions.

Sincerely,

A handwritten signature in blue ink, enclosed in a blue oval.

Phil McGrane
Secretary of State



JAN 10 2025 4:08:55
IDAHO SECRETARY OF STATE

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
RAÚL R. LABRADOR

January 10, 2025

VIA HAND DELIVERY

The Honorable Phil McGrane
Idaho Secretary of State
Statehouse

RE: Ballot Titles
Proposed Initiative for Adding a New Section to Title 39, Idaho Code,
Providing for a Right to Reproductive Freedom and Privacy.

Dear Secretary of State McGrane:

An initiative petition was filed on November 20, 2024, proposing to amend title 39 of the Idaho Code. Pursuant to Idaho Code § 34-1809, this office reviewed the petition and provided advisory comments and a certificate of review. Thereafter, the petitioners re-submitted the proposed initiative on December 27, 2024, requesting the assignment of ballot titles. In accordance with § 34-1809, this office must, within ten (10) working days, provide ballot titles for the measure, one short and one general (long) title. The short title—not exceeding twenty (20) words—shall be a distinctive title by which the measure is commonly referred to or spoken of. The general (long) title—not exceeding two hundred (200) words—shall express the purpose of the measure. The ballot titles should give a true and impartial statement of the purpose of the measure and in such language that the ballot title shall not be intentionally an argument or likely to create prejudice either for or against the measure. This letter therefore provides both the short and long ballot titles below, in accordance with Idaho Code § 34-1809. Any person dissatisfied with a ballot title provided herein may appeal to the supreme court by petition, praying for a different title and setting forth the reason why the title is insufficient or unfair.

BALLOT TITLES

I. Short Ballot Title

Measure establishing a right to abortion up to fetus viability and to make reproductive decisions regarding one's own body.

II. Long Ballot Title

The measure seeks to change Idaho's laws by introducing a right to reproductive freedom and privacy including a right to abortion up to the point of the fetus's ability to survive outside the womb. After fetal viability, there would be no general right to abortion except in cases of "medical emergency." The "medical emergency" exception would expand Idaho's current life exception and allow abortions when pregnant women face complicating physical conditions that threaten their life or health, "including serious impairment to a bodily function" or "serious dysfunction of any bodily organ or part."

The proposed measure codifies a right to make reproductive decisions, including contraception, fertility treatment, and prenatal and postpartum care. This includes a "right of privacy" in making these decisions. The measure seeks to prevent the state from enforcing certain abortion laws protecting the life of the unborn child. It would also impose a requirement that any restrictions on reproductive decisions, including abortion prior to fetus viability, must be "narrowly tailored to improve or maintain the health of the person seeking reproductive health care." The measure would also prevent the state from penalizing patients, healthcare providers, or anyone who assists in exercising the proposed right.

CERTIFICATION

I HEREBY CERTIFY that the above ballot title provides an impartial statement of purpose for the enclosed measure and satisfies the requirements of Idaho Code § 34-1809.

Sincerely,



RAÚL R. LABRADOR
Attorney General

Be it enacted by the people of the State of Idaho:

SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 8, Title 39, Idaho Code, and to read as follows:

39-801. SHORT TITLE. This act shall be known and may be cited as the “Reproductive Freedom and Privacy Act.”

39-802. STATEMENT OF PURPOSE. The Reproductive Freedom and Privacy Act recognizes that reproductive health care choices—such as the use of contraception, fertility treatments, childbirth care, miscarriage care, the decision to continue one’s own pregnancy, and abortion—are deeply private matters that should be decided by a person in consultation with their health care provider. This statute upholds a person’s rights to make their own decisions based on their own values, health care needs, and circumstances—free from the fear of external pressures or punitive consequences to them or their health care provider. The act supports a person’s right to reproductive freedom and privacy, protects the confidential nature of the patient-provider relationship, and secures a person’s right to make their own health care decisions without government interference.

39-803. REPRODUCTIVE FREEDOM AND PRIVACY ACT

1. This act establishes a right to make private reproductive health care decisions, including abortion up to fetal viability and in medical emergencies.
2. Notwithstanding any other provision of law to the contrary:
 - a. Every person has the right to reproductive freedom and privacy, which is the right to make personal decisions about reproductive health care that directly impact the person’s own body, including but not limited to the right to make decisions about:
 - i. Abortion;
 - ii. Childbirth care;
 - iii. Contraception;
 - iv. Fertility treatment;
 - v. Miscarriage care; and
 - vi. Prenatal, pregnancy, and postpartum care.
 - b. The right to reproductive freedom and privacy includes the right of privacy in making personal decisions about reproductive health care in consultation with a health care provider.
 - c. A person’s voluntary exercise of the right to reproductive freedom and privacy shall not be burdened, interfered with, discriminated against, deprived, or prohibited by the state, directly or indirectly, in any manner, unless such state action is narrowly tailored to improve or maintain the health of the person seeking reproductive health care through

the least restrictive means.

- d. Any person or entity may voluntarily advise, assist, facilitate, inform, refer, or otherwise aid another person exercising the right to reproductive freedom and privacy, and the state shall not burden, interfere with, discriminate against, deprive, or prohibit such acts, directly or indirectly, in any manner, unless such state action is narrowly tailored to improve or maintain the health of the person seeking reproductive health care through the least restrictive means.
 - e. In no case may reproductive health care provided consistent with this act by a health care provider be a basis for professional discipline, civil liability, or criminal liability as to a health care provider solely on the basis that the health care provider knowingly advised, assisted, facilitated, informed, referred, or otherwise aided a person in exercising their right to reproductive freedom and privacy.
3. Provided further that as this act specifically applies to abortion:
- a. After the point of fetal viability, it shall not be a violation of the right to reproductive freedom and privacy for the state to regulate abortion, except in cases of medical emergency.
4. The provisions of this act are to be liberally construed in favor of reproductive freedom and privacy and are intended to control over any other section of Idaho Code, consistent with the following:
- a. Nothing in this act shall be construed to limit any right or access to reproductive health care, including but not limited to abortion, that currently exists or is otherwise provided for or guaranteed by law.
 - b. This act does not create a financial obligation on the state, its agencies, or their programs to pay for, fund, or subsidize the reproductive health care protected by this act.
 - c. Nothing in this act will be deemed to bar or otherwise apply to a claim of medical malpractice against a health care provider for failing to comply with the applicable community standard of health care practice, as set forth in Section 6-1012, Idaho Code.
 - d. Nothing in this act will infringe on the protections and accommodations regarding a health care provider's freedom of conscience, as set forth in Section 18-611, Idaho Code.
 - e. If the application of any provision of this act is declared invalid for any reason including by the application thereof, such invalidity shall not affect the validity of the remaining portions of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

5. Definitions. As used in this act:

- a. "Abortion" means a medical treatment that is intended to terminate a pregnancy.
- b. "Childbirth care" means the medical treatment provided by health care providers in the processes of labor and delivery, including all stages of labor, the act of giving birth, and any medical procedures related to the delivery of a child, whether by vaginal birth or cesarean section.
- c. "Contraception" means any act of preventing pregnancy including the use of any device, drug, procedure, or biological product intended for use in the prevention of pregnancy.
- d. "Fetal viability" means the point in a pregnancy when, on the basis of a physician's good faith medical judgment, based on the facts known at the time, and determined on a case-by-case basis, the fetus has a significant likelihood of sustained survival outside of the uterus without extraordinary medical measures.
- e. "Fertility Treatment" means the treatment of infertility and related conditions, including but not limited to assisted reproductive technology and in vitro fertilization.
- f. "Health care provider" means a licensed person or an entity that provides health care or medical treatment.
- g. "Medical emergency" means a physical medical condition that, on the basis of a physician's good faith medical judgment, based on the facts known at the time, and determined on a case-by-case basis, complicates the physical medical condition of a pregnant patient as to warrant an abortion:
 - i. To protect a pregnant patient's life; or
 - ii. For which a delay may:
 - a. Place the health of a pregnant patient in serious jeopardy;
 - b. Cause serious impairment to a bodily function of a pregnant patient; or
 - c. Cause serious dysfunction of any bodily organ or part of a pregnant patient's body.
- h. "Miscarriage care" means the treatment and management of pregnancy loss.
- i. "Physician" means a person licensed to practice medicine and/or surgery or osteopathic medicine and surgery in this state as provided in Chapter 18, Title 54. A physician is a health care provider as defined in this act.
- j. "Prenatal, pregnancy, and postpartum care" means health care and other medical services provided before, during, and after childbirth, including but not limited to exams, treatments, diagnostic testing, postpartum recovery and support, and any other care necessary for the health of the patient.

- k. “Reproductive health care” means health care and other medical services related to the reproductive processes, functions, and systems. It includes but is not limited to abortion, contraception, childbirth, fertility treatment, miscarriage care, and prenatal, pregnancy, and postpartum care.

SECTION 2. This act shall be in full force and effect on and after January 1, 2027.



INITIATIVE OR REFERENDUM PETITION QUALIFYING SIGNATURE AMOUNTS

DATE OF LAST GENERAL ELECTION	STATEWIDE QUALIFYING SIGNATURE AMOUNT ¹	
November 5, 2024	Total Number of Registered Voters: 1,178,750 <i>(Includes Election Day registrations)</i>	Number of Total Qualifying Signatures Needed: 70,725

QUALIFYING SIGNATURE AMOUNTS BY LEGISLATIVE DISTRICT ²					
	Total Number of Registered Voters	Number of Qualifying Signatures Needed		Total Number of Registered Voters	Number of Qualifying Signatures Needed
Legislative District 1	41,259	2,476	Legislative District 19	42,840	2,570
Legislative District 2	38,180	2,291	Legislative District 20	36,558	2,193
Legislative District 3	41,602	2,496	Legislative District 21	35,570	2,134
Legislative District 4	33,896	2,034	Legislative District 22	38,516	2,311
Legislative District 5	37,028	2,222	Legislative District 23	32,449	1,947
Legislative District 6	37,405	2,244	Legislative District 24	30,597	1,836
Legislative District 7	34,809	2,089	Legislative District 25	27,783	1,667
Legislative District 8	33,624	2,017	Legislative District 26	30,548	1,833
Legislative District 9	32,832	1,978	Legislative District 27	25,247	1,515
Legislative District 10	42,604	2,556	Legislative District 28	31,500	1,890
Legislative District 11	24,507	1,470	Legislative District 29	31,247	1,875
Legislative District 12	30,429	1,826	Legislative District 30	28,139	1,688
Legislative District 13	29,694	1,782	Legislative District 31	34,431	2,066
Legislative District 14	43,424	2,605	Legislative District 32	30,684	1,841
Legislative District 15	33,639	2,018	Legislative District 33	28,056	1,683
Legislative District 16	32,959	1,978	Legislative District 34	25,306	1,518
Legislative District 17	32,524	1,951	Legislative District 35	35,284	2,117
Legislative District 18	33,580	2,015			

¹The total number of signatures collected must be at least 6% of the registered voters statewide at the time of the last General Election

²The qualifying number of signatures must be collected in at least 18 out of 35 districts.

shall be submitted to the qualified electors of the State of Idaho, for their approval or rejection at the regular General Election, to be held on the _____ day of November, A.D., _____, and each for himself says: **I have personally signed this petition; I am a qualified elector of the State of Idaho; my residence and post office are correctly written after my name.**

**OFFICIAL
USE ONLY**
Legislative
District

Signature	Printed Name	Residence Street and Number	City or Post Office	Date	Legislative District
1. _____	_____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____	_____
4. _____	_____	_____	_____	_____	_____
5. _____	_____	_____	_____	_____	_____
6. _____	_____	_____	_____	_____	_____
7. _____	_____	_____	_____	_____	_____
8. _____	_____	_____	_____	_____	_____
9. _____	_____	_____	_____	_____	_____
10. _____	_____	_____	_____	_____	_____
11. _____	_____	_____	_____	_____	_____
12. _____	_____	_____	_____	_____	_____
13. _____	_____	_____	_____	_____	_____
14. _____	_____	_____	_____	_____	_____
15. _____	_____	_____	_____	_____	_____
16. _____	_____	_____	_____	_____	_____
17. _____	_____	_____	_____	_____	_____
18. _____	_____	_____	_____	_____	_____
19. _____	_____	_____	_____	_____	_____
20. _____	_____	_____	_____	_____	_____

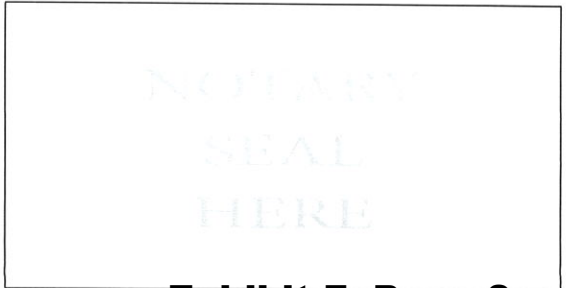
CERTIFICATION	
State of Idaho County of _____ I, _____, being first duly sworn say: That I am a resident of the State of Idaho and at least eighteen (18) years of age: that every person who signed this sheet of the foregoing petition signed his or her name thereto in my presence: I believe that each has stated his or her name address and residence correctly, that each signer is a qualified elector of the State of Idaho, and a resident of the county of _____.	
Circulator Signature: _____	Address: _____

Subscribed and sworn to before me this _____ day of _____, _____.

Notary Signature: _____

Notary Public in and for the State of Idaho, residing at _____

My Commission Expires: _____



Greg Piepmeyer

From: Melanie Folwell <melanie@iduwf.org>
Sent: Friday, January 24, 2025 5:03 PM
To: Greg Piepmeyer
Subject: Public Records Request

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Mr. Piepmeyer,

I am requesting public records within DFM related to the Reproductive Freedom and Privacy Act Ballot initiative that was submitted to the Idaho Secretary of State in August and November 2024 including communications and records related to the preparation of the fiscal impact statements, including communications between individuals at DFM, Department of Health and Welfare, the Office of the Governor, including records related to historical funding for abortion through Medicaid or other programs prepared by the Department Health and Welfare. Thank you for your help in this matter.

With regards,

Melanie Folwell

Ballot initiative: Reproductive freedom and Privacy Act

100 Word Fiscal Impact

September 11, 2024

The laws affected by the ballot initiative do not impact income taxes, sales tax, or product taxes. Consequently we find there is no revenue impact to the General Fund.

Laws affected by the ballot initiative could change state government expenditures. Changes in costs associated with the Medicaid populations and prisoner population may occur; see Idaho Codes 20-237B and 56-255 and the Medicaid references from Health and Welfare. These costs would vary depending upon those populations and upon the extent to which the new provisions from the ballot initiative expand rights already present under Idaho Code 18-622 with regards to reproduction.

Ballot initiative: Reproductive freedom and Privacy Act

100 Word Fiscal Impact

September 16, 2024

The laws affected by the ballot initiative do not impact income taxes, sales tax, or product taxes. Consequently we find there is no revenue impact to the General Fund.

Laws affected by the ballot initiative could change state government expenditures. Changes in costs associated with the Medicaid populations and prisoner population may occur; see Idaho Codes 20-237B and 56-255 and the Medicaid references from Health and Welfare. These costs would vary depending upon those populations and upon the extent to which the new provisions from the ballot initiative expand rights already present under Idaho Code 18-622 with regards to reproduction.

Assumptions

Changes in costs associated with the ballot initiative could impact IDOC and Medicaid budgets, but the amount of those costs would be dependent the frequency of need for reproductive services within the agencies. Since neither of the agencies reverted funding when the law changed in 2022, it could be assumed that additional costs could be absorbed in the corrections and health and welfare budgets should the ballot initiative pass.

Ballot initiative: Reproductive freedom and Privacy Act

100 Word Fiscal Impact

December 17, 2024

The laws affected by the initiative would not impact income, sales, or product taxes. There is no revenue impact to the General Fund found.

The initiative could change state expenditures in minor ways. Costs associated with the Medicaid and prisoner populations may occur; see Idaho Codes 20-237B and 56-255 and the Medicaid references from Health and Welfare.

Passage of this initiative is likely to cost less than \$20,000 per year. The Medicaid budget for providing services was about \$850 million in FY2024. If passed, nominal costs in the context of the affected total budget are insignificant to the state.

Assumptions

Changes in costs associated with the ballot initiative could impact state funding expenditures for Corrections and Medicaid budgets. The amount of those costs would be dependent on the frequency of need for reproductive services within the agencies. The manner of the budget impacts would be different for Corrections due to the health care provisions used by the agency; there is no expected changes to the Corrections health care budget. Billing history prior to the Dobbs decision suggests that \$20,000 per year is a conservative over-estimate of the costs. Neither of these agencies reverted funding when the Dobbs decision was made in 2022 (and already established legislation in Idaho code took effect). It is assumed that any additional costs due to the passage of this ballot initiative could be absorbed in the Corrections and Health and Welfare budgets should the ballot initiative pass.

Greg Piepmeyer

From: Charron, Juliet - CO 9th <Juliet.Charron@dhw.idaho.gov>
Sent: Thursday, December 12, 2024 9:04 AM
To: Greg Piepmeyer
Subject: RE: Medicaid question on the possible blurry line between medical necessity and elective [EXTERNAL EMAIL]

Greg-

I left my work cell at home this morning and my desk phone doesn't consistently ring through. Please call my personal cell at [REDACTED] at 10.

Thanks!

Juliet Charron
Deputy Director, Medicaid & Behavioral Health
Office of the Director | Idaho Department of Health and Welfare
208-364-1804 desk
Juliet.Charron@dhw.idaho.gov

Make a difference in the life of a child. [Get started](#) as an Idaho foster parent today.

From: Greg Piepmeyer <Greg.Piepmeyer@dfm.idaho.gov>
Sent: Friday, December 6, 2024 2:54 PM
To: Charron, Juliet - CO 9th <Juliet.Charron@dhw.idaho.gov>
Subject: Re: Medicaid question on the possible blurry line between medical necessity and elective [EXTERNAL EMAIL]

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Dear Juliet,

the initiative resurfaced. They are still wanting to include the language that there is no cost to the state. Matthew's replacement (Matt's your Medicaid forecast addition) is now here. Would you have some time Wed. or Thurs. for a ~10 min phone conversation both to bring her up to speed and to make sure that I'm with it as well?

Our reading is much the same, but I think we're likely to want to confirm that and then go to the Secretary of State's office on coming up with some boilerplate language for "positive but small" and similarly "positive but not substantial".

Greg

..

From: Charron, Juliet - CO 9th <Juliet.Charron@dhw.idaho.gov>
Sent: Wednesday, October 30, 2024 11:27 AM
To: Greg Piepmeyer <Greg.Piepmeyer@dfm.idaho.gov>
Cc: Adams, Alex - CO 10th <Alex.Adams@dhw.idaho.gov>
Subject: RE: Medicaid question on the possible blurry line between medical necessity and elective [EXTERNAL EMAIL]

Greg-

Numbers below. Most of these claims were denied meaning we didn't pay. I included total billed and then total paid after denied claims removed.

2018: 2 claims billed totaling \$2,576 and \$0 paid. Both claims denied.
2019: 5 claims billed totaling \$9,795 and \$500 paid. 4 claims denied.
2020: 4 claims billed totaling \$24,323 and \$9,591 paid. 2 claims denied.
2021: 2 claims billed totaling \$13,806 and \$0 paid. Both claims denied.
2022: No claims billed.

Let me know if you need anything additional.

-Juliet

Juliet Charron
Deputy Director, Medicaid & Behavioral Health
Office of the Director | Idaho Department of Health and Welfare
208-364-1804 desk
Juliet.Charron@dhw.idaho.gov

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From: Greg Piepmeyer <Greg.Piepmeyer@dfm.idaho.gov>
Sent: Tuesday, October 29, 2024 10:26 AM
To: Charron, Juliet - CO 9th <Juliet.Charron@dhw.idaho.gov>
Subject: Re: Medicaid question on the possible blurry line between medical necessity and elective [EXTERNAL EMAIL]

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Dear Juliet,

checking in to see if the impression
1--25 cases per yea
10k--250k costs per year
is what the data say.

Greg

..

From: Charron, Juliet - CO 9th <Juliet.Charron@dhw.idaho.gov>
Sent: Wednesday, October 23, 2024 6:41 AM
To: Greg Piepmeyer <Greg.Piepmeyer@dfm.idaho.gov>
Subject: RE: Medicaid question on the possible blurry line between medical necessity and elective [EXTERNAL EMAIL]

Great. I will run down to the lobby to meet you.

Juliet Charron
Deputy Director, Medicaid & Behavioral Health
Office of the Director | Idaho Department of Health and Welfare
208-364-1804 desk
Juliet.Charron@dhw.idaho.gov

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From: Greg Piepmeyer <Greg.Piepmeyer@dfm.idaho.gov>
Sent: Tuesday, October 22, 2024 6:09 PM
To: Charron, Juliet - CO 9th <Juliet.Charron@dhw.idaho.gov>
Subject: RE: Medicaid question on the possible blurry line between medical necessity and elective [EXTERNAL EMAIL]

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Thanks Juliet,

I'd be happy to stop by on Thursday at 2:30.

Greg

..

From: Charron, Juliet - CO 9th <Juliet.Charron@dhw.idaho.gov>
Sent: Tuesday, October 22, 2024 5:07 PM
To: Greg Piepmeyer <Greg.Piepmeyer@dfm.idaho.gov>
Subject: RE: Medicaid question on the possible blurry line between medical necessity and elective [EXTERNAL EMAIL]

Hi Greg-

Happy to chat via phone or in-person. I am available at 2:30 on Thursday or 10 on Friday. Do either of those work for you?

Thanks,
Juliet

Juliet Charron
Deputy Director, Medicaid & Behavioral Health
Office of the Director | Idaho Department of Health and Welfare
208-364-1804 desk
Juliet.Charron@dhw.idaho.gov

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From: Greg Piepmeyer <Greg.Piepmeyer@dfm.idaho.gov>

Sent: Tuesday, October 22, 2024 4:48 PM

To: Charron, Juliet - CO 9th <Juliet.Charron@dhw.idaho.gov>

Subject: Medicaid question on the possible blurry line between medical necessity and elective [EXTERNAL EMAIL]

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Dear Juliet,

Hannah (DFM) suggested that you might be able to provide some context on that subject. The source of my inquiry is a resubmission of a ballot initiative to score; the initiative is on "reproductive freedom". The initiative aims to add to 39-8 (currently repealed). Part of the wording that is included in the revamped initiative in the proposal is: "nothing in this section shall be construed to impose a financial obligation on the state, its agencies, or their programs for delivery of health care services protected by this section" and the issue I would like to understand a bit is how that might interact with 56-255 closing sentence of (1) and (5)(a)(i, iii, or vi) as well as 20-237B(1) given that the initiative seeks to undo 18-622.

I understand that this might be something which a phone or in-person conversation might be appreciated rather than an email exchange. Feel free to consider that,

Greg

Chief Economist

DFM

208 854 3071

..

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Greg Piepmeyer

From: Charron, Juliet - CO 9th <Juliet.Charron@dhw.idaho.gov>
Sent: Sunday, December 15, 2024 10:23 AM
To: Greg Piepmeyer
Subject: RE: wording [EXTERNAL EMAIL]

Overall looks fine to me. A couple of questions below in blue.

The initiative could change state expenditures in minor ways. Costs associated with the Medicaid and prisoner populations may occur; see Idaho Codes 20-237B and 56-255 and the Medicaid references from Health and Welfare.

Passage of this initiative is likely to cost less than \$20,000 per year. The Medicaid budget for providing services was about \$850 million in FY2024 Assuming you are only capturing state funds?. If passed, nominal costs in the context of the affected total budget are insignificant to the state.

Assumptions:

Changes in costs associated with the ballot initiative could impact Corrections and Medicaid budgets. The amount of those costs would be dependent on the frequency of need for reproductive services within the agencies. The manner of the budget impacts would be different for Corrections due to the health care provisions used by the agency; there is no expected changes to the Corrections health care budget. Billing history prior to the Dobbs decision suggests that \$20,000 per year is a conservative over-estimate of the costs. The \$20,000 is an over-estimate and bolstered by the fact that neither of these agencies reverted funding Here are you referring to end of year reversion for our overall Medicaid budget or just this service? when the Dobbs decision was made in 2022 (and already established legislation in Idaho code took effect). It is assumed that any additional costs due to the passage of this ballot initiative could be absorbed in the Corrections and Health and Welfare budgets should the ballot initiative pass.

Juliet Charron
Deputy Director, Medicaid & Behavioral Health
Office of the Director | Idaho Department of Health and Welfare
208-364-1804 desk
Juliet.Charron@dhw.idaho.gov

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From: Greg Piepmeyer <Greg.Piepmeyer@dfm.idaho.gov>
Sent: Friday, December 13, 2024 12:37 PM
To: Charron, Juliet - CO 9th <Juliet.Charron@dhw.idaho.gov>
Subject: Fw: wording [EXTERNAL EMAIL]

CAUTION: This email originated outside the Department of Health and Welfare's network. Verify links and attachments BEFORE you click or open, even if you recognize or trust the sender.

Dear Juliet,

this is the working draft.
Note the last sentence, which was the type of thing our call was aiming to draft. We would | again provide the hyperlinks.

Greg

..

100 word:

The laws affected by the initiative would not impact income, sales, or product taxes. There is no revenue impact to the General Fund found.

The initiative could change state expenditures in minor ways. Costs associated with the Medicaid and prisoner populations may occur; see Idaho Codes 20-237B and 56-255 and the Medicaid references from Health and Welfare.

Passage of this initiative is likely to cost less than \$20,000 per year. The Medicaid budget for providing services was about \$850 million in FY2024. If passed, nominal costs in the context of the affected total budget are insignificant to the state.

Assumptions:

Changes in costs associated with the ballot initiative could impact Corrections and Medicaid budgets. The amount of those costs would be dependent on the frequency of need for reproductive services

within the agencies. The manner of the budget impacts would be different for Corrections due to the health care provisions used by the agency; there is no expected changes to the Corrections health care budget. Billing history prior to the Dobbs decision suggests that \$20,000 per year is a conservative over-estimate of the costs. The \$20,000 is an over-estimate and bolstered by the fact that neither of these agencies reverted funding when the Dobbs decision was made in 2022 (and already established legislation in Idaho code took effect). It is assumed that any additional costs due to the passage of this ballot initiative could be absorbed in the Corrections and Health and Welfare budgets should the ballot initiative pass.

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Aim: convey the costs are above zero, but in one or more ways, insignificant:

1. They could be nominal, say <\$100,000/yr
2. They could be a very small percentage of operating expenditures or trustee and benefit payments of the affected agency(s).

This would exclude if it required new personnel.

Slight: 0.25%

For this one: insignificant (0.002%)

Context: This example is likely to cost the affected agency <\$20,000/year. The Medicaid budget is about \$850 million, of which about 99% of that is operating expenditures or trustee and benefit payments.

Assumptions: Analysis is based on four years of history prior to the Dobbs decision but still under the Hyde amendment. Actual percent of budget

Another example: DFM could have hired to have a person to do these initiative costs, but it would not amount to more than a few hours per week when spread across the year. The legislation causing this conversation would fit the same category in that DFM does not, and would not, require additional personnel or funding to accommodate this need. To this point, it is unlikely for the affected agency to request any additional funds and the costs would be absorbed by the current appropriation.

Overall cost is small:

Overall cost for the agency is small:

Additional personnel vs. hours:

-Additional personnel:

-Additional hours for existing personnel:

Greg Piepmeyer

From: Nicole Fitzgerald <nfitzgerald@sos.idaho.gov>
Sent: Monday, December 9, 2024 11:27 AM
To: Greg Piepmeyer
Cc: Rob McQuade; Erin Phipps
Subject: RE: [External] resurfaced abortion initiative

Hi Greg,

Yes, that works for us. Do you want to meet in person or via Teams?

Thanks!
Nicole

From: Greg Piepmeyer <Greg.Piepmeyer@dfm.idaho.gov>
Sent: Monday, December 9, 2024 11:04 AM
To: Nicole Fitzgerald <nfitzgerald@sos.idaho.gov>
Cc: Rob McQuade <rmcquade@sos.idaho.gov>; Erin Phipps <Erin.Phipps@dfm.idaho.gov>
Subject: Re: [External] resurfaced abortion initiative

Dear Nicole,

could we try for the 11 on Wednesday?

Greg

..

From: Nicole Fitzgerald <nfitzgerald@sos.idaho.gov>
Sent: Friday, December 6, 2024 4:04 PM
To: Greg Piepmeyer <Greg.Piepmeyer@dfm.idaho.gov>
Cc: Rob McQuade <rmcquade@sos.idaho.gov>
Subject: RE: [External] resurfaced abortion initiative

Hi Greg,

Thanks for reaching out. We'd love to meet. Do you have time on Tuesday after 3 or Wednesday morning, either at 9 a.m. or 11 a.m.?

Have a great weekend,



Nicole Fitzgerald
Chief Deputy Secretary of State
Office of the Idaho Secretary of State
Direct: (208) 332-2862
Email: nfitzgerald@sos.idaho.gov
700 W Jefferson St, E205

From: Greg Piepmeyer <Greg.Piepmeyer@dfm.idaho.gov>
Sent: Friday, December 6, 2024 2:58 PM
To: Nicole Fitzgerald <nfitzgerald@sos.idaho.gov>
Cc: Rob McQuade <rmcquade@sos.idaho.gov>
Subject: [External] resurfaced abortion initiative

Dear Nicole and Rob,

would you have some small amount of time towards the end of next week to spare for a bit of drafting assistance? It looks to me like DFM will need to come up with some type of standard language for indicating that the costs are "positive but small" or "positive but not significant in terms of the budgets to which this applies", else all initiative drafters will include some language that there is no cost to the state when indeed there will be some, even if they are de minimis, or (and this would be worse) if they would be substantial.

Greg

..

Greg Piepmeyer

From: Nicole Fitzgerald <nfitzgerald@sos.idaho.gov>
Sent: Monday, September 16, 2024 3:44 PM
To: Greg Piepmeyer; Secretary of State
Cc: Lori Wolff; Rob McQuade
Subject: RE: [External] Re: ballot initiatives on reproductive rights

Thanks, Greg!

From: Greg Piepmeyer <Greg.Piepmeyer@dfm.idaho.gov>
Sent: Monday, September 16, 2024 3:41 PM
To: Secretary of State <secretary@sos.idaho.gov>
Cc: Nicole Fitzgerald <nfitzgerald@sos.idaho.gov>; Lori Wolff <lori.wolff@dfm.idaho.gov>; Rob McQuade <rmcquade@sos.idaho.gov>
Subject: [External] Re: ballot initiatives on reproductive rights

Repeat email: Sept 16, 2024

Dear Secretary of State's office,

attached are four copies of the fiscal impact statement for the four related ballot initiatives on "Reproductive Freedom and Privacy Act". These have the 100-word statement and the Assumption.

Greg

..

From: Greg Piepmeyer <Greg.Piepmeyer@dfm.idaho.gov>
Sent: Monday, September 16, 2024 3:19 PM
To: secretary@sos.idaho.gov <secretary@sos.idaho.gov>
Cc: Nicole Fitzgerald <nfitzgerald@sos.idaho.gov>; Lori Wolff <lori.wolff@dfm.idaho.gov>
Subject: Re: ballot initiatives on reproductive rights

Dear Secretary of State's office,

attached are four copies of the fiscal impact statement for the four related ballot initiatives on "Reproductive Freedom and Privacy Act". These have the 100-word statement and the Assumption.

Greg

..

From: Greg Piepmeyer

Sent: Wednesday, September 11, 2024 1:47 PM

To: secretary@sos.idaho.gov <secretary@sos.idaho.gov>

Cc: Nicole Fitzgerald <nfitzgerald@sos.idaho.gov>; Lori Wolff <lori.wolff@dfm.idaho.gov>

Subject: ballot initiatives on reproductive rights

Dear Secretary of State's office,


Attached are four copies of the DFM 100-word fiscal impact for the four related ballot initiatives. The impact for the four versions of the initiative are all the same, so the write-up is identical (and yes, only three of the cover letters from the petitioner use the title "Reproductive Freedom and Privacy Act", one not giving a title at all). Four are returned in case that aids your record keeping.

Greg

..

From: Lori Wolff <lori.wolff@dfm.idaho.gov>
Sent: Sunday, September 15, 2024 9:48 AM
To: Nicole Fitzgerald <nfitzgerald@sos.idaho.gov>; Greg Piepmeyer <Greg.Piepmeyer@dfm.idaho.gov>
Cc: Rob McQuade <rmcquade@sos.idaho.gov>
Subject: Re: [External] ballot initiatives on reproductive rights

Hi Nicole. In reviewing this with Greg, since there is no fiscal impact to the general fund, there aren't really assumptions to share. In reading the proposed initiative, there is no impact to state dollars from a revenue or expenditure perspective. Greg did share the potential impacts on other agencies such as IDOC if there are requirements they have to comply with when and if the initiative passes.

Call me tomorrow if you want to discuss further. 

Thank you!

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From: Nicole Fitzgerald <nfitzgerald@sos.idaho.gov>
Sent: Friday, September 13, 2024 4:57:18 PM
To: Greg Piepmeyer <Greg.Piepmeyer@dfm.idaho.gov>

Cc: Rob McQuade <rmcquade@sos.idaho.gov>; Lori Wolff <lori.wolff@dfm.idaho.gov>

Subject: RE: [External] ballot initiatives on reproductive rights

Hi Greg,

In reviewing the fiscal impact statement, we don't see the "more detailed statement of fiscal impact that includes the assumptions that were made to develop the fiscal impact" per [34-1812\(3\)](#). We only see the 100-word summary of the fiscal impact statement. Do you have the more detailed statement you can send us on Monday?

Let me know if you'd like to have a quick phone call Monday morning.

Thanks,



Nicole Fitzgerald

Chief Deputy Secretary of State
Office of the Idaho Secretary of State

Direct: (208) 332-2862

Email: nfitzgerald@sos.idaho.gov

700 W Jefferson St, E205

VOTE IDAHO

From: Rob McQuade <rmcquade@sos.idaho.gov>

Sent: Friday, September 13, 2024 4:20 PM

To: Nicole Fitzgerald <nfitzgerald@sos.idaho.gov>

Subject: RE: [External] ballot initiatives on reproductive rights

Hey Nicole,

Thanks for forwarding these on. As we discussed, I don't see the "more detailed statement of fiscal impact that includes the assumptions that were made to develop the fiscal impact" per 34-1812(3). I only see the 100 word summary of the fiscal impact statement.

All the best,

Rob

From: Greg Piepmeyer <Greg.Piepmeyer@dfm.idaho.gov>
Sent: Wednesday, September 11, 2024 1:47 PM
To: Secretary of State <secretary@sos.idaho.gov>
Cc: Nicole Fitzgerald <nfitzgerald@sos.idaho.gov>; Lori Wolff <lori.wolff@dfm.idaho.gov>
Subject: [External] ballot initiatives on reproductive rights

Dear Secretary of State's office,

Attached are four copies of the DFM 100-word fiscal impact for the four related ballot initiatives. The impact for the four versions of the initiative are all the same, so the write-up is identical (and yes, only three of the cover letters from the petitioner use the title

"Reproductive Freedom and Privacy Act", one not giving a title at all). Four are returned in case that aids your

record keeping.

Greg

..

Greg Piepmeyer

From: Greg Piepmeyer
Sent: Saturday, September 14, 2024 11:18 AM
To: Lori Wolff
Subject: Re: [External] ballot initiatives on reproductive rights

Dear Lori,

I would probably send back that there aren't any assumptions present --- it is just a reading of the current law.

Assumptions might entail female prison population of the appropriate ages, rate of incarceration soon after pregnancy, rate of pregnancy occurring due to events within prison, and the rate at which each of these is already ascribed to rape or incest, and the rate at which those might be ascribed to those events in the presence of law changes. None of those are ones into which DFM ought to wade. Similar considerations apply to the Medicaid population, but with (probably reasonably) different rates.

Greg

..

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Greg

..

Greg Piepmeyer

From: Lori Wolff
Sent: Sunday, September 15, 2024 9:49 AM
To: Nicole Fitzgerald; Greg Piepmeyer
Cc: Rob McQuade
Subject: Re: [External] ballot initiatives on reproductive rights

Hi Nicole. In reviewing this with Greg, since there is no fiscal impact to the general fund, there aren't really assumptions to share. In reading the proposed initiative, there is no impact to state dollars from a revenue or expenditure perspective. Greg did share the potential impacts on other agencies such as IDOC if there are requirements they have to comply with when and if the initiative passes.

Call me tomorrow if you want to discuss further. [REDACTED]

Thank you!

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VOTEIDAHO

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