

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 220

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO PUBLIC FUNDS FOR ABORTION; AMENDING TITLE 18, IDAHO CODE, BY THE  
2 ADDITION OF A NEW CHAPTER 87, TITLE 18, IDAHO CODE, TO PROVIDE A SHORT  
3 TITLE, TO DEFINE TERMS, TO PROHIBIT GOVERNMENT CONTRACTS WITH ABORTION  
4 PROVIDERS OR THEIR AFFILIATES, TO PROHIBIT CONTRACTS FOR ABORTION PRO-  
5 CEDURES, TO PROHIBIT THE USE OF PUBLIC FUNDS FOR ABORTION, TO PROHIBIT  
6 THE USE OF SCHOOL TUITION AND FEES FOR ABORTION, TO PROHIBIT ABORTION-  
7 RELATED ACTIVITIES IN SCHOOL-BASED HEALTH CLINICS, TO PROHIBIT THE USE  
8 OF PUBLIC FACILITIES AND ASSETS FOR ABORTION, TO PROVIDE A PENALTY FOR A  
9 VIOLATION, TO PROVIDE CONSTRUCTION, TO PROVIDE FOR A RIGHT OF INTERVEN-  
10 TION, AND TO PROVIDE SEVERABILITY; AND DECLARING AN EMERGENCY.  
11

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

13 SECTION 1. That Title 18, Idaho Code, be, and the same is hereby amended  
14 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
15 ter 87, Title 18, Idaho Code, and to read as follows:

16 CHAPTER 87

17 NO PUBLIC FUNDS FOR ABORTION ACT

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

20 18-8702. DEFINITIONS. As used in this chapter:

21 (1) "Abortion" means the act of using or prescribing any instrument,  
22 medicine, drug, or any other substance, device, or means with the intent to  
23 terminate the clinically diagnosable pregnancy of a woman with knowledge  
24 that the termination by those means will, with reasonable likelihood, cause  
25 the death of the unborn child. Such use, prescription, or means is not an  
26 abortion if done with the intent to save the life or preserve the health of  
27 the unborn child, remove a dead unborn child caused by spontaneous abortion,  
28 or remove an ectopic pregnancy.

29 (2) "Affiliate" means a company, organization, business concern, or  
30 individual person that shares resources, interests, or business dealings  
31 with another company, organization, business concern, or individual person;  
32 is directly or indirectly controlled by a third party or another company, or-  
33 ganization, or business concern; is fully or partially controlled by a third  
34 party or another company, organization, business concern, or individual  
35 person; or is under the common control of a third party or another company,  
36 organization, business concern, or individual person.

37 (3) "Facility" or "health care facility" means any public or private  
38 hospital, clinic, center, medical school, medical training institution,  
39 health care facility, physician's office, infirmary, dispensary, ambula-

1 tory surgical treatment center, or other institution or location wherein  
2 health care is provided to any person.

3 (4) "Health care provider" means any person or individual who may be or  
4 is asked to participate in any way in any health care service. This includes  
5 but is not limited to doctors, nurse practitioners, physician assistants,  
6 nurses, nurses' aides, allied health professionals, medical assistants,  
7 hospital employees, clinic employees, nursing home employees, pharmacists,  
8 pharmacy technicians and employees, medical school faculty and students,  
9 nursing school faculty and students, psychology and counseling faculty and  
10 students, medical researchers, laboratory technicians, counselors, social  
11 workers, or any other person who facilitates or participates in the provi-  
12 sion of health care services to any person.

13 (5) "Public funds" means the funds of every political subdivision of  
14 the state wherein taxes are levied or fees are collected for any purpose and  
15 also refers to:

16 (a) The revenue or money of a government, state, or municipal corpora-  
17 tion;

18 (b) The bonds, stocks, or other securities of a national or state gov-  
19 ernment; and

20 (c) Government spending for acquisition of goods and services for cur-  
21 rent use to directly satisfy individual or collective needs of the mem-  
22 bers of the community.

23 18-8703. GOVERNMENT CONTRACTS WITH ABORTION PROVIDERS OR THEIR AFFIL-  
24 IATES PROHIBITED. (1) The state, a county, a city, a public health district,  
25 a public school district, or any local political subdivision thereof may not  
26 enter into any contract or commercial transaction with an abortion provider  
27 or an affiliate of an abortion provider.

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

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

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

32 18-8704. CONTRACTS FOR ABORTION PROCEDURES PROHIBITED. (1) No health  
33 care facility owned or operated by the state, a county, a city, a public  
34 health district, a public school district, or any political subdivision or  
35 agency thereof shall enter into any contract or commercial transaction with  
36 any health care provider or health care facility under the terms of which  
37 such health care provider or health care facility agrees to provide, per-  
38 form, or induce an abortion, except when the life of the mother is endangered  
39 by a physical disorder, physical illness, or physical injury, including a  
40 life-endangering physical condition caused by or arising from the pregnancy  
41 itself.

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

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

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

46 18-8705. USE OF PUBLIC FUNDS FOR ABORTION PROHIBITED. (1) No pub-  
47 lic funds made available by the state, a county, a city, a public health

1 district, a public school district, or any local political subdivision or  
 2 agency thereof and distributed by any institution, board, commission, de-  
 3 partment, agency, official, or employee of the state, a county, a city, a  
 4 public health district, a public school district, or any local political  
 5 subdivision or agency thereof shall be used in any way to provide, perform,  
 6 or induce an abortion; assist in the provision or performance of an abor-  
 7 tion; promote abortion; counsel in favor of abortion; refer for abortion; or  
 8 provide facilities for an abortion or for training to provide or perform an  
 9 abortion.

10 (2) No person, agency, organization, or any other party that receives  
 11 funds authorized by the state, a county, a city, a public health district, a  
 12 public school district, or any local political subdivision or agency thereof  
 13 may use those funds to perform or promote abortion, provide counseling in fa-  
 14 vor of abortion, make referral for abortion, or provide facilities for abor-  
 15 tion or for training to provide or perform abortion.

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

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

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

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

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

29 18-8706. USE OF SCHOOL TUITION AND FEES FOR ABORTION PROHIBITED. No  
 30 part of any tuition or fees paid to a public institution of higher education  
 31 shall be used in any way to pay for an abortion, provide or perform an abor-  
 32 tion, provide counseling in favor of abortion, make a referral for abortion,  
 33 or provide facilities for an abortion or for training to provide or perform  
 34 abortion.

35 18-8707. ABORTION-RELATED ACTIVITIES PROHIBITED IN SCHOOL-BASED  
 36 HEALTH CLINICS. (1) No facility operated at a public institution of higher  
 37 education or operated by a public school district shall provide any of the  
 38 following services to any person:

39 (a) Providing or performing an abortion;

40 (b) Counseling in favor of abortion;

41 (c) Referring for abortion; or

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

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

48 (a) Providing or performing an abortion;

- 1 (b) Counseling in favor of abortion;  
2 (c) Referring for abortion; or  
3 (d) Dispensing a drug classified as emergency contraception by the FDA,  
4 except in the case of rape as defined in section 18-6101, Idaho Code.

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

10 18-8708. USE OF PUBLIC FACILITIES AND ASSETS FOR ABORTION PROHIB-  
11 ITED. (1) No public institution, public facility, public equipment, or other  
12 physical asset owned, leased, or controlled by this state, a county, a city,  
13 a public health district, a public school district, or any local political  
14 subdivision or agency thereof shall be used for the purpose of providing,  
15 performing, or participating in an abortion.

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

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

21 (a) An abortion performed when the life of the mother is endangered by  
22 a physical disorder, physical illness, or physical injury, including a  
23 life-endangering physical condition caused by or arising from the preg-  
24 nancy itself;

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

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

28 18-8709. PENALTY FOR VIOLATION. Any intentional violation of the pro-  
29 visions of this chapter by a public officer or public employee shall be con-  
30 sidered a misuse of public moneys punishable under section 18-5702, Idaho  
31 Code.

32 18-8710. CONSTRUCTION. Nothing in this chapter shall be construed as  
33 creating or recognizing a right to abortion. Nothing in this chapter shall  
34 be construed as creating or recognizing a right to federal or state funds for  
35 abortion.

36 18-8711. RIGHT OF INTERVENTION. The Idaho legislature, by concurrent  
37 resolution, may appoint one (1) or more of its members who sponsored or  
38 cosponsored this chapter in his official capacity to intervene as a matter of  
39 right in any case in which the constitutionality of this law is challenged.

40 18-8712. SEVERABILITY. Any provision of this chapter held to be in-  
41 valid or unenforceable by its terms, or as applied to any person or circum-  
42 stance, shall be construed so as to give it the maximum effect permitted by  
43 law, unless such holding shall be one of utter invalidity or unenforceabil-  
44 ity, in which event such provision shall be deemed severable herefrom and

1 shall not affect the remainder hereof or the application of such provision to  
2 other persons not similarly situated or to other dissimilar circumstances.

3 SECTION 2. An emergency existing therefor, which emergency is hereby  
4 declared to exist, this act shall be in full force and effect on and after its  
5 passage and approval.