



10 POLICY IDEAS FOR 2023 LEGISLATIVE SESSIONS

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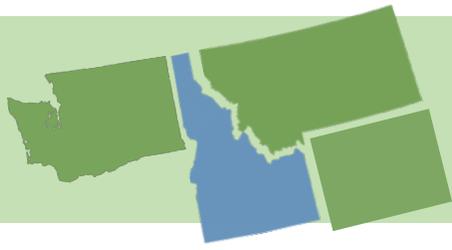
INTRODUCTION

Nearly 500 lawmakers across Idaho, Washington, Wyoming, and Montana begin meeting in January for their state's regular legislative sessions. Some sessions will last more than 100 days, while others will be limited to just 40.

Policymakers will be dealing with a host of issues including budget surpluses, rising crime, the tax burden, homelessness, federal overreach, separation of powers and more. Each state will be adopting an operating budget.

This publication is intended to give elected officials numerous ideas on policy issues important to the people of their states. The ideas are presented in no particular order and additional resources are included at the end of each section. Readers will also find the results of our exclusive 2022 Idaho Poll located throughout this publication.

Nothing written here shall be construed as an attempt to aid or hinder the passage of any legislation.



#1 – EXPAND PARENTAL FREEDOM OPTIONS FOR PUBLIC EDUCATION

Public opinion is clear that parents want more options when it comes to education.

More than two dozen states and the District of Columbia offer various forms of parental freedom in education. This can include simply permitting choosing a public school anywhere in the state, allowing magnet schools or more expansive options such as charter schools, Education Savings Accounts and even tax-credit scholarships.

Unfortunately, education freedom throughout the Mountain States is limited. Idaho and Washington (on a limited basis) allow for charter schools, but Montana is one of just five states that do not permit public charter schools.

Magnet schools are also an important option. They are public schools operated by school districts that focus on a specific learning track, such as STEM. Washington and Idaho have magnet schools, but Montana and Wyoming do not.

This year, the state of Arizona passed a measure that will give all families in the state a \$7,000 Education Savings Account (ESA). An ESA is one education freedom tool that allows parents access to some or all of the dollars that were supposed to be allocated to their child's education. Just as a health savings account can only be used for health care expenses, an ESA can only be spent on education-related items, such as school tuition or tutoring, but it gives many families more flexibility. It is especially helpful for special needs families and those struggling in a neighborhood school that might not be up to par.

Scholarships can be another great tool for education freedom. In Washington, D.C., for example, Opportunity Scholarships allow parents access to some \$7,500 per year to attend a private school of their choice. This program has been extremely popular with parents, and politicians across the political spectrum have supported the option.

Tax-credit scholarships can also be a popular option. This tool allows citizens to make tax-free donations that go to pay for the education of children. The scholarships can be used for online learning, private schooling or even tutoring.

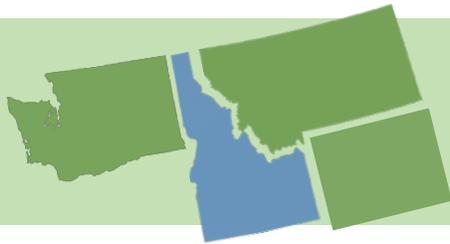
Opponents of education freedom have claimed that state constitutions in Idaho and Washington, specifically, forbid public money from being used for religious schooling. Unfortunately, this belief is the result of an extreme anti-Catholic bigotry put into the language of state constitutions at the time of statehood. Fortunately, the U.S. Supreme

Court has struck down these discriminatory laws. As the Institute for Justice writes, “these obstacles to educational freedom are now largely a dead letter.”

Education freedom does not mean dismantling typical public schools. As the West Virginia Supreme Court recently ruled, policymakers can do both.

Additional Resources:

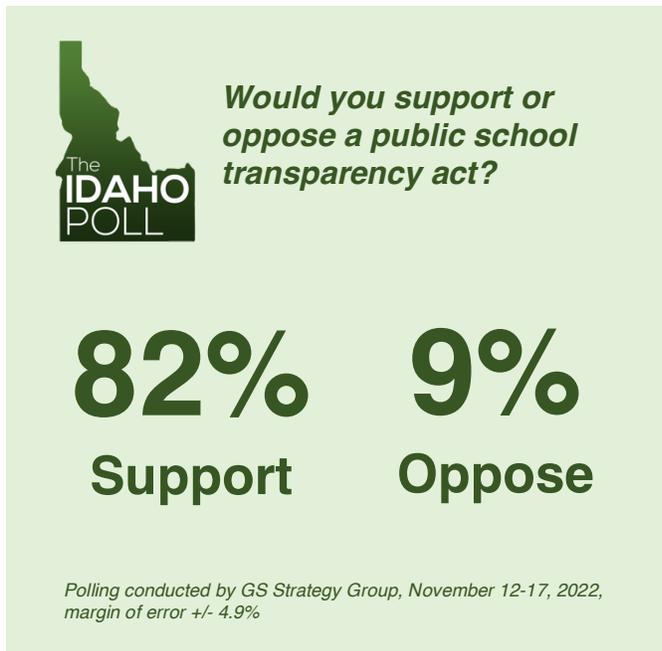
- [Tired solutions won't improve education outcomes for kids](#)
- [Types of education freedom options](#)



#2 – CONSIDER A PUBLIC SCHOOL TRANSPARENCY ACT

School district budgets are a maze of numbers and legal jargon – if you can even find them. Depending on the district, they can be hidden on websites, and only accessible if you know exactly where to look.

Unless they have an accounting degree, the average parent or taxpayer cannot take the time to read through and understand all the details. School leaders know this. So, too, do legislators.



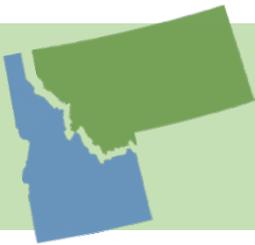
One policy idea is a Public School Transparency Act, which would require all public school districts, both on the first page of their budget and also on the front page of the district’s main website, to clearly report six simple things: (1) the total amount of dollars being spent, (2) how much is being spent per student, per year, (3) the percentage of dollars getting to the classroom, (4) the average administrator salary and benefits, (5) the average teacher salary and benefits, and (6) the ratio of administrators to teachers to students.

Very little extra work would be needed to provide this data and make it assessable on paper and online. Most districts already have it hidden somewhere in their budget documents. They know where to look, whereas parents and taxpayers can get lost.

Parents and taxpayers may see this data and conclude their school districts need more resources. Others may see it and believe that not enough is being done to spend money in the classroom. Regardless, the community will have a broader sense of the results being achieved, and what – if any – changes need to be made.

Additional Resources:

- [VIDEO: How can we restore some faith in public schools?](#)
- [IN-DEPTH STUDY: Restoring some faith in public schools with a Public School Transparency Act](#)



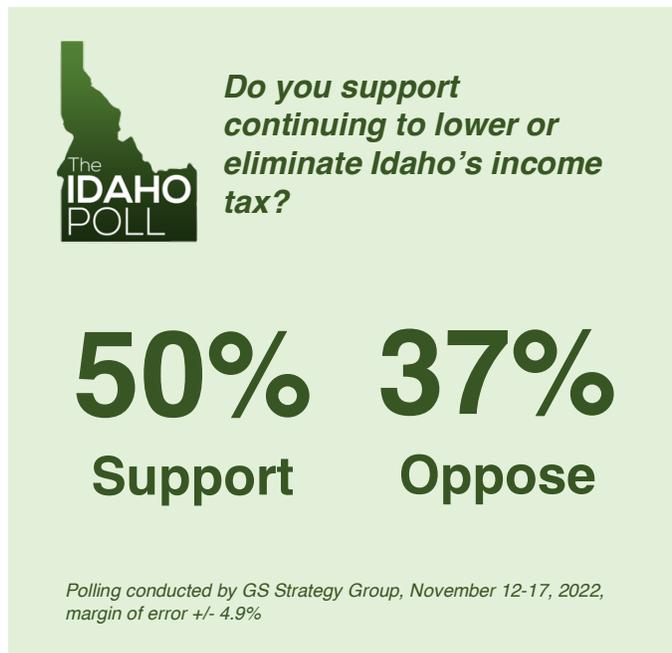
#3 – LOWER STATE INCOME TAX RATES AND CONSIDER TRIGGERS

In September 2022, Idaho lawmakers approved a dramatic change in the state’s income tax – flattening the rate to 5.8%.

The move earned widespread praise including from voters who overwhelmingly approved an advisory question on the November ballot asking if they supported the policy.

But Idaho’s victory may soon be overshadowed. Montana has announced plans to lower its rate to roughly the same as Idaho. Utah lawmakers are also considering using part of their surplus to lower the state’s income tax rate.

The difference, of course, is that Utah’s rate (at 4.8%) is already lower



than Idaho's or Montana's. Arizona earlier this year moved its income tax rate to 2.5%.

It is clear, if Idaho and Montana are going to remain competitive (especially in the west), they need to consider further lowering their income tax rates, which are still relatively high.

One pro-growth policy to consider is tying income tax rates to revenue growth. For example, if the state revenue consistently comes in at a rate higher than expected, the tax rate would automatically be lowered. This could negate the need for any special or extraordinary sessions of the legislature to address tax reductions as they would kick in at certain revenue levels.

The exact revenue percentage over expectations, the time required to make sure it is consistent, and the corresponding income tax rate reduction would all need to be set by lawmakers. But adopting this type of policy would send a clear message that Idaho and Montana will continue to lower the income tax burden it is placing on families and businesses. And the more the economy booms, the lower the rate.

About a dozen states have tax triggers. The Tax Foundation says, "well-designed triggers limit the volatility and unpredictability associated with any change to revenue codes, and can be a valuable tool for states seeking to balance the economic impetus for tax reform with a governmental need for revenue predictability."

Additional Resources:

- [The race to lower state income tax rates](#)
- [States inaugurate a flat tax revolution](#)



#4 – ALLOW VOTERS TO DECIDE FATE OF STATE INCOME TAX

Washington state is one of the few states that has no state income tax. Washington voters have made it clear (more than 10 times) they want to keep it that way.

Unfortunately, the Washington state legislature doesn't appear to be in the mood to listen. In 2021, it passed a new 7% income tax on capital gains. The measure was, predictably, overturned by local courts in Washington as the state constitution makes it clear that property must be taxed uniformly, and courts have ruled a person's income is their property.

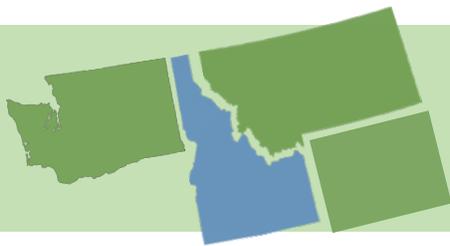
Now, the issue is heading to the state Supreme Court, to be considered in late January. Until then, the justices in Washington have ruled that the state can begin collecting the tax.

When lawmakers pushed the original proposal, they claimed the measure was simply an “excise” tax. Because of that, tax experts and the IRS warn Washingtonians will likely not be able to deduct the state capital gains income tax from their federal tax burden.

Washington lawmakers should allow voters the final say on this issue. Legislators should consider advancing a constitutional amendment that would allow for final clarification, simply asking voters if an income tax should be banned in the state.

Additional Resources:

- [IRS: Washington state capital gains tax is an income tax, not an excise tax](#)
- [Judge rules capital gains income tax illegal](#)



#5 – REQUIRE ALL GOVERNMENT MEETINGS BE LIVE STREAMED



Would you support or oppose all government meetings being required to be live streamed and recorded for public access?

82%

Support

12%

Oppose

Polling conducted by GS Strategy Group, November 12-17, 2022, margin of error +/- 4.9%

Call it one of the few good things to come out of the pandemic. Government agencies have finally figured out how to make their meetings more accessible to the public.

What happens now that the pandemic is "over?" It seems most agencies in most states are going back to in-person meetings, which is a good thing. But that's no excuse to stop the live stream as well.

If there is no legal requirement for government agencies to live stream their meetings, legislators might

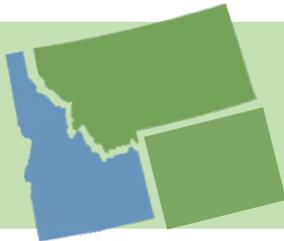
want to consider the requirement as part of their open public meeting laws.

Families are busy. They don't always have the time to show up to a council or government agency meeting and spend four hours sitting through a long agenda.

Furthermore, live stream meetings that are recorded provide citizens with an archive of what happened at the latest meeting. It is another way to hold elected officials accountable.

Additional Resources:

- [No excuses: Government meetings should be live streamed](#)
- [CivicPlus: Five best practices for live streaming government meetings](#)

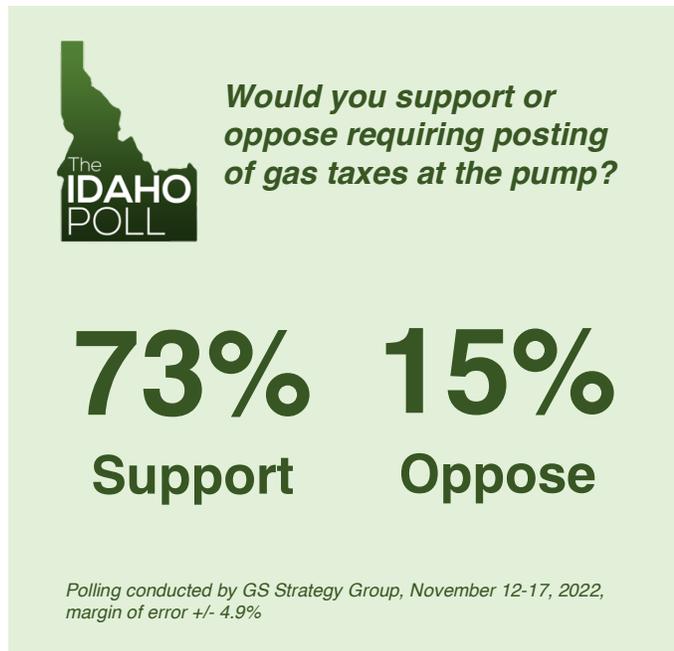


#6 – ADOPT GAS TAX TRANSPARENCY AT THE PUMP

Do consumers in the Mountain States really know what they are paying when they fill up at the gas station? The answer is likely no. That's because gasoline is one of the few products we purchase where taxes and fees are built into the price. This means there is no transparency about the true financial burden placed on consumers.

The U.S. Department of Transportation says gas taxes make up about 19% of the overall cost of a gallon – but this will vary depending on the state and the current price. For example, if the gas price is high, the gas tax percentage will be lower. Likewise, if the gas price is low, the gas tax percentage could be much higher.

In most states, gas taxes are mostly used to fund roads, bridges and a state's transportation system. And, so long as the money is being used wisely, most drivers are okay with that. However, when



policymakers adopt gas tax hikes, there can be little to no accountability built into the system.

The fix to this lack of transparency is what has been called “truth-in-labeling.”

In 2017, Washington state passed a law requiring the Washington state Department of Agriculture to produce a sticker that would be placed on every gas pump near the weights and measures certification. The sticker would simply inform drivers of their state and federal tax burden.

In Washington, the WSDA conducts periodic inspections of gas pumps, so it made sense to assign the transparency task to that agency. Unfortunately, Washington hasn’t committed to making the gas tax stickers permanent. It should.

Furthermore, Idaho, Montana and Wyoming policymakers should know that a “truth-in-labeling” policy is a reform worth pursuing.

Additional Resources:

- [Bringing gas tax transparency to the Mountain States](#)
- [VIDEO: Why we need gas tax transparency](#)



#7 – OPEN COLLECTIVE BARGAINING TALKS TO PUBLIC OVERSIGHT

Government meetings should never be conducted in secret. Period.

Collective bargaining talks are the negotiations government unions have with government officials over salaries, benefits and working conditions. Because they involve millions of dollars of taxpayer money, they should be open and transparent. This doesn’t mean the public participates in the negotiations, but the public should be allowed to observe the process.

The state of Idaho knows this. The city of Coeur d’Alene knows this. Coeur d’Alene has negotiated in public, and the union leadership has claimed that “no one shows up and it’s not a problem.” In fact, Idaho law prevents cities and unions from negotiation any contracts in secret. Democrats and Republicans passed the law unanimously and it was signed into law by former Governor Butch Otter in 2015.

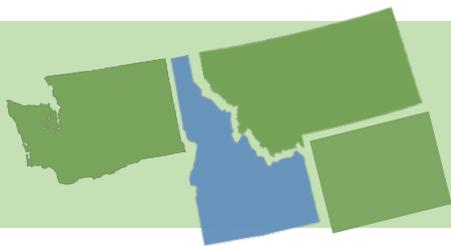
Washington state, however, is a different story. While numerous attempts have been made to bring sunshine to the secretive process, government unions have resisted every step of the way in the Evergreen State – even as polls and actual ballot results continue to show overwhelming support.

In fact, nearly 80% of voters in the city of Spokane approved a charter amendment demanding collective bargaining transparency. Unfortunately, the city hasn't been willing to defend its own law, the state Supreme Court has overruled it, and Washington state leaders seem content on keeping the public in the dark regarding state collective bargaining as well.

The people have a right to know how public spending decisions are made on their behalf. Ending collective bargaining secrecy and opening government union contract negotiations to the public, as other states and cities have done, is a practical and ethical way to achieve that standard.

Additional Resources:

- [Collective bargaining in government should never be a secret](#)
- [Better Cities Project: Collective bargaining transparency a win for workers and taxpayers](#)



#8 – CONTINUE AND EXPAND USE OF REMOTE TESTIMONY

For decades, those living long distances from a state capitol had to brave icy conditions, closed passes or expensive flights to participate in the legislative process. But things changed during the COVID pandemic. Most states expanded remote testimony options.

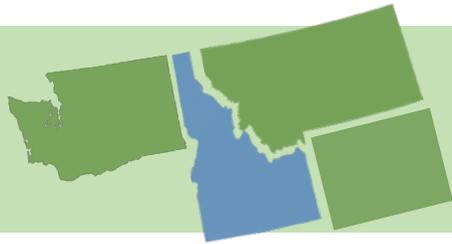
Remote testimony is now more broadly accepted than ever before. In the 21st century, there is no excuse for not allowing all citizens the opportunity to be involved in their government via technology.

Remote testimony allows citizens the opportunity to give legislators their opinion on a policy being considered by any committee, without the hassle and cost of traveling to the state capitol.

Without remote testimony, lawmakers only hear from lobbyists or activists who regularly camp out at a state capitol during a legislative session. With remote testimony, the playing field is leveled and all citizens can participate in the legislative process.

Additional Resources:

- [National Conference of State Legislatures Remote Testimony State by State](#)
- [Idaho State Legislature Remote Testimony Tips](#)



#9 – ENSURE LEGISLATIVE ROLE IN EMERGENCY POWERS

Throughout the COVID-19 pandemic, the nation experienced executive overreach at both the federal and state level. In Washington state, for example, Governor Jay Inslee once famously claimed he was the only person in the state who had the capability to save lives.

In the end, Jay Inslee held on to executive emergency powers for nearly 1,000 days without legislative oversight. In Washington, the state bestows upon the governor the sole authority to determine when an emergency exists and when it will end. This is not good for self-government. It's hard to get the consent of the governed when the executive has become inaccessible.

In Idaho, Governor Brad Little initially vetoed a bill that would have required restrictions from an emergency order expire after 60 days unless renewed by the legislature. He later signed bills that lawmakers called “watered-down.”

There's no question that in a real emergency, governors need broad powers to act fast. Legislative bodies take time to assemble, so they can temporarily transfer their powers to the executive in an emergency.

But when problems do last for extended periods, it is the responsibility of the legislatures to debate risks, benefits and trade-offs of various long-term approaches. Lawmakers may end up passing the very policies a governor would prefer, but they do it after deliberation as representatives of the people and do it in a public process.

It's the Legislature, not the executive branch, that should make the laws we live under, and the governor – no matter the state or the person – is supposed to implement only laws passed by the Legislature.

In Wisconsin, for example, a state of emergency cannot exceed 60 days unless it is extended by the Legislature, and in Minnesota, a governor must call a special session if a “peace time” emergency lasts longer than 30 days.

Returning to democracy and legislative oversight is not a partisan issue.

Additional Resources:

- [Scoring executive powers in all 50 states](#)
- [National Conference of State Legislatures: Legislative oversight of executive emergency powers](#)



#10 – SLOW THE BALLOONING COST OF MEDICAID EXPANSION

It has been four years now since voters in Idaho passed Medicaid expansion via ballot measure in a campaign pushed by *Reclaim Idaho*. It has been two years since the program was implemented. What are the results?

There were promises of limited enrollment – 60,000. The latest numbers show more than double the projection and more than 1 in 4 Idahoans now enrolled.

There were state-sought waivers to make changes to the program for the betterment of Idaho. Four were requested, and only one has been approved.

And what about those who are using the program? A new Foundation for Government Accountability report indicates: “there were at least 83,000 ineligible enrollees reported in January 2021. These enrollees do not meet traditional eligibility standards, but state officials are unable to remove them from the program because of the congressional handcuffs. If the trend continues, there could be hundreds of thousands of additional ineligible Medicaid enrollees. These ineligible enrollees would come with a monthly price tag of tens of millions of dollars—a figure that will only continue to grow as the public health emergency is prolonged.”

The Medicaid expansion is costing taxpayers more, too. In the last legislative session, legislators increased the state’s Medicaid budget. And it’s also now the state’s largest agency budget.

It's not as if there were no other options. Before Medicaid expansion in Idaho, those who were eligible could join the Your Health Idaho program and get "advance premium tax credits" to help reduce their insurance costs.

Medicaid coverage, on the other hand, can be extremely limiting. Not only do providers run into billing problems, but reimbursement rates are also extremely low. Many health care providers will only take a limited number of patients. So, while citizens may have coverage, it might not mean much.

How can lawmakers begin to rectify the situation with Medicaid? Idaho lawmakers can reject additional federal funding which, in turn, will limit the federal government's role in Idaho's program.

Additional Resources:

- [What to do about Idaho's troubling Medicaid expansion](#)
- [Foundation for Government Accountability: How able-bodied adults and ineligible enrollees are fueling Idaho's Medicaid enrollment surge](#)