UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

LOURDES MATSUMOTO, NORTHWEST ABORTION ACCESS FUND, and INDIGENOUS IDAHO ALLIANCE, Plaintiffs, v. RAÚL LABRADOR, in his capacity as the Attorney General for the State of Idaho, Defendant.	Case No. 1:23-cv-00323-DKG **ORDER**

Before the Court is Plaintiffs' Motion in Limine seeking judicial notice of certain Idaho state government materials. (Dkt. 70). The motion is ripe for review. (Dkt. 76, 84). The facts and legal arguments are adequately presented in the record. Accordingly, in the interest of avoiding delay, and because the decisional process would not be significantly aided by oral argument, the motion will be decided on the record. For the reasons that follow, the motion will be granted in part and denied in part.

BACKGROUND

This case challenges the constitutionality of Idaho Code Section 18-623, which "criminalizes 'abortion trafficking' defined as '[a]n adult who, with the intent to conceal an abortion from the parents or guardian of a pregnant, unemancipated minor, either procures an abortion,…or obtains an abortion-inducing drug…by recruiting, harboring, or

transporting the pregnant minor within' the state of Idaho." *Matsumoto v. Labrador*, 122 F.4th 787, 796 (9th Cir. 2024) (quoting I.C. § 18-623(1)); (Dkt. 1). Plaintiffs are an individual and two advocacy organizations who seek to counsel pregnant minors in Idaho and provide material support to access legal abortion in other states. *Id*. at 795. Defendant is the Idaho Attorney General. Plaintiffs assert claims alleging Idaho Code Section 18-623 is void for vagueness under the Fourteenth Amendment, violates the First Amendment, and infringes on the right to interstate travel. (Dkt. 1, 41). The parties are in the midst of discovery, with a dispositive motion deadline of April 16, 2026. (Dkt. 92). No trial date has been set.

STANDARD OF LAW

Motions in limine invoke "the court's inherent power to manage the course of trials." *Luce v. United States*, 469 U.S. 38, 41 n.4 (1984). They are a "procedural mechanism to limit in advance testimony or evidence in a particular area," *United States v. Heller*, 551 F.3d 1108, 1111 (9th Cir. 2009), and are "useful tools to resolve issues which would otherwise clutter up the trial," *City of Pomona v. SQM N. Am. Corp*., 866 F.3d 1060, 1070 (9th Cir. 2017). Rulings on motions in limine are preliminary and are "entirely within the discretion of the district court." *Id*.; *see Luce*, 469 U.S. at 41 n.4. Such rulings are provisional and "not binding on the trial judge [who] may always change his [or her] mind during the course of a trial." *Ohler v. United States*, 529 U.S. 753, 758 n.3 (2000). A court may revisit the issue at trial. Fed. R. Evid. 103 advisory committee's note to 2000 amendment ("Even where the court's ruling is definitive, nothing in the amendment prohibits the court from revisiting its decision when the evidence is to be offered."); *Luce*,

469 U.S. at 41–42 ("[E]ven if nothing unexpected happens at trial, the district judge is free, in the exercise of sound judicial discretion, to alter a previous in limine ruling.").

Federal Rule of Evidence 201 provides that a court may take judicial notice of adjudicative facts, not legislative facts, that are "not subject to reasonable dispute" because they are "generally known within the territorial jurisdiction of the trial court" or are "capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201. "'Adjudicative facts' are simply the facts of a particular case that ordinarily go to the jury." *1 Weinstein & Berger, Weinstein's Federal Evidence*, § 201.02[1] (Matthew Bender 2d ed. 1997). Judicial notice may be taken at any stage of the proceeding. Fed. R. Civ. P. 201(d).

DISCUSSION

On this motion, Plaintiffs request an order stating the Court will take judicial notice at trial of six items which they assert are legislative history materials related to the statute challenged in this action. (Dkt. 70, 84). Plaintiffs contend the materials are relevant to their right to travel claim and properly subject to judicial notice as they are government records whose accuracy cannot be reasonably questioned. Defendant opposes the motion, arguing judicial notice of legislative facts is improper, and because Plaintiffs have not specified the facts sought to be noticed. (Dkt. 76). Plaintiffs maintain judicial notice, rather than admission through testifying witnesses, is the appropriate method for admitting legislative history and that the materials contain specific adjudicative facts relevant to the case. (Dkt. 84).

The materials in question here are part of the legislative history of the statute challenged in this litigation and are the type of materials that may be subject to judicial notice. *See, e.g., Territory of Alaska v. American Can. Co*., 358 U.S. 224, 226–27 (1959) (taking judicial notice of the legislative history of a bill); *Anderson v. Holder*, 673 F.3d 1089, 1094 n. 1 (9th Cir. 2012) (stating that "[l]egislative history is properly a subject of judicial notice"). The materials are records, recordings, and minutes from public legislative proceedings concerning the legislation at issue in this case. Indeed, the parties agree the Court can rely on relevant legislative history and do not dispute the authenticity of the materials. (Dkt. 70, 76, 84).

However, the parties disagree concerning whether judicial notice is appropriate and whether the materials are relevant. Plaintiffs maintain judicial notice at this stage of the case will promote efficiency because the materials are central to the case, and determining whether and how they are considered will impact discovery efforts and future proceedings. (Dkt. 70, 84). Defendant asserts judicial notice is unnecessary as the Court can rely on relevant legislative history when useful and convenient as it has done previously in this case. (Dkt. 76). Further, Defendant argues the motion fails to identify the specific facts of which Plaintiffs seek to take judicial notice. (Dkt. 76 at 3). Plaintiffs maintain they have sufficiently identified the specific facts to be noticed as: 1) the existence of the listed materials; 2) that the materials are official records of the Idaho Legislature; and 3) that the materials contain the statements made by members of the Idaho Legislature and the Idaho

Governor during the enactment of H.B. 242. (Dkt. 84 at 4-5).[1] Plaintiffs state they do not seek judicial notice to prove the truth of the speakers' statements but rather the fact that the statements were made and by whom. (Dkt. 70 at 6).

The motion will be granted in part and denied in part. The Court will take judicial notice of the existence of the materials and their authenticity as official records of the Idaho Legislature, which are not subject to reasonable dispute and neither party contests. *See e.g., Hightower v. Cty. and Cnty. of San Francisco*, 2013 WL 361115, (N.D. Cal. Jan. 29, 2013) (taking judicial notice of a transcript from city special meeting as part of the legislative history of the challenged ordinance). The Court will not take judicial notice of the materials' contents as Plaintiffs have not identified the statements they seek to notice, and because the relevance and meaning of the contents and statements are disputed. *Polanco v. Diaz*, 76 F.4th 918, 932 (9th Cir. 2023); *Khoja v. Orexigen Therapeutics, Inc.*, 899 F.3d 988, 999 (9th Cir. 2018).

In *Khoja v. Orexigen Therapeutics*, the Ninth Circuit stated that a "court may take judicial notice of matters of public record," but "cannot take judicial notice of disputed facts contained in such public records." 899 F.3d at 999 (discussing judicial notice in the context of a Rule 12(b)(b)(6) motion) (citation and quotations omitted). The Ninth Circuit clarified that if a court takes judicial notice of a document, it must specify what facts it judicially noticed from the document. *Id*. Further, "[j]ust because the document itself is susceptible to judicial notice does not mean that every assertion of fact within that document is judicially

[1] H.B. 242 is the legislation proposed and enacted that became Idaho's Abortion Trafficking law, codified as Idaho Code Section 18-623.

noticeable for its truth." *Id*. (explaining that judicial notice of the fact that a conference call was held on a certain date is proper, but not of a fact mentioned during a call that is subject to varying interpretations and dispute as to what it establishes).

Here, Plaintiffs seek judicial notice that the materials "contain statements made by [Representative Barbara Ehardt, Senators Todd Lakey and James Ruchti,] and Idaho Governor [Brad Little] during the enactment of H.B. 242." (Dkt. 70; Dkt. 84 at 5). Under the particular circumstances of this case, the Court finds Plaintiffs' broad assertion does not sufficiently identify the facts sought to be judicially noticed – e.g., which statements made by which individual. *Khoja*, 899 F.3d at 999. Moreover, there are disputes regarding the materials' contents and relevance that preclude judicial notice at this time. While the Court appreciates the desire to promote efficiency, this request is premature and seeks assurances beyond what is appropriate at this time. It is not uncommon for parties in a litigation to agree on authentication or the existence of evidence, while disagreeing on relevance, meaning, and admissibility. These are matters that can only be decided at a later date and in a different context than at this discovery stage of the case. For this reason, the motion will be denied without prejudice.

ORDER

THEREFORE IT IS HEREBY ORDERED that the Motion in Limine (Dkt. 70) is **GRANTED in part and DENIED in part without prejudice**, as stated herein.

DATED: January 5, 2026

Honorable Debora K. Grasham
United States Magistrate Judge