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Director

# Legislative Services Office

## Idaho State Legislature

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### MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Education Committee and the House Education Committee  
**FROM:** Principal Legislative Research Analyst - Eric Milstead  
**DATE:** September 18, 2013  
**SUBJECT:** State Board of and State Department of Education

IDAPA 08.01.05 - Rules Pertaining To The Idaho Promise Scholarship Program (Chapter Repeal) (Docket No. 08-0105-1301)

IDAPA 08.01.06 - Rules Pertaining To The Leveraging Education Assistance Partnership Program (Chapter Repeal) (Docket No. 08.0106-1301)

IDAPA 08.01.09 - Rules Pertaining To The Rules Governing Gear Up Idaho Scholarship Program (Docket No. 08-0109-1301)

IDAPA 08.01.12 - Rules Pertaining To The Idaho Minority & "At-Risk" Student Scholarship Program (Chapter Repeal) (Docket No. 08-0112-1301)

IDAPA 08.01.13 - Rules Pertaining To The Rules Governing Opportunity Scholarship Program (Docket No. 08-0113-1301)

IDAPA 08.02.04 - Rules Pertaining To The Rules Governing Public Charter Schools (Docket No. 08-0204-1301)

IDAPA 08.03.01 - Rules Pertaining To The Rules of the Public Charter School Commission (Docket No. 08-0301-1301)

1. IDAPA 08.01.05 - Rules Pertaining To The Idaho Promise Scholarship Program (Chapter Repeal) (Docket No. 08-0105-1301)

The State Board of Education submits notice of proposed rulemaking at IDAPA 08.01.05 -- Rules Pertaining to the Idaho Promise Scholarship Program. The proposed rule in this docket repeals the Rule Chapter that governed the Idaho Promise Scholarship Program. The Board notes that Senate Bill 1027, passed by the 2013 Legislature, consolidated the majority of the state run scholarship programs and consequently, there was a need to repeal the Rule Chapter that dealt specifically with the Idaho Promise Scholarship program.

The Board states that negotiated rulemaking was conducted relating to this docket.

The Board's proposed rule appears to be authorized pursuant to section 33-105, Idaho Code.

2. IDAPA 08.01.06 - Rules Pertaining To The Leveraging Education Assistance Partnership Program (Chapter Repeal) (Docket No. 08.0106-1301)

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Research & Legislation

Cathy Holland-Smith, Manager  
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April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
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The State Board of Education submits notice of proposed rulemaking at IDAPA 08.01.06 -- Rules Pertaining to the Leveraging Education Assistance Partnership Program . The proposed rule in this docket repeals the Rule Chapter that governed the Leveraging Education Assistance Partnership Program. As discussed in the docket immediately preceding this docket in the memorandum, the Board notes that Senate Bill 1027, passed by the 2013 Legislature, consolidated the majority of the state run scholarship programs and consequently, there was a need to repeal the Rule Chapter that dealt specifically with the Leveraging Education Assistance Partnership Program.

The Board states that negotiated rulemaking was conducted relating to this docket.

The Board's proposed rule appears to be authorized pursuant to section 33-105, Idaho Code.

3. IDAPA 08.01.09 - Rules Governing Gear Up Idaho Scholarship Program (Docket No. 08-0109-1301)

The State Board of Education submits notice of proposed rulemaking at IDAPA 08.01.09 -- Rules Pertaining to the Rules Governing Gear Up Idaho Scholarship Program. The proposed rule in this docket provides corrections for some technical errors that existed in the rule (See, e.g., Sections 010.02. and 800.); revises provisions relating to the timing of applications and announcement of the scholarship award (See, Sections 200.01.; 200.02. and 500.01.); includes the SAT test as part of the eligibility provision (See, Section 300.01.); and eliminates language relating to the reassignments of scholarships (See, Sections 600.02. and 600.03.).

The Board states that negotiated rulemaking was conducted.

The Board's proposed rule appears to be authorized pursuant to section 33-105, Idaho Code.

4. IDAPA 08.01.12 - Rules Pertaining To The Idaho Minority & "At-Risk" Student Scholarship Program (Chapter Repeal) (Docket No. 08-0112-1301)

The State Board of Education submits notice of proposed rulemaking at IDAPA 08.01.09 -- Rules Pertaining to the Idaho Minority & "At risk" Student Scholarship Program. The proposed rule in this docket, like the first docket discussed in this memorandum, repeals the Rule Chapter that governed a scholarship program. The proposed rule repeals the administrative rules governing the Idaho Minority & "At-Risk" Student Scholarship Program. The Board notes that Senate Bill 1027, passed by the 2013 Legislature, consolidated the majority of the state run scholarship programs and consequently, there was a need to repeal the Rule Chapter that dealt specifically with the Idaho Promise Scholarship program.

The Board states that negotiated rulemaking was conducted relating to this docket.

The Board's proposed rule appears to be authorized pursuant to section 33-105, Idaho Code.

5. IDAPA 08.01.13 - Rules Governing Opportunity Scholarship Program (Docket No. 08-0113-1301)

The State Board of Education submits notice of proposed rulemaking at IDAPA 08.01.13 -- Rules Governing Opportunity Scholarship Program. This docket reflects the revised administrative rules that reflect changes to the statutory scholarship programs found in Senate Bill 1027, passed during the 2013 Legislative Session. The Board notes that the proposed rule reflects the elimination of language that is redundant with statute; clarifies text relating to residency, student eligibility, academic eligibility and revises language relating to renewal applications.

Specifically, the proposed rule eliminates many definitional subsections because definitions are provided for in statute. The proposed rule also revises text relating to eligibility requirements regarding residency, academics, financial eligibility and continuing eligibility provisions (See, Rule Sections 101 and 302). The proposed rule also eliminates obsolete provisions that were in effect for a period during 2007 (See, Rule Section 201). Finally, the proposed rule includes revisions to sections governing the responsibilities of eligible post-

secondary institutions (See, Rule Section 400) and also sections providing for the Board of Education's responsibilities (See, Rule Section 401).

The Board states that negotiated rulemaking was conducted.

The Board's proposed rule appears to be authorized pursuant to section 33-105, Idaho Code, and Title 33, Chapter 46, Idaho Code.

#### 6. IDAPA 08.02.04 - Rules Governing Public Charter Schools (Docket No. 08-0204-1301)

The State Board of Education submits notice of temporary and proposed rulemaking at IDAPA 08.02.04 -- Rules governing Public Charter schools. The temporary and proposed rule reflect changes to account for statutory revisions provided for in House Bill 221 which was passed during the 2013 Legislative Session. The board notes that the temporary and proposed rule brings the docket into alignment with governing statutes and that the rule clarifies the process for new charter school authorizers.

Among the revisions and new provisions found in the temporary and proposed rule, the following appear to be most pertinent:

Section 101: provides a new section that governs actions by an institution (public or private college or university) acting as an "authorized chartering entity."

Section 102: establishes provisions relating to the authorizer fee.

Section 203.06 and 07 that dealt with priority enrollment preference have been repealed.

Section 204 that governed the submission of charter school petitions has been repealed.

Section 205 that governs the review of charter school petitions has been heavily revised, as has Section 300 that governs the responsibilities of charter schools.

Section 301 that governs responsibilities of authorized chartering entities now provides that the chartering entity is responsible for monitoring the charter school's operations in accord with the terms of the performance certificate.

Other modifications to the rule include revisions to Section 302 (governing revisions to an approved charter or performance certificate and establishes provisions relating to reviewing a request for performance certificate revisions. Finally, the temporary and proposed rule includes revisions to Section 500.02 through 500.06 which deal with the designation of local education agencies ("LEA").

The effective date of the temporary rule was June 20, 2013.

The Board notes that negotiated rulemaking was conducted.

The agency's temporary and proposed rule appears to be authorized pursuant to section 33-105, 33-5203 and 33-5210, Idaho Code.

#### 7. IDAPA 08.03.01 - Rules of the Public Charter School Commission (Docket No. 08-0301-1301)

The State Board of Education submits notice of temporary and proposed rulemaking at IDAPA 08.03.01 -- Rules of the Public Charter School Commission. the temporary and proposed rule modifies the existing rule to make it consistent with law passed during the 2013 Legislative Session. The rule reflects new accountability measures required by law and eliminates language duplicative of statute. Specifically, the temporary and proposed rule slightly revises provisions governing compliance monitoring (See, section 301) and eliminates

provisions relating to goals attainment and programmatic operations audit (See, Section 302.06 and 07). Also, various provisions relating public hearings on petitions have been stricken (See, section 400.01 through 05).

The effective date of the temporary rule was June 20, 2013.

The Board states that negotiated rulemaking was conducted.

The agency's temporary and proposed rule appears to be authorized pursuant to sections 33-105, 33-5203 and 33-5210, Idaho Code.

cc: State Board of and State Department of Education  
Tracie Bent