

# A Winning Strategy for Abortion Policy in the Lame Duck Session



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The 2022 midterm elections have come and gone. The people have spoken, and as it turns out, a significant majority of Americans, regardless of party affiliation, strongly favor reproductive freedom for all. Across the nation, voters cast their ballots in support of candidates and causes that campaigned on a woman's right to make her own health care decisions. And while analysts stood by predictions that Republicans would make significant gains in state and federal races, a momentum shift was underway that would eventually throw a wrench in those expectations.

In June 2022, the Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization* set off a series of unintended consequences for Republicans, ultimately crashing their highly anticipated, and historically assured, red wave in the midterms. First, a ballot initiative eliminating the state constitutional right to an abortion in solidly red Kansas failed miserably in early August. Next, in a nail-biter special election for New York's 19th District congressional seat, Democrat Pat Ryan claimed victory over his Republican opponent. Then, in another special election to fill Alaska's

single House seat, Democrat Mary Peltola became the first Alaska Native, and first woman, to represent the state in the House. Both Peltola and Ryan highlighted reproductive freedom in their campaign messages, distinguishing them from their conservative challengers.

The early effects of *Dobbs* could be observed even in states without special elections. In the weeks following the decision, voter registrations saw a significant increase in battleground states like Pennsylvania, Arizona, and Michigan. The majority of those new voters were women. Additionally, polls showed abortion as one of the top issues for registered voters, a noticeable shift from years past. On Election Day, Democratic gubernatorial, congressional, and state legislative candidates outperformed predictions, with many cruising to victory. The most telling signs of the country's views on reproductive freedom were shown in red states where Republican candidates were successful in their elections, but ballot initiatives attacking abortion rights were handily defeated. This was the case in Kentucky and Montana.

It is clear where voters stand on the issues, and now it's time for Congress to deliver policies that reflect the will of the people. In the last few weeks of Democratic control of both houses in Congress, there are several actions they can take to advance reproductive freedom on a national, and global, scale.

## **Unburden Title X Funding**

Title X is a federally funded family planning assistance program that provides reproductive health care services to low-income patients and others in need. The program, established in 1970, is a vital public resource ensuring that all citizens have access to essential health care regardless of their financial or insurance status. Title X provides patients with low-cost contraceptives, disease and cancer screenings, routine wellness exams, and preventative education. The program does not fund or provide abortions. Title X resources are largely accessed by people of color, members of the LGBTQ community, and those in rural areas.

During the last presidential administration, Title X resources were severely narrowed when a gag rule was implemented banning providers who receive Title X funds from sharing any information regarding abortion with their patients. This forced organizations like Planned Parenthood and similar health care centers to withdraw from the program, significantly decreasing the number of facilities that provide Title X care. There are currently six states without a single Title X provider, depriving millions of Americans from essential affordable health care.

After assuming office, President Biden issued an executive order rescinding the callous policies of the previous administration, however the effects of the gag rule are still being felt. The Biden administration can build on their progress by prioritizing the restoration of care to those areas that lost Title X services and expanding the program to reach even more Americans. Congress can also ensure that the Title X program is fully funded to meet the overwhelming health care needs of the public, especially at the tail end of the COVID pandemic. Additionally, the Expanding Access to

Family Planning Act, introduced in the House and Senate, would permanently fund the Title X program and ensure that providers are not prohibited from offering the counseling and care their patients require.

## **Permanently End the Global Gag Rule**

One of President Biden's first actions from the oval office was rescinding the "global gag rule," an anti-abortion policy that restricts US health assistance aid to international organizations that offer education, referrals, or services for abortion procedures among the wide range of vital health care provided to those in need. Since the Regan Presidency in 1984, the policy, also referred to as the "Mexico City Policy," has been implemented by Republicans in power and rescinded by Democrats. The organizations most impacted by this shifting policy are at the forefront of global efforts to fight AIDS, malaria, maternal mortality, and child poverty.

A permanent ending to the global gag rule can only happen through congressional legislation. Lawmakers in the House and Senate have proposed the Global Health, Empowerment and Rights Act, which would prohibit the withholding of foreign aid from organizations that perform or promote abortion services. Congress can also expand funding for global reproductive health services by eliminating the Helms Amendment from federal appropriations legislation for the upcoming fiscal year. The Helms Amendment, first integrated into federal policy in 1973 in retaliation to *Roe v. Wade*, prohibits US foreign aid from being used to perform or encourage abortions as a "method of family planning." This very specific language has been misinterpreted by conservative lawmakers to also exclude funding abortions in cases of rape, incest, or to save a woman's life, even in countries where abortion is legal. This harmful policy restricts the US from providing essential health care to the areas that need it the most, and stands in stark contrast to the global progression of reproductive freedom.

## **Confirm. Confirm. Confirm.**

Democrats maintaining control of the Senate is a crucial victory in ensuring our federal judiciary continues on a path towards inclusion and balance. President Biden has appointed more federal judges in the first two years of his presidency than any president since JFK and continues to select a diverse range of progressive jurists to counter the damage done by the previous administration. Although a Supreme Court vacancy to remediate the 6-3 conservative supermajority is unlikely in the next two years, openings on lower courts are just as vital to protecting reproductive freedom throughout the country.

There are currently over 100 vacancies in the federal court system. The individuals nominated by President Biden will serve as a buffer against the radical conservative agenda being implemented by Republican lawmakers. The momentum to get these judges on the bench must not slow down just because Democrats are assured control of the Senate in the next Congress. Senate Majority Leader

Schumer should work with the chair of the Senate Judiciary Committee, Senator Dick Durbin, to ensure the confirmation of as many federal judges as possible before the end of the year.

## Conclusion

Reproductive rights and abortion access were top of mind when voters went to the polls in November. In races across the country, Democrats fared much better than expected largely because of their commitment to comprehensive pro-choice policies. There is still time, while Democrats control both houses in Congress, for lawmakers to make good on their promises and treat reproductive freedom as the winning issue it has proven itself to be.

### TOPICS

<b>ABORTION/CONTRACEPTION</b> 79
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