

IN THE HOUSE OF REPRESENTATIVES

HOUSE JOINT MEMORIAL NO. 2

BY STATE AFFAIRS COMMITTEE

A JOINT MEMORIAL

1
2 TO THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CON-
3 GRESS ASSEMBLED AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE
4 STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

5 We, your Memorialists, the House of Representatives and the Senate of
6 the State of Idaho assembled in the First Regular Session of the Sixty-sev-
7 enth Idaho Legislature, do hereby respectfully represent that:

8 WHEREAS, in 1973 the United States Supreme Court decided the case *Roe*
9 *v. Wade*, 410 U.S. 113 (1973), wherein the United States Supreme Court found
10 in the Constitution a "right to privacy" that the Court alleged gave women a
11 constitutional right to abortion; and

12 WHEREAS, since the *Roe v. Wade* decision of 1973, "*Roe* certainly did not
13 succeed in ending the division on the issue of abortion. On the contrary, *Roe*
14 'inflamed' a national issue that has remained bitterly divisive for the past
15 half century." *Dobbs v. Jackson Women's Health Organization*, 597 U.S. ____,
16 68 (2022); and

17 WHEREAS, the *Roe v. Wade* decision "short-circuited the democratic
18 process by closing it to the large number of Americans who dissented in any
19 respect from *Roe*. '*Roe* fanned into life an issue that has inflamed our na-
20 tional politics...' Together, *Roe* and *Casey* represent an error that cannot
21 be allowed to stand." *Dobbs*, at 44; and

22 WHEREAS, on June 24, 2022, the United States Supreme Court decided the
23 case of *Dobbs v. Jackson Women's Health Organization* where the Court said in
24 part that "procuring an abortion is not a fundamental constitutional right
25 because such a right has no basis in the Constitution's text or in our Na-
26 tion's history. It follows that the States may regulate abortion for legit-
27 imate reasons, and when such regulations are challenged under the Consti-
28 tution, courts cannot 'substitute their social and economic beliefs for the
29 judgment of legislative bodies.'" *Dobbs*, at 77; and

30 WHEREAS, the Supreme Court also found in *Dobbs*, "The Constitution does
31 not prohibit the citizens of each State from regulating or prohibiting abor-
32 tion. *Roe* and *Casey* arrogated that authority. We now overrule those deci-
33 sions and return that authority of the people and their elected Representa-
34 tives." *Dobbs*, at 79; and

35 WHEREAS, the Supreme Court also stated in *Dobbs*, "Our decision returns
36 the issue of abortion to those legislative bodies, and it allows women on
37 both sides of the abortion issue to seek to affect the legislative process by
38 influencing public opinion, lobbying legislators, voting, and running for
39 office." *Dobbs*, at 65; and

40 WHEREAS, the inferior federal courts are the creation of Congress, and
41 the Constitution gives Congress the power to limit the jurisdiction of the
42 lower federal courts. "Congress may confer jurisdiction upon such courts as
43 it creates. Only the jurisdiction of the Supreme Court is derived directly

1 from the Constitution. Every other court created by the general government
2 derives its jurisdiction wholly from the authority of Congress. That body
3 may give, withhold or restrict such jurisdiction at its discretion." *Kline*
4 *v. Burke Construction Co.*, 260 U.S. 226, 234 (1922); and

5 WHEREAS, there have been cases filed, and there are expected to be ad-
6 ditional cases filed, in federal courts concerning the *Dobbs* decision that
7 have the effect of delaying the implementation of the Supreme Court's *Dobbs*
8 ruling. Post *Dobbs*, abortion is now a state matter for the states to decide
9 and regulate.

10 NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Ses-
11 sion of the Sixty-seventh Idaho Legislature, the House of Representatives
12 and the Senate concurring therein, that the Legislature of the State of
13 Idaho, both the House of Representatives and the Senate, call on Congress to
14 restrict the jurisdiction of the federal courts from hearing cases regarding
15 state legislative authority to legislate on the abortion issue.

16 BE IT FURTHER RESOLVED that the *Dobbs* decision settled the issue that
17 abortion cases appropriately belong in the courts of the several states.

18 BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representa-
19 tives be, and she is hereby authorized and directed to forward a copy of this
20 Memorial to the President of the Senate and the Speaker of the House of Repre-
21 sentatives of Congress and to the congressional delegation representing the
22 State of Idaho in the Congress of the United States.