

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 633

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO TAXES AND MINING; PROVIDING LEGISLATIVE INTENT; AMENDING
2 SECTION 63-3022, IDAHO CODE, TO PROVIDE FOR A CERTAIN DEDUCTION FROM
3 CORPORATE INCOME TAX; AMENDING TITLE 63, IDAHO CODE, BY THE ADDITION
4 OF A NEW CHAPTER 46, TITLE 63, IDAHO CODE, TO PROVIDE A SHORT TITLE,
5 TO PROVIDE PROVISIONS RELATING TO THE PRODUCTION AND DISTRIBUTION
6 OF CERTAIN SILVER MEDALLIONS AND SILVER BARS, TO PROVIDE THAT THE
7 STATE TREASURER SHALL VALUE CERTAIN SILVER MEDALLIONS AND BARS,
8 TO PROVIDE FOR THE ACCEPTANCE BY THE STATE TREASURER OF CERTAIN
9 SILVER MEDALLIONS AND BARS FOR PAYMENT, TO PROVIDE FOR SUSPENSION OF
10 ACQUISITION OF MEDALLIONS AND BARS, TO PROVIDE FOR THE DESIGN OF CERTAIN
11 SILVER MEDALLIONS AND BARS, TO PROVIDE PROVISIONS RELATING TO THE
12 DISTRIBUTION OF CERTAIN SILVER MEDALLIONS AND BARS, TO PROVIDE THAT
13 THE STATE TREASURER HAS THE AUTHORITY TO HEDGE ITS SILVER POSITION IN
14 THE FINANCIAL MARKETS, TO PROVIDE FOR RULES, TO PROVIDE THAT IT SHALL
15 BE PERMISSIBLE FOR COUNTIES TO ACCEPT AN IDAHO GEM OR A ONE TROY OUNCE
16 AMERICAN EAGLE FOR CERTAIN PAYMENTS, TO PROVIDE PROVISIONS RELATING TO
17 EXEMPTIONS FROM TAXATION OR FROM ANY SPECIAL ASSESSMENT FOR CERTAIN NEW
18 CAPITAL INVESTMENTS, TO PROVIDE PROVISIONS RELATING TO THE LOCATION
19 OF A CERTAIN NEW FACILITY FOR THE PRODUCTION OF SILVER AND OTHER METALS
20 FROM SILVER ORE OR SILVER ORE CONCENTRATE, TO DEFINE TERMS, TO PROVIDE
21 FOR DETERMINING CERTAIN INVESTMENT VALUE, TO PROVIDE FOR EXCLUSIONS AND
22 TO PROVIDE FOR RULES; AMENDING SECTION 67-1223, IDAHO CODE, TO PROVIDE
23 THAT THE STATE TREASURER SHALL OBTAIN A FEDERAL TRADEMARK ON THE DESIGN
24 OF EACH SERIES OF IDAHO GEMS, TO PROVIDE THAT THE DESIGN OF EACH SERIES
25 OF IDAHO GEMS IS PROPERTY OF THE STATE, TO PROVIDE PROVISIONS RELATING
26 TO INFRINGEMENT OF TRADEMARK, TO PROVIDE FOR PENALTIES AND TO PROVIDE
27 FOR THE USAGE OF PROFITS OF THE SALE OF IDAHO GEMS; AMENDING CHAPTER
28 12, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1226,
29 IDAHO CODE, TO ESTABLISH THE MINING INFRASTRUCTURE DEVELOPMENT FUND, TO
30 PROVIDE FOR MONEYS DEPOSITED IN THE FUND AND TO PROVIDE FOR USE OF FUND
31 MONEYS; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.
32

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

34 SECTION 1. LEGISLATIVE INTENT. Section 10, Article I of the United
35 States Constitution states: "No state shall ... make anything but gold and
36 silver coin a tender in payment of debts" The intent of this act is to use
37 the abundant silver resources of the state of Idaho to create a means whereby
38 the people of Idaho can pay their taxes to the state using silver mined from
39 the ground of Idaho, processed in Idaho and finally minted into a medallion
40 in Idaho. It is the intent of the Legislature to create mining jobs in Idaho
41 while giving the people of Idaho a means to store their wealth in a precious
42 metal that is immune from the effects of inflation while complying with the
43 mandates of our federal Constitution.

1 SECTION 2. That Section 63-3022, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 63-3022. ADJUSTMENTS TO TAXABLE INCOME. The additions and
4 subtractions set forth in this section, and in sections 63-3022A through
5 63-3022Q, Idaho Code, are to be applied to the extent allowed in computing
6 Idaho taxable income:

7 (a) Add any state and local taxes, as defined in section 164 of the
8 Internal Revenue Code and, measured by net income, paid or accrued during
9 the taxable year adjusted for state or local tax refunds used in arriving at
10 taxable income.

11 (b) Add the net operating loss deduction used in arriving at taxable
12 income.

13 (c) (1) A net operating loss for any taxable year commencing on and
14 after January 1, 2000, shall be a net operating loss carryback not to
15 exceed a total of one hundred thousand dollars (\$100,000) to the two (2)
16 immediately preceding taxable years. Any portion of the net operating
17 loss not subtracted in the two (2) preceding years may be subtracted
18 in the next twenty (20) years succeeding the taxable year in which the
19 loss arises in order until exhausted. The sum of the deductions may not
20 exceed the amount of the net operating loss deduction incurred. At the
21 election of the taxpayer, the two (2) year carryback may be foregone and
22 the loss subtracted from income received in taxable years arising in
23 the next twenty (20) years succeeding the taxable year in which the loss
24 arises in order until exhausted. The election shall be made as under
25 section 172(b)(3) of the Internal Revenue Code. An election under this
26 subsection must be in the manner prescribed in the rules of the state tax
27 commission and once made is irrevocable for the year in which it is made.
28 The term "income" as used in this subsection (c) means Idaho taxable
29 income as defined in this chapter as modified by section 63-3021(b)(2),
30 (3) and (4), Idaho Code.

31 (2) Net operating losses incurred by a corporation during a year in
32 which such corporation did not transact business in Idaho or was not
33 included in a group of corporations combined under subsection (t) of
34 section 63-3027, Idaho Code, may not be subtracted. However, if at
35 least one (1) corporation within a group of corporations combined under
36 subsection (t) of section 63-3027, Idaho Code, was transacting business
37 in Idaho during the taxable year in which the loss was incurred, then the
38 net operating loss may be subtracted. Net operating losses incurred by
39 a person, other than a corporation, in activities not taxable by Idaho
40 may not be subtracted.

41 (d) In the case of a corporation, add the amount deducted under the
42 provisions of sections 243(a) and (c), 244, 245 and 246A of the Internal
43 Revenue Code (relating to dividends received by corporations) as limited by
44 section 246(b)(1) of said code.

45 (e) In the case of a corporation, subtract an amount determined under
46 section 78 of the Internal Revenue Code to be taxable as dividends.

47 (f) Subtract the amount of any income received or accrued during
48 the taxable year which is exempt from taxation by this state, under the

1 provisions of any other law of this state or a law of the United States, if not
2 previously subtracted in arriving at taxable income.

3 (g) For the purpose of determining the Idaho taxable income of the
4 beneficiary of a trust or of an estate:

5 (1) Distributable net income as defined for federal tax purposes shall
6 be corrected for the other adjustments required by this section.

7 (2) Net operating losses attributable to a beneficiary of a trust
8 or estate under section 642 of the Internal Revenue Code shall be a
9 deduction for the beneficiary to the extent that income from the trust
10 or estate would be attributable to this state under the provisions of
11 this chapter.

12 (h) In the case of an individual who is on active duty as a full-time
13 officer, enlistee or draftee, with the armed forces of the United States,
14 which full-time duty is or will be continuous and uninterrupted for one
15 hundred twenty (120) consecutive days or more, deduct compensation paid by
16 the armed forces of the United States for services performed outside this
17 state. The deduction is allowed only to the extent such income is included in
18 taxable income.

19 (i) In the case of a corporation, including any corporation included in
20 a group of corporations combined under subsection (t) of section 63-3027,
21 Idaho Code, add any capital loss deducted which loss was incurred during
22 any year in which such corporation did not transact business in Idaho.
23 However, do not add any capital loss deducted if a corporation, including
24 any corporation in a group of corporations combined under subsection (t)
25 of section 63-3027, Idaho Code, was transacting business in Idaho during
26 the taxable year in which the loss was incurred. In the case of persons,
27 other than corporations, add any capital loss deducted which was incurred
28 in activities not taxable by Idaho at the time such loss was incurred. In
29 computing the income taxable to an S corporation or partnership under this
30 section, deduction shall not be allowed for a carryover or carryback of a net
31 operating loss provided for in subsection (c) of this section or a capital
32 loss provided for in section 1212 of the Internal Revenue Code.

33 (j) In the case of an individual, there shall be allowed as a deduction
34 from gross income either (1) or (2) at the option of the taxpayer:

35 (1) The standard deduction as defined in section 63, Internal Revenue
36 Code.

37 (2) Itemized deductions as defined in section 63 of the Internal
38 Revenue Code except state or local taxes measured by net income and
39 general sales taxes as either is defined in section 164 of the Internal
40 Revenue Code.

41 (k) Add the taxable amount of any lump sum distribution excluded
42 from gross income for federal income tax purposes under the ten (10) year
43 averaging method. The taxable amount will include the ordinary income
44 portion and the amount eligible for the capital gain election.

45 (l) Deduct any amounts included in gross income under the provisions of
46 section 86 of the Internal Revenue Code relating to certain social security
47 and railroad benefits.

48 (m) In the case of a self-employed individual, deduct the actual cost
49 of premiums paid to secure worker's compensation insurance for coverage in
50 Idaho, if such cost has not been deducted in arriving at taxable income.

1 (n) In the case of an individual, deduct the amount contributed to a
 2 college savings program pursuant to chapter 54, title 33, Idaho Code, but not
 3 more than four thousand dollars (\$4,000) per tax year. If the contribution
 4 is made on or before April 15, 2001, it may be deducted for tax year 2000
 5 and an individual can make another contribution and claim the deduction
 6 according to the limits provided in this subsection during 2001 for tax year
 7 2001, as long as the contribution is made on or before December 31, 2001.

8 (o) In the case of an individual, add the amount of a nonqualified
 9 withdrawal from an individual trust account or savings account established
 10 pursuant to chapter 54, title 33, Idaho Code, less any amount of such
 11 nonqualified withdrawal included in the individual's federal gross income
 12 pursuant to section 529 of the Internal Revenue Code.

13 (p) In the case of an individual, add the amount of a withdrawal from an
 14 individual trust account or savings account established pursuant to chapter
 15 54, title 33, Idaho Code, transferred to a qualified tuition program, as
 16 defined in section 529 of the Internal Revenue Code, that is operated by a
 17 state other than Idaho. The addition provided in this subsection is limited
 18 to the amount of the total contributions to the Idaho individual trust
 19 account or savings account by the account owner in the twelve (12) months
 20 preceding the date of the transfer.

21 (q) Commencing on and after January 1, 2011, until December 31, 2030,
 22 in the case of an individual or corporation qualifying for the property tax
 23 exemption provided for in section 63-4603, Idaho Code, deduct the amount
 24 attributable to the silver production facility. The deduction provided
 25 for in this subsection shall be limited to ten (10) years, with such period
 26 beginning at the time of the issuance of a certificate of occupancy by the
 27 local authority having jurisdiction or at the commencement of production at
 28 such silver production facility, whichever event occurs first.

29 SECTION 3. That Title 63, Idaho Code, be, and the same is hereby amended
 30 by the addition thereto of a NEW CHAPTER, to be known and designated as
 31 Chapter 46, Title 63, Idaho Code, and to read as follows:

32 CHAPTER 46
 33 IDAHO SILVER GEM ACT OF 2010

34 63-4601. SHORT TITLE. This chapter shall be known and may be cited as
 35 the "Idaho Silver Gem Act of 2010."

36 63-4602. SILVER MEDALLIONS AND SILVER BARS ISSUED BY THE STATE
 37 TREASURER. (1) The state treasurer "treasurer" is authorized to issue a
 38 request for proposal to any person or entity already qualified by law to do
 39 business within the state of Idaho and having a physical presence in this
 40 state such person or entity hereinafter referred to as "firm" or "firms" for
 41 the following purpose: The production and distribution as set forth herein
 42 of: (a) medallions each containing one-half (1/2) troy ounce of silver
 43 and/or one (1) troy ounce of silver; and/or (b) bars each containing ten (10)
 44 troy ounces of silver and/or fifty (50) troy ounces of silver. The silver
 45 shall be alloyed to no less than ninety-nine and nine-tenths percent (99.9%)
 46 fineness for the designated amount of silver. The medallions shall be
 47 struck with a bullion type finish. A one (1) ounce medallion shall be called

1 an "Idaho Gem." The one (1) ounce medallion shall be one and five hundred
2 ninety-eight thousandths (1.598) inches in diameter and shall have a reeded
3 edge. The medallions and/or bars shall state the weight and the fineness of
4 the silver contained therein. The treasurer shall purchase an inventory of
5 medallions and/or bars from the successful firm with moneys from the presale
6 of same, using any grant moneys for this purpose or using funds appropriated
7 from the general fund. The treasurer shall have the discretion to select the
8 successful proposal or to decline to select any proposal.

9 (2) After the medallions and/or bars have been manufactured, the
10 treasurer shall offer these medallions and/or bars for sale to the public.
11 The treasurer shall value these medallions and/or bars at the daily market
12 price of a single bullion quality one (1) troy ounce silver American Eagle
13 offered by a widely recognized precious metal dealer. At the treasurer's
14 office in Boise, Idaho, the treasurer shall accept these medallions and/or
15 bars for payment to the state of taxes and fees. The treasurer shall also
16 accept the one (1) troy ounce bullion silver American Eagle at its single one
17 (1) ounce daily market price for payment to the state of taxes and fees.

18 (3) The treasurer, at his discretion, may accept such silver medallions
19 and/or bars, including the one (1) troy ounce silver American Eagle, from the
20 public for the payment to the state of taxes and fees at additional locations
21 throughout the state as the treasurer shall designate. The treasurer shall
22 not offer a sales discount for a quantity of medallions or bars, but shall
23 complete all such transactions at the one (1) troy ounce per ounce bullion
24 market price determined pursuant to subsection (2) of this section.

25 (4) The treasurer shall have the authority to suspend acquisition
26 of such medallions and/or bars if the daily market price, as described in
27 subsection (2) of this section, is insufficient to cover the cost of minting,
28 marketing and distribution including labor, materials, use of equipment and
29 machinery, promotional and overhead expenses, which costs may be passed on
30 by the person or entity supplying the medallions and/or bars.

31 (5) The design of the medallions and bars shall be approved by the
32 committee referenced in section 67-1223(3), Idaho Code, before any firm is
33 authorized to produce such medallions and/or bars. The medallions and/or
34 bars shall not incorporate the state seal or other governmental emblem into
35 their design. The state shall secure a copyright for the design of the
36 medallions and/or bars. Any person who produces such medallions and/or bars
37 without the authority of the state treasurer shall be guilty of a misdemeanor
38 and punished as provided in section 18-113, Idaho Code. The successful
39 firm may offer for sale such medallions and/or bars to the public, but shall
40 agree by contract with the treasurer not to allow the retail sale of such
41 medallions and/or bars at a price less than that of the price the treasurer
42 offers them for sale to the public.

43 (6) The treasurer shall use his discretion to inventory a quantity
44 of medallions and/or bars to satisfy the public's demand to purchase such
45 medallions and/or bars. The treasurer shall stipulate in any request for
46 proposal that the medallions and/or bars be minted in this state and that
47 the silver be, when possible, refined in this state. The firm with which
48 the treasurer contracts need not be a silver production facility nor a mint.
49 The treasurer shall set aside any surplus funds from the sale of medallions
50 and/or bars for the future purchase of additional medallions and/or bars

1 such that the treasurer can maintain an adequate inventory to satisfy public
2 demand.

3 (7) When there is silver in the treasury, the treasurer shall pay by
4 these medallions and/or bars any vendor of the state that so requests payment
5 in silver for services or products, valuing them at the same valuation at
6 which they are offered to the public. When receiving the medallions and/or
7 bars for the payment of taxes and fees, the treasurer shall value them at
8 the same value that they are offered to the public. When there is a limited
9 amount of silver medallions and/or bars in the treasury, the treasurer shall
10 give preference to the state's vendors who request to be paid in silver.

11 (8) The treasurer may promulgate rules to account for the receipt of
12 taxes and fees that would otherwise be paid to the state tax commission. At
13 his discretion, the treasurer may promulgate additional rules to account
14 for the receipt of taxes and fees that would otherwise be paid to other
15 state agencies. The treasurer's office and the state tax commission may
16 coordinate between the two (2) offices to accommodate the use of the Idaho
17 Gem for the payment of taxes and fees that are normally paid to the state
18 tax commission. The treasurer may liquidate a portion of the inventory of
19 medallions and/or bars, if in the treasurer's discretion, there is too much
20 silver inventory in the treasury.

21 (9) Should the state treasurer have a quantity of silver in the
22 treasury, the state treasurer shall have the authority to hedge its silver
23 position in the financial markets to protect the state against adverse
24 changes in the market value of silver. The state treasurer shall have the
25 authority to promulgate additional rules for the implementation of this act.

26 (10) It shall be permissible for any county to accept an Idaho Gem or a
27 one (1) troy ounce American Eagle, valued at the daily market price, for the
28 payment of county taxes or county fees.

29 63-4603. PRODUCTION FACILITY -- TAX EXEMPTION. (1) For tax years
30 beginning on or after January 1, 2011, until December 31, 2030, the taxable
31 value of the improvements to property and personal property of a taxpayer
32 used for the development of any new facility for the production of silver
33 and other metals from silver ore or silver ore concentrate shall be exempt
34 from property taxation for a period of ten (10) years, such period to begin
35 from the commencement of construction initiated by the first inspection
36 after the issuance of a building permit. The exemption shall apply to
37 all real and personal property associated with the silver production
38 facility. Such property shall be exempt from property taxation and any
39 special assessment. It shall be permissible for an ore processing facility
40 to be temporarily sited near a site designated as a superfund site by the
41 federal government where abandoned or sequestered mine tailings or smelter
42 residue can be commercially processed with more advanced technology. Such
43 a temporary facility may process metals other than silver and need not meet
44 the provisions required of new capital investment, as that term is defined
45 in subsection (2) of this section, in order to utilize the tax exemptions.
46 After the mine tailing or smelter residue material from a superfund site
47 is processed, such production facility may be permanently located at a new
48 location within the state for the purpose of processing silver ore and silver
49 ore concentrate while maintaining the tax exemption. The tax exemption

1 shall apply to the permanent facility when such property constitutes a new
 2 capital investment and meets the requirements as defined in subsection (2)
 3 of this section.

4 (2) For purposes of this section, the following definitions shall
 5 apply:

6 (a) "New capital investment" means an investment of at least ten
 7 million dollars (\$10,000,000) by the acquisition, construction,
 8 improvement or installation of real or personal property related to new
 9 plant and building facilities at a project site.

10 (b) "New plant and building facilities" means:

11 (i) Qualified investments as provided for in section
 12 63-3029B(3), Idaho Code; or

13 (ii) Buildings or structural components of buildings.

14 (3) The property included in the calculation for purposes of
 15 determining the investment value shall include all real property owned,
 16 and all personal property owned, leased or rented directly associated
 17 with the new silver production facility. With respect to leased or rented
 18 personal property, only that portion of the property for which a taxpayer
 19 is contractually liable for payment of property taxes thereon, shall be
 20 included in the calculation of the investment.

21 (4) Property subject to the provisions of this section shall not be
 22 included on the property roll or the new construction roll prepared by the
 23 county assessor in accordance with section 63-301 or 63-301A, Idaho Code,
 24 respectively, until the exemption ceases.

25 (5) The state tax commission shall adopt rules necessary to implement
 26 the provisions of this section.

27 SECTION 4. That Section 67-1223, Idaho Code, be, and the same is hereby
 28 amended to read as follows:

29 67-1223. IDAHO COMMEMORATIVE SILVER MEDALLIONS ISSUED BY THE STATE
 30 TREASURER -- TRADEMARK -- IDAHO GEMS. (1) The state treasurer is hereby
 31 authorized to issue a series of commemorative silver medallions for sale
 32 to the public. Each series shall commemorate Idaho history, people or
 33 resources and may bear the great seal of the state of Idaho. Medallions shall
 34 contain one (1) ounce of fine silver, shall be alloyed to at least ninety
 35 percent (90%) fineness, and shall not constitute legal tender. No sales or
 36 use tax shall be imposed on the sale or purchase of medallions from the state
 37 treasurer or any agent designated by the state treasurer. Only mints which
 38 have contracted with the state treasurer may produce Idaho commemorative
 39 silver medallions. Any other production of such medallions is a misdemeanor
 40 person who produces such medallions without the authority of the treasurer
 41 shall be guilty of a misdemeanor and punished as provided in section 18-113,
 42 Idaho Code.

43 (2) The state treasurer shall make such arrangements as the
 44 state treasurer considers appropriate for the production, promotion,
 45 distribution and sale of medallions, and shall ensure that all moneys
 46 received from the sale of medallions are paid into the state treasury
 47 and credited to the state veterans cemetery maintenance fund created in
 48 section 65-107, Idaho Code. Provided however, the state treasurer is hereby
 49 authorized to retain such amounts from the sale of medallions as necessary

1 to repay costs incurred by the state treasurer in the promotion, shipping
2 and handling of medallions. Provided further, if the initial cost to mint
3 a series of medallions is provided by moneys from another state fund, then
4 such other fund shall first be reimbursed for such costs before the remaining
5 revenues are credited to the state veterans cemetery maintenance fund. The
6 revenues shall be used for the purposes designated in section 65-107, Idaho
7 Code.

8 (3) The state treasurer, in collaboration with a committee of
9 legislators comprised of representatives appointed by the speaker of the
10 house of representatives and senators appointed by the president pro tempore
11 of the senate, shall determine the number of medallions to be issued in a
12 series, shall determine the number of series to be issued, and shall approve
13 the design of medallions for each series.

14 (4) The state treasurer, as agent of the state of Idaho, is hereby
15 directed to obtain a federal trademark on the design of each series of
16 medallions issued, and Idaho Gems as provided for in section 63-4602, Idaho
17 Code, and is further authorized, after consultation with the attorney
18 general, to register for a state trademark under chapter 5, title 48, Idaho
19 Code. The design of each series of Idaho commemorative silver medallions and
20 Idaho Gems is the property of the state of Idaho, and the state of Idaho and
21 the taxpayers shall be deemed to have a trademark on each design. It is the
22 duty of the state treasurer to protect each and every trademark.

23 (a) If a person reproduces a trademark medallion or Idaho Gem design and
24 distributes any product using any such design for the purpose of direct
25 or indirect commercial advantage, the person shall owe to the state
26 treasurer, as the agent of the state of Idaho, a royalty fee in addition
27 to the revenues derived from the sale of products using a medallion
28 or Idaho Gem design. Any person who reproduces a trademark design
29 and distributes any product with a medallion or Idaho Gem design in
30 violation of the provisions of this subsection (4), shall be deemed to
31 be an infringer of the state of Idaho's trademark. The state treasurer,
32 through the office of the attorney general, is entitled to institute
33 an action for any infringement of that particular right committed
34 while the state treasurer or his designated agent has custody of the
35 trademark.

36 (b) A court having jurisdiction of a civil action arising under this
37 subsection (4) may grant such relief as it deems appropriate. At any
38 time while an action under this subsection (4) is pending, the court
39 may order the impounding, on such terms as it deems reasonable, of all
40 products in inventory of the infringer which are in violation of law.

41 (c) An infringer on the state of Idaho's trademark pursuant to this
42 subsection (4) is liable for any profits the infringer has incurred
43 reproducing a trademark design and distributing products using the
44 design for commercial purposes or is liable for statutory damages as
45 provided in paragraph (d) of this subsection (4).

46 (d) The state treasurer, as agent of the trademark owner, may elect,
47 at any time before final judgment is rendered, to recover, instead
48 of actual damages and profits, an award of statutory damages for all
49 infringements involved in the action, with respect to a trademark
50 medallion or Idaho Gem design for which any one (1) infringer is liable

1 individually, or for which any two (2) or more infringers are liable
 2 jointly and severally, in a sum of not less than two hundred fifty
 3 dollars (\$250) or more than ten thousand dollars (\$10,000), as the court
 4 considers just.

5 (e) In any civil action under this subsection (4), the court may allow
 6 the recovery of full costs by or against any party and may also award
 7 reasonable attorney's fees to the prevailing party as part of the costs.

8 (5) Medallions in the first series issued shall commemorate "Support of
 9 Idaho's Heroes" to honor the courage and sacrifice of all Idaho servicemen
 10 and veterans of the United States armed forces and Idaho military branches of
 11 the armed services.

12 (6) Any profits realized from the sale of Idaho Gems shall be retained
 13 by the state treasurer and shall be used to procure more Idaho Gems for sale
 14 to the public.

15 SECTION 5. That Chapter 12, Title 67, Idaho Code, be, and the same is
 16 hereby amended by the addition thereto of a NEW SECTION, to be known and
 17 designated as Section 67-1226, Idaho Code, and to read as follows:

18 67-1226. MINING INFRASTRUCTURE DEVELOPMENT FUND ESTABLISHED --
 19 MONEYS. (1) There is hereby established in the state treasury a fund to be
 20 known as the "Mining Infrastructure Development Fund," to which shall be
 21 credited:

22 (a) Twenty-five percent (25%) of any state of Idaho surplus funds from
 23 the processing of a PTM cell; and

24 (b) All other moneys as may be provided by law.

25 (2) All such moneys that may hereafter come into such fund are hereby
 26 continuously appropriated to the Idaho department of commerce for carrying
 27 out the purposes of the fund as provided for in this section through grants or
 28 any other appropriate means determined by the department. Moneys in the fund
 29 established in this section shall be used for the development of public works
 30 and/or public transportation infrastructure for the aid and development of
 31 mining resources in the state of Idaho. The department is hereby authorized
 32 to promulgate rules to implement the provisions of this subsection.

33 (3) Interest earned on the investment of idle moneys in the mining
 34 infrastructure development fund established in this section shall be paid to
 35 the fund.

36 (4) All idle moneys in the fund established in this section shall be
 37 invested by the state treasury in the same manner as provided in section
 38 67-1210, Idaho Code, with respect to other surplus or idle moneys in the
 39 state treasury.

40 SECTION 6. SEVERABILITY. The provisions of this act are hereby declared
 41 to be severable and if any provision of this act or the application of such
 42 provision to any person or circumstance is declared invalid for any reason,
 43 such declaration shall not affect the validity of the remaining portions of
 44 this act.

45 SECTION 7. This act shall be in full force and effect on and after
 46 January 1, 2011.