IN THE SENATE

SENATE CONCURRENT RESOLUTION NO. 113

BY STATE AFFAIRS COMMITTEE

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE PRESIDENT PRO TEM-PORE OF THE IDAHO SENATE AND THE SPEAKER OF THE IDAHO HOUSE OF REPRESEN-TATIVES TO USE MONEYS FROM THE FEDERAL OVERREACH LEGAL DEFENSE FUND TO ENGAGE COUNSEL TO SUE THE FEDERAL GOVERNMENT TO HAVE A FEDERAL COURT DE-CLARE THE COVID-19 VACCINATION MANDATES UNLAWFUL.

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

WHEREAS, on September 9, 2021, President Biden announced that his patience was "wearing thin" with Americans who are not vaccinated against COVID-19; and

WHEREAS, on that date, President Biden issued two executive orders setting out his "Action Plan" that included, among other things, a directive to the United States Department of Labor's Occupational Safety and Health Administration (OSHA) to develop a federal regulation requiring all United States employers with 100 or more employees to ensure their workforce is fully vaccinated or require any workers who remain unvaccinated to produce a negative test result on at least a weekly basis before coming to work or be fired; and

WHEREAS, the President Pro Tempore of the Idaho Senate, the Speaker of the Idaho House of Representatives, Governor Little, and the Idaho Attorney General jointly responded to the President by letter dated September 17, 2021, objecting to the proposed regulation because it has no legal basis and asking the President to rescind his directive to the Department of Labor; and

WHEREAS, the Idaho constitutional and legislative officers strongly opposed the mandates because: (1) the power to promulgate and enforce vaccination policies in Idaho belongs to the state; (2) the Department of Labor lacks the requisite legal authority to issue the President's vaccination mandates; and (3) cooperative federalism requires the Department of Labor not to issue the workplace vaccination mandates; and

WHEREAS, the COVID-19 Vaccination and Testing Emergency Temporary Standard issued by OSHA, published in the Federal Register on November 5, 2021, at Volume 86, pages 61402 through 61555, has serious legal flaws that will be foisted on Idaho unless remedied by a federal court; and

WHEREAS, companion legislation establishing and funding the Federal Overreach Legal Defense Fund has been proposed by this Legislature to pay for litigation defending Idaho from the overreach of the federal government.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-sixth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislature authorizes the President Pro Tempore of the Senate and the Speaker of the House of Representatives to use moneys from the Federal Overreach Legal Defense Fund to engage counsel to sue the federal government on behalf of their offices and the Legislature to have a federal court declare the federal vaccine mandates unlaw-

- ful and to enjoin the mandates or otherwise prevent them from having any effect on Idaho employers and employees.