

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 2

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE NO FUNDS FOR ABORTION ACT; AMENDING SECTION 18-5701, IDAHO
2 CODE, TO REVISE A PROVISION REGARDING MISUSE OF PUBLIC MONEYS BY PUBLIC
3 OFFICERS AND EMPLOYEES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING THE
4 HEADING FOR CHAPTER 87, TITLE 18, IDAHO CODE; AMENDING SECTION 18-8701,
5 IDAHO CODE, TO REVISE THE SHORT TITLE; AMENDING SECTION 18-8703, IDAHO
6 CODE, TO PROVIDE THAT EXEMPTIONS SHALL NOT APPLY IN CERTAIN INSTANCES
7 AND TO PROVIDE A PENALTY; AMENDING SECTION 18-8704, IDAHO CODE, TO PRO-
8 VIDE THAT EXEMPTIONS SHALL NOT APPLY IN CERTAIN INSTANCES AND TO PROVIDE
9 A PENALTY; AMENDING SECTION 18-8705, IDAHO CODE, TO CLARIFY TERMINOL-
10 OGY, TO PROVIDE THAT EXEMPTIONS SHALL NOT APPLY IN CERTAIN INSTANCES,
11 AND TO PROVIDE A PENALTY; AMENDING SECTION 18-8706, IDAHO CODE, TO
12 PROVIDE A PENALTY; AMENDING SECTION 18-8707, IDAHO CODE, TO PROVIDE A
13 PENALTY; AMENDING SECTION 18-8708, IDAHO CODE, TO PROVIDE THAT EXEMP-
14 TIONS SHALL NOT APPLY IN CERTAIN INSTANCES AND TO PROVIDE A PENALTY;
15 REPEALING SECTION 18-8709, IDAHO CODE, RELATING TO A PENALTY FOR A VIO-
16 LATION; AMENDING CHAPTER 87, TITLE 18, IDAHO CODE, BY THE ADDITION OF A
17 NEW SECTION 18-8709, IDAHO CODE, TO PROVIDE FOR THE WITHHOLDING OF SALES
18 AND USE TAX IN CERTAIN INSTANCES; PROVIDING SEVERABILITY; AND DECLARING
19 AN EMERGENCY.
20

21 Be It Enacted by the Legislature of the State of Idaho:

22 SECTION 1. That Section 18-5701, Idaho Code, be, and the same is hereby
23 amended to read as follows:

24 18-5701. MISUSE OF PUBLIC MONEYS BY PUBLIC OFFICERS AND PUBLIC EMPLOY-
25 EES. No public officer or public employee shall:

26 (1) Without authority of law, appropriate public moneys or any portion
27 thereof to his own use, or to the use of another; or

28 (2) Loan public moneys or any portion thereof; or, having the posses-
29 sion or control of any public moneys, make a profit, directly or indirectly
30 out of public moneys, or use public moneys for any purpose not authorized by
31 law; or

32 (3) Fail to keep public moneys in his possession until disbursed or paid
33 out by authority of law when legally required to do so; or

34 (4) Deposit public moneys or any portion thereof in any bank, or with
35 any banker or other person, ~~otherwise~~ other than on special deposit, or as
36 otherwise authorized by law; or

37 (5) Change or convert public moneys or any portion thereof from coin
38 into currency, or from currency into coin or other currency, without author-
39 ity of law; or

40 (6) Knowingly keep any false account, or make any false entry or erasure
41 in any account of or relating to public moneys; or fraudulently alter, fal-
42 sify, conceal, destroy or obliterate any such account; or

1 (7) Willfully refuse or omit to pay over, on demand, any public moneys
2 in his hands, upon the presentation of a draft, order or warrant drawn upon
3 such public moneys by competent authority; or

4 (8) Willfully omit to transfer public moneys when such transfer is re-
5 quired by law; or

6 (9) Willfully omit or refuse to pay over to any public officer, employee
7 or person authorized by law to receive the same, any public moneys received
8 by him under any duty imposed by law so to pay over the same; or

9 (10) Knowingly use any public moneys, or financial transaction card,
10 financial transaction card account number or credit account issued to or for
11 the benefit of any governmental entity, to make any purchase, loan, guaran-
12 tee or advance of moneys for any personal purpose ~~or~~, for any purpose other
13 than for the use or benefit of the governmental entity, or for any purpose
14 proscribed by law.

15 SECTION 2. That the Heading for Chapter 87, Title 18, Idaho Code, be,
16 and the same is hereby amended to read as follows:

17 CHAPTER 87
18 NO PUBLIC FUNDS FOR ABORTION ACT

19 SECTION 3. That Section 18-8701, Idaho Code, be, and the same is hereby
20 amended to read as follows:

21 18-8701. SHORT TITLE. This chapter shall be known and may be cited as
22 the "No Public Funds for Abortion Act."

23 SECTION 4. That Section 18-8703, Idaho Code, be, and the same is hereby
24 amended to read as follows:

25 18-8703. GOVERNMENT CONTRACTS WITH ABORTION PROVIDERS OR THEIR AFFIL-
26 IATES PROHIBITED. (1) The state, a county, a city, a public health district,
27 a public school district, or any local political subdivision thereof may not
28 enter into any contract or commercial transaction with an abortion provider
29 or an affiliate of an abortion provider.

30 (2) Subsection (1) of this section shall not apply to:

31 (a) A contract or commercial transaction that is subject to a federal
32 law related to medicaid; or

33 (b) A hospital, as defined in section 39-1301, Idaho Code.

34 (3) The exemptions provided for in subsection (2) of this section
35 shall not apply to any abortion considered unlawful under section 18-622 or
36 18-8804, Idaho Code.

37 (4) Any public officer or public employee who knowingly violates the
38 provisions of this section shall be in violation of section 18-5701(10),
39 Idaho Code, for misuse of public moneys and shall be subject to punishment
40 under section 18-5702, Idaho Code.

41 SECTION 5. That Section 18-8704, Idaho Code, be, and the same is hereby
42 amended to read as follows:

1 18-8704. CONTRACTS FOR ABORTION PROCEDURES PROHIBITED. (1) No health
 2 care facility owned or operated by the state, a county, a city, a public
 3 health district, a public school district, or any political subdivision or
 4 agency thereof shall enter into any contract or commercial transaction with
 5 any health care provider or health care facility under the terms of which
 6 such health care provider or health care facility agrees to provide, per-
 7 form, or induce an abortion, except when the life of the mother is endangered
 8 by a physical disorder, physical illness, or physical injury, including a
 9 life-endangering physical condition caused by or arising from the pregnancy
 10 itself.

11 (2) Subsection (1) of this section shall not apply to:

12 (a) A contract or commercial transaction that is subject to a federal
 13 law related to medicaid; or

14 (b) A hospital, as defined in section 39-1301, Idaho Code.

15 (3) The exemptions provided for in subsection (2) of this section
 16 shall not apply to any abortion considered unlawful under section 18-622 or
 17 18-8804, Idaho Code.

18 (4) Any public officer or public employee who knowingly violates the
 19 provisions of this section shall be in violation of section 18-5701(10),
 20 Idaho Code, for misuse of public moneys and shall be subject to punishment
 21 under section 18-5702, Idaho Code.

22 SECTION 6. That Section 18-8705, Idaho Code, be, and the same is hereby
 23 amended to read as follows:

24 18-8705. USE OF PUBLIC FUNDS FOR ABORTION PROHIBITED. (1) No pub-
 25 lic funds made available by the state, a county, a city, a public health
 26 district, a public school district, or any local political subdivision or
 27 agency thereof and distributed by any institution, board, commission, de-
 28 partment, agency, official, or employee of the state, a county, a city, a
 29 public health district, a public school district, or any local political
 30 subdivision or agency thereof shall be used in any way to provide, perform,
 31 or induce an abortion; assist in the provision or performance of an abor-
 32 tion; promote abortion; counsel in favor of abortion; refer for abortion; or
 33 provide facilities for an abortion or for training to provide or perform an
 34 abortion. As used in this subsection, the term "promote" shall not be inter-
 35 preted as preventing any classroom discussion on the subject of abortion at a
 36 school, college, or university.

37 (2) No person, agency, organization, or any other party that receives
 38 funds authorized by the state, a county, a city, a public health district, a
 39 public school district, or any local political subdivision or agency thereof
 40 may use those funds to perform or promote abortion, provide counseling in fa-
 41 vor of abortion, make referral for abortion, or provide facilities for abor-
 42 tion or for training to provide or perform abortion. As used in this subsec-
 43 tion, the term "promote" shall not be interpreted as preventing any class-
 44 room discussion on the subject of abortion at a school, college, or univer-
 45 sity.

46 (3) No fund or committee authorized by Idaho Code for the special pro-
 47 tection of women or children shall be authorized to use or distribute public
 48 funds for payment for abortion, abortion referrals, abortion counseling, or
 49 abortion-related medical or social services.

1 (4) The provisions of subsections (1), (2), and (3) of this section
2 shall not apply to:

3 (a) An abortion performed when the life of the mother is endangered by
4 a physical disorder, physical illness, or physical injury, including a
5 life-endangering physical condition caused by or arising from the preg-
6 nancy itself;

7 (b) A hospital, as defined in section 39-1301, Idaho Code; or

8 (c) A contract or commercial transaction that is subject to a federal
9 law related to medicaid.

10 (5) The exemptions provided for in subsection (4) of this section
11 shall not apply to any abortion considered unlawful under section 18-622 or
12 18-8804, Idaho Code.

13 (6) Any public officer or public employee who knowingly violates the
14 provisions of this section shall be in violation of section 18-5701(10),
15 Idaho Code, for misuse of public moneys and shall be subject to punishment
16 under section 18-5702, Idaho Code.

17 SECTION 7. That Section 18-8706, Idaho Code, be, and the same is hereby
18 amended to read as follows:

19 18-8706. USE OF SCHOOL TUITION AND FEES FOR ABORTION PROHIBITED. (1)
20 No part of any tuition or fees paid to a public institution of higher educa-
21 tion shall be used in any way to pay for an abortion, provide or perform an
22 abortion, provide counseling in favor of abortion, make a referral for abor-
23 tion, or provide facilities for an abortion or for training to provide or
24 perform abortion.

25 (2) Any public officer or public employee who knowingly violates the
26 provisions of this section shall be in violation of section 18-5701(10),
27 Idaho Code, for misuse of public moneys and shall be subject to punishment
28 under section 18-5702, Idaho Code.

29 SECTION 8. That Section 18-8707, Idaho Code, be, and the same is hereby
30 amended to read as follows:

31 18-8707. ABORTION-RELATED ACTIVITIES PROHIBITED IN SCHOOL-BASED
32 HEALTH CLINICS. (1) No facility operated at a public institution of higher
33 education or operated by a public school district shall provide any of the
34 following services to any person:

35 (a) Providing or performing an abortion;

36 (b) Counseling in favor of abortion;

37 (c) Referring for abortion; or

38 (d) Dispensing a drug classified as emergency contraception by the food
39 and drug administration (FDA), except in the case of rape as defined in
40 section 18-6101, Idaho Code.

41 (2) No employee of a public institution of higher education or a public
42 school, acting within the scope of such person's employment, shall provide
43 any of the following services to any person:

44 (a) Providing or performing an abortion;

45 (b) Counseling in favor of abortion;

46 (c) Referring for abortion; or

1 (d) Dispensing a drug classified as emergency contraception by the FDA,
2 except in the case of rape as defined in section 18-6101, Idaho Code.

3 (3) The state department of education, state board of education, or
4 other state agencies and local units of administration are prohibited from
5 using state funds to provide or procure an abortion or distribute drugs clas-
6 sified as emergency contraception by the FDA, except in the case of rape as
7 defined in section 18-6101, Idaho Code.

8 (4) Any public officer or public employee who knowingly violates the
9 provisions of this section shall be in violation of section 18-5701(10),
10 Idaho Code, for misuse of public moneys and shall be subject to punishment
11 under section 18-5702, Idaho Code.

12 SECTION 9. That Section 18-8708, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 18-8708. USE OF PUBLIC FACILITIES AND ASSETS FOR ABORTION PROHIB-
15 ITED. (1) No public institution, public facility, public equipment, or other
16 physical asset owned, leased, or controlled by this state, a county, a city,
17 a public health district, a public school district, or any local political
18 subdivision or agency thereof shall be used for the purpose of providing,
19 performing, or participating in an abortion.

20 (2) No public institution or facility shall lease, sell, or permit the
21 subleasing of its facilities or property to any physician or health care fa-
22 cility for use in the provision or performance of abortion.

23 (3) The provisions of subsections (1) and (2) of this section shall not
24 apply to:

25 (a) An abortion performed when the life of the mother is endangered by
26 a physical disorder, physical illness, or physical injury, including a
27 life-endangering physical condition caused by or arising from the preg-
28 nancy itself;

29 (b) A hospital, as defined in section 39-1301, Idaho Code; or

30 (c) A contract or commercial transaction that is subject to a federal
31 law related to medicaid.

32 (4) The exemptions provided for in subsection (3) of this section
33 shall not apply to any abortion considered unlawful under section 18-622 or
34 18-8804, Idaho Code.

35 (5) Any public officer or public employee who knowingly violates the
36 provisions of this section shall be in violation of section 18-5701(10),
37 Idaho Code, for misuse of public moneys and shall be subject to punishment
38 under section 18-5702, Idaho Code.

39 SECTION 10. That Section [18-8709](#), Idaho Code, be, and the same is hereby
40 repealed.

41 SECTION 11. That Chapter 87, Title 18, Idaho Code, be, and the same is
42 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
43 ignated as Section 18-8709, Idaho Code, and to read as follows:

44 18-8709. SALES AND USE TAX WITHHOLDING. (1) Any mayor, council, board
45 of commissioners, or any other governing body of a city or county governmen-
46 tal entity that issues an ordinance, resolution, executive order, procla-

1 mation, or similar official directive refusing to enforce the provisions of
2 section 18-622 or 18-8804, Idaho Code, or any other Idaho criminal abortion
3 statute in effect, shall not be eligible to receive sales and use tax revenue
4 distributions pursuant to section 63-3638, Idaho Code. Such funds shall
5 be held back until the city or county governmental entity has certified to
6 the state tax commission that such ordinance, resolution, executive order,
7 proclamation, or similar official directive has been repealed or rescinded.

8 (2) If a repeal or rescission is certified within one hundred eighty
9 (180) days of the holdback, the state tax commission shall restore the with-
10 held moneys to the city or county governmental entity. If compliance is not
11 certified within one hundred eighty (180) days, the withheld moneys shall be
12 forfeited and deposited in the general fund by the state tax commission.

13 SECTION 12. SEVERABILITY. The provisions of this act are hereby de-
14 clared to be severable and if any provision of this act or the application
15 of such provision to any person or circumstance is declared invalid for any
16 reason, such declaration shall not affect the validity of the remaining por-
17 tions of this act.

18 SECTION 13. An emergency existing therefor, which emergency is hereby
19 declared to exist, this act shall be in full force and effect on and after its
20 passage and approval.