

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 660

BY WAYS AND MEANS COMMITTEE

AN ACT

RELATING TO JUDGES' RETIREMENT AND COMPENSATION; AMENDING SECTION 1-2001, IDAHO CODE, TO REVISE PROVISIONS RELATING TO COMPENSATION ON RETIREMENT FOR SUPREME COURT JUSTICES, COURT OF APPEALS JUDGES AND DISTRICT JUDGES; AMENDING SECTION 1-2001b, IDAHO CODE, TO REVISE PROVISIONS TO PROVIDE FOR CERTAIN NOTICES TO, FILINGS WITH AND RESPONSIBILITIES OF THE RETIREMENT BOARD; AMENDING SECTION 1-2002, IDAHO CODE, TO REQUIRE THE SUBMISSION OF A CERTAIN REPORT RELATING TO THE STATUS AND CONDITION OF THE JUDGES' RETIREMENT FUND; AMENDING SECTION 1-2002, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE JUDGES' RETIREMENT FUND, TO PROVIDE POWERS AND DUTIES OF THE RETIREMENT BOARD, TO PROVIDE FOR INDEMNIFICATION AND TO REQUIRE THE SUBMISSION OF A CERTAIN ANNUAL REPORT RELATING TO THE STATUS AND CONDITION OF THE JUDGES' RETIREMENT FUND; AMENDING SECTION 1-2003, IDAHO CODE, TO REVISE PROVISIONS RELATING TO FEES IN CIVIL ACTIONS AND APPEALS, TO PROVIDE A CORRECT CODE REFERENCE, TO CORRECT A REFERENCE TO THE INDUSTRIAL COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 1-2004, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DEDUCTIONS FROM SALARIES OF JUSTICES AND JUDGES AND RELATING TO CONTRIBUTIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 20, TITLE 1, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 1-2004A, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO EMPLOYER CONTRIBUTIONS, AMOUNTS, RATES AND AMORTIZATION; AMENDING CHAPTER 20, TITLE 1, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 1-2004B, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO EMPLOYEE CONTRIBUTIONS; AMENDING SECTION 1-2008, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE INVESTMENT OF THE JUDGES' RETIREMENT FUND AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 1-2009, IDAHO CODE, TO ESTABLISH ADDITIONAL PROVISIONS RELATING TO BENEFITS TO SURVIVING SPOUSES OF JUSTICES AND JUDGES; AMENDING SECTION 1-2010, IDAHO CODE, TO REVISE PROVISIONS TO PROVIDE THAT CERTAIN INFORMATION BE ON FILE WITH THE RETIREMENT BOARD; AMENDING SECTION 1-2012, IDAHO CODE, TO REVISE PROVISIONS TO GRANT THE RETIREMENT BOARD RULEMAKING AUTHORITY; PROVIDING A SUNSET DATE AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 1-2001, Idaho Code, be, and the same is hereby amended to read as follows:

1-2001. SUPREME COURT JUSTICES, COURT OF APPEALS JUDGES AND DISTRICT JUDGES -- AGE OF RETIREMENT -- COMPENSATION ON RETIREMENT. (1) (a) Every person who served as a justice of the supreme court or judge of the court of appeals or district judge of the district court and ~~is~~ who was receiving benefits from the judges' retirement fund before July 1, 2000, for such service,

1 shall be entitled to benefits from the fund according to the formula for cal-  
 2 culating such benefits as provided in section 1-2001(2) (a), Idaho Code.

3 (b) The term "retirement board" as used in this chapter shall mean the  
 4 retirement board created by section 59-1304, Idaho Code.

5 (2) Any person who is now serving or who shall hereafter serve as a jus-  
 6 tice of the supreme court, a judge of the court of appeals, or a district  
 7 judge of a district court of this state shall prior to retirement elect in  
 8 writing to retire under either paragraph (a) or (b) of this subsection, pro-  
 9 vided that a person who has first assumed office as a supreme court justice,  
 10 judge of the court of appeals or district judge on or after July 1, 2012, and  
 11 who is eligible to receive an annual retirement compensation only under the  
 12 criteria set forth in subsection (3) (c) of this section, may retire only un-  
 13 der paragraph (a) of this subsection. Any person who fails to make the elec-  
 14 tion provided for in this subsection prior to retirement shall receive re-  
 15 tirement compensation under the provisions of paragraph (a) of this subsec-  
 16 tion.

17 (a) (i) On or after July 1, 2000, any person who has served or who is now  
 18 serving or who shall hereafter serve as a justice of the supreme  
 19 court, a judge of the court of appeals, or a district judge of a  
 20 district court of this state may leave office or retire and be en-  
 21 titled to receive and to have paid from the date of his retirement  
 22 until death, an annual retirement compensation ~~based upon a per-~~  
 23 ~~centage of the current annual compensation of the highest office~~  
 24 ~~in which he served~~ payable in monthly installments on the first day  
 25 of each month.

26 (ii) A person who assumed office as a supreme court justice, judge  
 27 of the court of appeals or district judge prior to July 1, 2012,  
 28 shall receive an annual retirement compensation based upon a per-  
 29 centage of the current annual compensation of the highest office  
 30 in which such person served, unless such person makes an irrevoca-  
 31 ble election no later than August 1, 2012, to receive upon retire-  
 32 ment an annual retirement compensation based upon the provisions  
 33 in this paragraph applicable to justices or judges who first as-  
 34 sumed such office on or after July 1, 2012.

35 (iii) A person who first assumed office as a supreme court justice,  
 36 judge of the court of appeals or district judge on or after July 1,  
 37 2012, shall receive an annual retirement compensation based upon  
 38 a percentage of the annual compensation at the time of such per-  
 39 son's retirement or resignation from the highest office in which  
 40 such person served, and such compensation shall be adjusted annu-  
 41 ally by the postretirement allowance adjustment established pur-  
 42 suant to section 59-1355, Idaho Code.

43 (iv) The percentage applicable to all retiring justices and  
 44 judges shall be equal to five percent (5%) multiplied by the num-  
 45 ber of years served as either justice or judge or both, for the  
 46 first ten (10) years of service plus two and one-half percent (2  
 47 1/2%) multiplied by the remaining number of years served as either  
 48 justice or judge or both, but in any event the total percentage  
 49 shall not be greater than seventy-five percent (75%) ~~of the cur-~~

~~rent annual compensation of the highest office in which he served,  
payable in monthly installments on the first day of each month.~~

(b) (i) On or after July 1, 2000, any person who is now serving or who shall hereafter serve as a justice of the supreme court, a judge of the court of appeals, or a district judge of a district court of this state may retire from office and be entitled to receive and to have paid from the date of his retirement until death, an annual retirement compensation ~~based upon a percentage of the current annual compensation of the highest office in which he served~~ payable in monthly installments on the first day of each month.

(ii) A person who assumed office as a supreme court justice, judge of the court of appeals or district judge prior to July 1, 2012, shall receive an annual retirement compensation based upon a percentage of the current annual compensation of the highest office in which such person served, unless such person makes an irrevocable election no later than August 1, 2012, to receive upon retirement an annual retirement compensation based upon the provisions in this paragraph applicable to justices or judges who first assumed such office on or after July 1, 2012.

(iii) A person who first assumed office as a supreme court justice, judge of the court of appeals or district judge on or after July 1, 2012, shall receive an annual retirement compensation based upon a percentage of the annual compensation at the time of such person's retirement or resignation of the highest office in which such person served, and such compensation shall be adjusted annually by the postretirement allowance adjustment established pursuant to section 59-1355, Idaho Code.

(iv) The percentage applicable to all retiring justices and judges shall be equal to five percent (5%) multiplied by the number of years served as either justice or judge or both for the first ten (10) years of service plus two and one-half percent (2 1/2%) multiplied by the remaining number of years served as either justice or judge or both, plus two and one-half percent (2 1/2%) multiplied by five (5) years senior judge service but in any event the total percentage shall not be greater than seventy-five percent (75%) ~~of the current annual compensation of the highest office in which he served, payable in monthly installments on the first day of each month.~~

(c) (i) A justice or judge electing to retire under paragraph (b) of this subsection and who assumed office as a supreme court justice, judge of the court of appeals or district judge prior to July 1, 2012, shall serve as a senior judge, without compensation other than annual health benefits, for thirty-five (35) days per year for a period of five (5) years.

(ii) A justice or judge electing to retire under paragraph (b) of this subsection who first assumed office as a supreme court justice, judge of the court of appeals or district judge on or after July 1, 2012, shall serve as a senior judge, without compensation other than annual health benefits, for sixty (60) days per year for a period of five (5) years.

(iii) A justice or judge who serves more than ~~thirty-five (35)~~ the required number of days per year may carry over the additional days to fulfill the senior judge service obligation in future years. The terms and conditions of such senior judge service shall be as provided under section 1-2005, Idaho Code.

(d) Upon certification from the chief justice that any justice or judge who retired under paragraph (b) of this subsection has failed to perform the senior judge services required under paragraph (c) of this subsection, and has not been relieved of the obligations to perform those services in the manner provided by this subsection, the judges' retirement fund shall recalculate the retirement compensation benefits of the non-complying justice or judge under paragraph (a) of this subsection, and the noncomplying justice or judge shall thereafter receive only the recalculated amount.

(e) A justice or judge may be relieved of the senior judge service obligation imposed by this subsection if he fails for good cause to complete the obligation. A retired justice or judge who is relieved of the obligation to serve as a senior judge shall continue to receive the retirement allowance provided under paragraph (b) of this subsection.

(f) "Good cause" includes, but is not limited to:

(i) Physical or mental incapacitation of a justice or judge that prevents the justice or judge from discharging the duties of judicial office;

(ii) Failure of the supreme court to assign a senior judge to the requisite amount of senior judge service, whether because of insufficient need for senior judges, a determination by the supreme court that the skills of a senior judge do not match the needs of the courts, clerical mistake or otherwise; or

(iii) Death of a senior judge.

(g) "Good cause" does not include:

(i) A senior judge's refusal, without good cause, to accept senior judge assignments sufficient to meet the required amount; or

(ii) A senior judge's affirmative voluntary act that makes him unqualified to serve as a judge of this state including, but not limited to, failure to maintain a residence within the state, commencing the practice of law other than as a mediator, arbitrator or similar alternative dispute resolution function, acceptance of a position in another branch of state government or political subdivision, or the acceptance of a position in the government of the United States or of another state or nation.

(h) The supreme court may make rules for the implementation of this subsection.

(3) On or after July 1, 2000, each person who has served but is not receiving benefits or who is now serving or who shall hereafter serve who shall leave office or retire as justice of the supreme court, judge of the court of appeals, or district judge of a district court in this state shall be eligible to receive an annual retirement compensation when such person shall meet one (1) of the following eligibility criteria:

(a) Attaining the age of sixty-five (65) years and having a minimum service of four (4) years;

1 (b) Attaining the age of sixty (60) years and having a minimum service  
2 of ten (10) years;

3 (c) Attaining the age of fifty-five (55) years and having a minimum ser-  
4 vice of fifteen (15) years; or

5 (d) At any age after twenty (20) years of service.

6 (4) (a) On or after July 1, 2000, each justice or judge who is now serv-  
7 ing or who shall hereafter be appointed or elected and who shall retire  
8 by reason of disability preventing him from further performance of the  
9 duties of his office, after a service in any or all of said courts of four  
10 (4) years or more, shall, upon retirement, be entitled to receive and to  
11 have paid to him until death an annual retirement compensation payable  
12 in monthly installments on the first day of each month.

13 (b) A person who assumed office as a supreme court justice, judge of  
14 the court of appeals or district judge prior to July 1, 2012, shall re-  
15 ceive an annual retirement compensation based upon a percentage of the  
16 current annual compensation of the highest office in which such person  
17 served, unless such person makes an irrevocable election no later than  
18 August 1, 2012, to receive upon retirement an annual retirement compen-  
19 sation based upon the provisions in this subsection applicable to jus-  
20 tices or judges who first assumed such office on or after July 1, 2012.

21 (c) A person who first assumed office as a supreme court justice, judge  
22 of the court of appeals or district judge on or after July 1, 2012,  
23 shall receive an annual retirement compensation based upon a percentage  
24 of the annual compensation at the time of such person's retirement or  
25 resignation from the highest office in which such person has served,  
26 and such compensation shall be adjusted annually by the postretirement  
27 allowance adjustment established pursuant to section 59-1355, Idaho  
28 Code.

29 (d) The percentage applicable to all justices and judges who retire  
30 by reason of disability shall be equal to five percent (5%) ~~of the cur-~~  
31 ~~rent annual compensation of the highest office in which he served,~~  
32 multiplied by the number of years served as either justice or judge or  
33 both, for the first ten (10) years of service, ~~and equal to plus two~~  
34 ~~and one-half percent (2 1/2%) of the current annual compensation of the~~  
35 ~~highest office in which he served,~~ multiplied by the remaining number of  
36 years served as either justice or judge or both, but such ~~amount of an-~~  
37 ~~annual retirement compensation percentage~~ shall not exceed seventy-five  
38 percent (75%) ~~of the current annual compensation of the highest office~~  
39 ~~in which he served, payable in monthly installments on the first day of~~  
40 ~~each month.~~

41 (5) All retirement compensation shall be paid out of the judges' re-  
42 tirement fund, provided however, that a justice or judge who has served less  
43 than four (4) years shall be entitled to have refunded to him all contribu-  
44 tions made by him to the judges' retirement fund, with six and one-half per-  
45 cent (6 1/2%) interest computed annually but shall not be entitled to any  
46 other compensation from the fund.

47 (6) A person who has retired from the office of supreme court justice,  
48 judge of the court of appeals or district judge prior to July 1, 2012, or  
49 any other person receiving benefits as of July 1, 2012, may make an irrev-  
50 ocable election no later than August 1, 2012, to thereafter receive an an-

1    nual retirement compensation or allowance equal to the amount of the annual  
 2    retirement compensation or allowance such person was receiving as of July  
 3    1, 2012, and to have such compensation or allowance thereafter adjusted an-  
 4    nually by the postretirement allowance adjustment established pursuant to  
 5    section 59-1355, Idaho Code.

6    (7) Notwithstanding any other provision of this section, any person  
 7    who makes an election to remain in the public employee retirement system of  
 8    Idaho as provided in section 1-2011, Idaho Code, shall not participate in  
 9    the judges' retirement fund established in this chapter, but shall continue  
 10   to participate in the public employee retirement system of Idaho and be  
 11   governed under the provisions of that system, except as provided in section  
 12   1-2005, Idaho Code.

13        SECTION 2. That Section 1-2001b, Idaho Code, be, and the same is hereby  
 14   amended to read as follows:

15        1-2001b. CONVERSION OF RETIREMENT COMPENSATION INTO OPTIONAL RE-  
 16   TIREMENT ALLOWANCES -- FORM OF OPTIONAL RETIREMENT. (1) The retirement  
 17   compensation of a justice or judge who, at the time of retirement, so elects  
 18   shall be converted into an optional retirement allowance which is the ac-  
 19   tual equivalent of such retirement compensation to which the justice or  
 20   judge would otherwise be entitled under section 1-2001, Idaho Code, includ-  
 21   ing the value of the spousal benefit provided by section 1-2009, Idaho Code,  
 22   provided the spouse is the contingent annuitant. The optional retirement  
 23   allowance may take one (1) of the forms listed below and shall be in lieu of  
 24   all other retirement compensation and benefits under this chapter, except  
 25   the death benefit provided by section 1-2010, Idaho Code.

26        (a) Option 1 provides a reduced retirement allowance payable during the  
 27   lifetime of the retired justice or judge, and a continuation thereafter  
 28   of such reduced retirement allowance during the lifetime of the justice  
 29   or judge's named contingent annuitant.

30        (b) Option 2 provides a reduced retirement allowance payable during the  
 31   lifetime of the retired justice or judge, and a continuation thereafter  
 32   of one-half (1/2) of such reduced retirement allowance during the life-  
 33   time of the justice or judge's named contingent annuitant.

34        (2) Should the named contingent annuitant under option 1 or option  
 35   2 predecease a justice or judge, upon notification to the ~~supreme court~~  
 36   ~~retirement board~~, the justice or judge's benefit on the first day of the  
 37   month following the death of the contingent annuitant will thereafter become  
 38   an allowance calculated pursuant to section 1-2001, Idaho Code.

39        (3) Application for any optional retirement allowance shall be in writ-  
 40   ing, duly executed and filed with the ~~supreme court~~ retirement board. Such  
 41   application shall contain all information required by the ~~supreme court~~  
 42   ~~retirement board~~, including such proofs of age as are deemed necessary by the  
 43   ~~supreme court retirement board~~.

44        (4) A retirement option elected at the time of retirement as provided  
 45   for in this section may not be changed except by written notice to the ~~supreme~~  
 46   ~~court retirement board~~ no later than five (5) business days after the receipt  
 47   of the first retirement allowance.

48        (5) Not later than one (1) year after the marriage of a retired justice  
 49   or judge, the justice or judge may elect option 1 or 2 to become effective

one (1) year after the date of such election, provided the justice or judge's spouse is named as a contingent annuitant, and either:

(a) The justice or judge was not married at the time of retirement; or

(b) The justice or judge earlier elected option 1 or 2, having named the justice or judge's spouse as contingent annuitant, and said spouse has died.

(6) Each justice or judge receiving retirement compensation on July 1, 2000, shall have a one-time irrevocable election to name a spouse as a contingent annuitant under subsection (1) (a) of this section.

SECTION 3. That Section 1-2002, Idaho Code, be, and the same is hereby amended to read as follows:

1-2002. JUDGES' RETIREMENT FUND. For the purpose of paying such retirement compensation, there is hereby created in the office of the treasurer of the state of Idaho a fund to be known as the "Judges' Retirement Fund," which shall consist of all moneys appropriated from the general fund, and all moneys received from special fees to be paid by parties to civil actions and proceedings, other than criminal, commenced in or appealed to the several courts of the state, together with all contributions out of the salaries and compensation of justices and judges, and interest received from investment, and reinvestment, of moneys of the judges' retirement fund, all as hereinafter provided.

All sums of money so accrued and accruing to the judges' retirement fund, less an amount deemed reasonable and necessary by the administrative director of the courts to pay for necessary actuarial studies to assist in administering the judges' retirement fund, are hereby appropriated to the payment of the annual retirement compensation of such retired justices and judges, and to payment of the allowances to surviving spouses.

The supreme court shall submit an annual report for each fiscal year on the status and condition of the judges' retirement fund to the chairman of the judiciary and rules committee of the senate, to the chairman of the judiciary, rules and administration committee of the house and to the chairmen of the joint finance-appropriations committee. Such report shall include a fiscal year end actuarial evaluation of the judges' retirement fund and shall include a specific report on any costs or savings arising from the retirement of persons under the provisions of subsection (2) (b) of section 1-2001, Idaho Code.

SECTION 4. That Section 1-2002, Idaho Code, be, and the same is hereby amended to read as follows:

1-2002. JUDGES' RETIREMENT FUND -- POWERS AND DUTIES OF THE RETIREMENT BOARD -- INDEMNIFICATION. (1) For the purpose of paying such retirement compensation, there is hereby created in the office of the treasurer of the state of Idaho a fund to be known as the "Judges' Retirement Fund," which shall be separate and apart from all public moneys or funds of this state, which shall be maintained in trust exclusively for the purpose of the provisions of this chapter, and which shall consist of all moneys appropriated from the general fund, and all moneys received from special fees to be paid by parties to civil actions and proceedings, other than criminal, commenced

1 in or appealed to the several courts of the state, together with all contri-  
 2 butions out of the salaries and compensation of justices and judges, and in-  
 3 terest received from investment, and reinvestment, of moneys of the judges'  
 4 retirement fund, all as hereinafter provided. The retirement board shall  
 5 serve as trustee of the trust.

6 (2) The members of the retirement board, public employee retirement  
 7 system staff and mortgage and investment committee members shall be provided  
 8 a defense and indemnified, and the retirement board may determine to provide  
 9 a defense and indemnity, or refuse a defense and disavow and refuse to pay any  
 10 judgment, to the same extent as provided in section 59-1305(1), Idaho Code.

11 (3) All sums of money so accrued and accruing to the judges' retirement  
 12 fund, less an amount deemed reasonable and necessary by the administrative  
 13 director of the courts retirement board to pay for necessary actuarial stud-  
 14 ies to assist in administering administrative expenses of the judges' re-  
 15 retirement fund, are hereby appropriated to the payment of the annual retire-  
 16 ment compensation of such retired justices and judges, and to payment of the  
 17 allowances to surviving spouses.

18 (4) The retirement board shall submit an annual report for each fis-  
 19 cal year on the status and condition of the judges' retirement fund to the  
 20 supreme court, to the chairman of the judiciary and rules committee of the  
 21 senate, to the chairman of the judiciary, rules and administration committee  
 22 of the house and to the chairmen of the joint finance-appropriations com-  
 23 mittee. Such report shall include a fiscal year end actuarial evaluation  
 24 of the judges' retirement fund and shall include a specific report on any  
 25 costs or savings arising from the retirement of persons under the provisions  
 26 of subsection (2) (b) of section 1-2001, Idaho Code. The retirement board  
 27 shall consult with the administrative director of the courts concerning  
 28 any prospective changes or amendments to statutes and rules relating to the  
 29 judges' retirement fund.

30 SECTION 5. That Section 1-2003, Idaho Code, be, and the same is hereby  
 31 amended to read as follows:

32 1-2003. ADDITIONAL FEES IN CIVIL ACTIONS AND APPEALS. (a) In addition  
 33 to the fees and charges to be collected by the clerks of the district courts  
 34 of the state and by other persons authorized by rule or administrative order  
 35 of the ~~S~~supreme ~~C~~court as now or hereafter provided by law, such clerks and  
 36 authorized persons are directed to charge and collect the additional sum of  
 37 ~~eighteen~~ twenty-six dollars (\$~~18~~26.00) for filing a civil case or proceeding  
 38 of any type in the district court or magistrate's division of the district  
 39 court including cases involving the administration of decedents' estates,  
 40 whether testate or intestate, conservatorships of the person or of the es-  
 41 tate or both and guardianships of the person or of the estate or both, ex-  
 42 cept that no fee shall be charged or collected for filing a proceeding under  
 43 the ~~S~~summary ~~A~~administration of procedure for ~~S~~small ~~E~~estates Act, part 12,  
 44 chapter 3, title 15, Idaho Code. The additional sum of ~~eighteen~~ twenty-six  
 45 dollars (\$~~18~~26.00) shall also be collected from any party, except the plain-  
 46 tiff, making an appearance in any civil action in the district court, but  
 47 such ~~eighteen~~ twenty-six dollars (\$~~18~~26.00) fee shall not be collected from  
 48 the person making an appearance in civil actions filed in the small claims  
 49 departments of the district court.



(b) The sum of ~~eighteen~~ twenty-six dollars (\$~~18~~26.00) shall also be collected:

- (1) ~~From~~ an intervenor in an action;
- (2) ~~From~~ a party who files a third party claim;
- (3) ~~From~~ a party who files a cross claim;
- (4) ~~From~~ a party appealing from the magistrate's division of the district court to the district court;
- (5) ~~From~~ a party appealing the decision of any commission, board or body to the district court.

(c) The clerk of the ~~S~~supreme ~~C~~court is authorized and directed to charge and collect, in addition to the fees now prescribed by law and as a part of the cost of filing the transcript on appeal in any civil case or proceeding, other than criminal, appealed to the ~~S~~supreme ~~C~~court, the additional sum of ~~eighteen~~ twenty-six dollars (\$~~18~~26.00); for filing a petition for rehearing, the additional sum of ~~ten~~ eighteen dollars (\$~~10~~18.00); for filing an application for any writ for which a fee is now prescribed, the additional sum of ~~ten~~ eighteen dollars (\$~~10~~18.00); for filing appeals from the industrial accident board commission, the additional sum of ~~five~~ thirteen dollars (\$~~5~~13.00).

(d) The clerks of the district courts, persons authorized by rule or administrative order of the ~~S~~supreme ~~C~~court and the clerk of the ~~S~~supreme ~~C~~court are directed and required to remit all additional charges and fees authorized by this section and collected during a calendar month, to the state treasurer within five (5) days after the end of the month in which such fees were collected. Prior to the effective date of section 1-2004A, Idaho Code, the state treasurer shall place all such sums in the judges' retirement fund. On and after the effective date of section 1-2004A, Idaho Code, the state treasurer shall place all such sums in the state general fund.

SECTION 6. That Section 1-2004, Idaho Code, be, and the same is hereby amended to read as follows:

1-2004. DEDUCTIONS FROM SALARIES OF JUSTICES AND JUDGES -- CONTRIBUTIONS TO FUND. (1) The state controller shall deduct from the monthly compensation of each justice and judge now holding office, and from the monthly compensation of each person who shall thereafter assume by election or appointment the office of a justice of the ~~S~~supreme ~~C~~court, a judge of the court of appeals or a judge of a district court, an amount equal to ~~six per cent (6%)~~ the following percentages of his monthly compensation, and shall issue to such justice or judge a salary warrant in such reduced amount, and shall pay the withheld sums into the judges' retirement fund; provided, however, that after twenty (20) years of service no deductions shall be taken from a judge's compensation for payment to the judges' retirement fund:

(a) On and after July 1, 2012, and prior to July 1, 2013, seven and sixty-nine hundredths percent (7.69%).

(b) On and after July 1, 2013, and prior to the date on which section 1-2004B, Idaho Code, shall be in full force and effect, nine percent (9%).

(c) On and after the date on which section 1-2004B, Idaho Code, shall be in full force and effect, nine percent (9%) or such other percentage as may be determined pursuant to section 1-2004B, Idaho Code.

(2) Between the first and twentieth day of each month, the ~~S~~supreme Court shall, from appropriations made for that purpose as part of the employer's contribution, remit to the judges' retirement fund an amount equal to ~~seven per cent (7%)~~ the following percentages of salaries paid during the previous month to justices and judges who are making contributions to the judges' retirement fund:

(a) On and after July 1, 2012, and prior to July 1, 2013, eight and ninety-seven hundredths percent (8.97%).

(b) On and after July 1, 2013, and prior to the date on which section 1-2004A, Idaho Code, shall be in full force and effect, ten and five-tenths percent (10.5%).

(c) On and after the date on which section 1-2004A, Idaho Code, shall be in full force and effect, ten and five-tenths percent (10.5%) or such other percentage as may be determined pursuant to section 1-2004A, Idaho Code.

SECTION 7. That Chapter 20, Title 1, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 1-2004A, Idaho Code, and to read as follows:

1-2004A. EMPLOYER CONTRIBUTIONS -- AMOUNTS -- RATES -- AMORTIZATION. (1) The amount of the employer contributions shall consist of the sum of a percentage of the salaries of active members to be known as the "normal cost" and a percentage of such salaries to be known as the "amortization payment." The rates of such contributions shall be determined by the retirement board on the basis of assets and liabilities as shown by the annual actuarial valuation, and such rates shall become effective no later than July 1 of the second year following the year of the most recent actuarial valuation, and shall remain effective until next determined by the retirement board.

(2) The normal cost rate shall be computed to be sufficient, when applied to the actuarial present value of the future salary of the average new justice or judge entering the system, to provide for the payment of all prospective benefits in respect to such justice or judge which are not provided by the justice's or judge's own contribution.

(3) The amortization rate shall not be less than the minimum amortization rate computed pursuant to subsection (5) of this section, unless a one (1) year grace period has been made effective by the retirement board. During a grace period, the amortization rate shall be no less than the rate in effect during the immediately preceding year. A grace period may not be made effective if more than one (1) other grace period has been effective in the immediately preceding four (4) year period.

(4) Each of the following terms used in this chapter shall have the following meanings:

(a) "Effective date" means the date the rates of contributions based on the valuation become effective pursuant to subsection (1) of this section.

(b) "End date" means the date twenty-five (25) years after the valuation date.

(c) "Projected salaries" means the sum of the annual salaries of all justices and judges.

(d) "Scheduled amortization amount" means the actuarial present value of future contributions payable as amortization payment from the valuation date until the effective date.

(e) "Unfunded actuarial liability" means the excess of the actuarial present value of (i) over the sum of the actuarial present values of (ii), (iii) and (iv) as follows, all determined by the valuation as of the valuation date:

(i) All future benefits payable under this chapter;

(ii) The assets then held by the funding agent for the payment of benefits under this chapter;

(iii) The future normal costs payable in respect of all then active justices and judges;

(iv) The future contributions payable under section 1-2004, Idaho Code, by all current active justices and judges;

(f) "Valuation" means the most recent annual actuarial valuation.

(g) "Valuation date" means the date of such valuation.

(5) The minimum amortization payment rate shall be that percentage, calculated as of the valuation date, of the then actuarial present value of the projected salaries from the effective date to the end date which is equivalent to the excess of the unfunded actuarial liability over the scheduled amortization amount.

SECTION 8. That Chapter 20, Title 1, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 1-2004B, Idaho Code, and to read as follows:

1-2004B. EMPLOYEE CONTRIBUTIONS. The contribution for a justice, judge of the court of appeals or district judge shall be eighteen and five-tenths percent (18.5%) of the employer contribution rate determined pursuant to section 1-2004A, Idaho Code, and rounded to the nearest one hundredth percent (.01%) of salary. The retirement board is specifically authorized to certify to the state controller the necessary adjustments in the rate of member contributions.

SECTION 9. That Section 1-2008, Idaho Code, be, and the same is hereby amended to read as follows:

1-2008. INVESTMENT OF JUDGES' RETIREMENT FUND. (1) ~~The endowment fund investment retirement board established in section 57-718, Idaho Code, shall at the direction of the supreme court select and contract with investment managers registered with the securities and exchange commission to manage the investment of the judges' retirement fund. The investment managers shall, subject to the direction of the board, exert control over the funds as though the investment managers were the owners thereof and are hereby authorized to invest the judges' retirement fund as hereinafter provided.~~

(a) ~~Subject to the approval of the supreme court, the investment~~ The retirement board shall formulate an investment policy governing the investment of judges' retirement funds. The policy shall pertain to the types, kinds or nature of investment of any of the funds, and any limitations, conditions or restrictions upon the methods, practices or procedures for investment, reinvestments, purchases, sales or exchange

1 transactions, ~~provided such policy shall not conflict with nor be in~~  
 2 ~~derogation of any Idaho constitutional provision or of the provisions~~  
 3 ~~of this chapter. Provided further, the supreme court may, in its sole~~  
 4 ~~discretion, limit any of the investments permitted by the investment~~  
 5 ~~policy.~~

6 (b) In acquiring, investing, reinvesting, exchanging, retaining,  
 7 selling and managing the moneys and securities of the fund, investment  
 8 managers shall also be governed by the prudent man investment act, sec-  
 9 tions 68-501 through 68-506, Idaho Code; provided, however, that the  
 10 ~~supreme court retirement board~~ may in its sole discretion, limit the  
 11 types, kinds and amounts of such investments.

12 (c) The retirement board shall adopt the actuarial tables and assump-  
 13 tions in use by the judges' retirement fund and may change the same in  
 14 its sole discretion at any time.

15 (2) ~~The investment board shall be responsible for assuring that the in-~~  
 16 ~~vestment managers comply with this section.~~

17 (3) ~~The investment retirement board, subject to the approval of the~~  
 18 ~~supreme court,~~ is hereby authorized to select and contract with a bank or  
 19 trust company authorized to do business in the state of Idaho, to act as  
 20 custodian of the judges' retirement fund, who shall hold all securities  
 21 and moneys of the judges' retirement fund and shall collect the principal,  
 22 dividends and interest thereof when due and pay the same into the judges'  
 23 retirement fund.

24 (43) The state treasurer shall pay all warrants drawn on the judges' re-  
 25 tirement fund for making such investments when issued pursuant to vouchers  
 26 ~~signed by the chief justice of the supreme court~~ approved by the retirement  
 27 board.

28 SECTION 10. That Section 1-2009, Idaho Code, be, and the same is hereby  
 29 amended to read as follows:

30 1-2009. BENEFIT TO SURVIVING SPOUSE OF JUSTICE OR JUDGE. The legisla-  
 31 ture hereby finds and declares that the payment of allowances to the sur-  
 32 viving spouses of justices of the supreme court, judges of the court of ap-  
 33 peals and district judges of the district court of the state of Idaho, serves  
 34 the public purpose of promoting the public welfare by encouraging experi-  
 35 enced jurists to continue their service and that their continued service and  
 36 increased efficiency will be secured in the expectation that the legisla-  
 37 ture will fairly provide for their surviving spouses, and that such contin-  
 38 ued service and increased efficiency of such jurists, secure in this knowl-  
 39 edge, will be of substantial benefit to the state.

40 The surviving spouse, of any justice or judge entitled to benefits un-  
 41 der this chapter who dies on or after July 1, 1965, shall receive an allowance  
 42 from the judges' retirement fund, payable monthly, and as hereinafter pro-  
 43 vided.

44 (a) In the case of a justice or judge receiving retirement compensation  
 45 at the time of death, allowance to his surviving spouse shall commence im-  
 46 mediately and be payable to such spouse from such fund in an amount equal to  
 47 fifty percent (50%) of the retirement compensation to which such justice or  
 48 judge would be entitled under section 1-2001(2), Idaho Code; provided, that  
 49 the allowance payable to the surviving spouse of a justice or judge who first

1 assumed the office of supreme court justice, judge of the court of appeals or  
 2 district judge on or after July 1, 2012, shall be thirty percent (30%) of the  
 3 retirement compensation to which such justice or judge would be entitled.

4 (b) In the case of a justice or judge who has service as a justice of  
 5 the supreme court, judge of the court of appeals or district judge of four  
 6 (4) years or more and is not receiving retirement compensation at the time  
 7 of death, commencing immediately, the surviving spouse shall be paid an al-  
 8 lowance from such fund in the amount of fifty percent (50%) of the retire-  
 9 ment compensation to which the justice or judge would have been entitled un-  
 10 der section 1-2001(2) (a), Idaho Code, as if the justice or judge was eligible  
 11 to retire and had retired immediately before his death; provided, that the  
 12 allowance payable to the surviving spouse of a justice or judge who first as-  
 13 sumed the office of supreme court justice, judge of the court of appeals or  
 14 district judge on or after July 1, 2012, shall be thirty percent (30%) of the  
 15 retirement compensation to which such justice or judge would have been enti-  
 16 tled, as if the justice or judge was eligible to retire and had retired imme-  
 17 diately before his death.

18 (c) The allowance shall be paid until the death of the surviving spouse.

19 (d) The surviving spouse of a justice or judge who is not receiving  
 20 benefits from the judges' retirement fund at the time of the justice's or  
 21 judge's death may elect to take an optional retirement allowance as a sur-  
 22 viving annuitant under option 1 of section 1-2001b(1) (a), Idaho Code. Such  
 23 optional retirement allowance shall be calculated as if the justice or judge  
 24 was eligible to retire and had retired immediately before his death.

25 SECTION 11. That Section 1-2010, Idaho Code, be, and the same is hereby  
 26 amended to read as follows:

27 1-2010. DEATH BENEFIT. (1) The death benefit of a deceased justice or  
 28 judge is the excess, if any, of the justice's or judge's accumulated contri-  
 29 butions to the judges' retirement fund, including accrued interest at the  
 30 rate provided in section 1-2001(5), Idaho Code, over the aggregate of all  
 31 retirement compensation payments and allowances ever made to the justice,  
 32 judge, spouse or annuitant from the judges' retirement fund.

33 (2) The death benefit is payable, and all other retirement compensation  
 34 benefits and allowances shall cease, upon the death of the justice, judge,  
 35 spouse or annuitant receiving a retirement compensation or allowance.

36 (3) The death benefit shall be paid to the beneficiary named by the  
 37 justice or judge in a written designation of beneficiary on file with the  
 38 ~~supreme court~~ retirement board if the beneficiary is surviving at the time  
 39 the death benefit is payable; otherwise the death benefit shall be paid to  
 40 the estate of the deceased justice or judge for distribution in accordance  
 41 with the laws of descent and distribution of the state of Idaho as they may  
 42 then be in effect.

43 SECTION 12. That Section 1-2012, Idaho Code, be, and the same is hereby  
 44 amended to read as follows:

45 1-2012. RULES AND ADMINISTRATIVE POLICIES. Subject to the other pro-  
 46 visions of this chapter, the ~~supreme court~~ retirement board shall have the  
 47 power and authority to adopt, amend and rescind such rules and administra-

1     tive policies as may be necessary for the proper administration of this chap-  
2     ter.

3             SECTION 13. The provisions of Section 3 of this act shall be null, void  
4     and of no force and effect on and after the first July 1 occurring at least  
5     three months after the Retirement Board has informed the Secretary of State  
6     that the Supreme Court has received a determination letter from the Internal  
7     Revenue Service ruling that the terms of the judges' retirement plan meet the  
8     applicable requirements of a qualified plan under U.S.C. Section 401(a) and  
9     that any changes to the judges' retirement plan required by the Internal Rev-  
10    enue Service or the determination letter have been made, and Sections 2, 4,  
11    7, 8, 9, 11 and 12 of this act shall be in full force and effect on and after  
12    the first July 1 occurring at least three months after the Retirement Board  
13    has informed the Secretary of State that the Supreme Court has received a de-  
14    termination letter from the Internal Revenue Service ruling that the terms  
15    of the judges' retirement plan meet the applicable requirements of a quali-  
16    fied plan under U.S.C. Section 401(a) and that any changes to the judges' re-  
17    tirement plan required by the Internal Revenue Service or the determination  
18    letter have been made.