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2

1 PROVIDE THAT CERTAIN FILINGS ARE NOT PREREQUISITES FOR JUDICIAL REVIEW,  
2 TO PROVIDE THAT A COURT MAY RELIEVE A PARTY FROM EXHAUSTING ADMINISTRA-  
3 TIVE REMEDIES PRIOR TO FILING FOR JUDICIAL REVIEW IN CERTAIN INSTANCES,  
4 TO PROVIDE THAT A COURT SHALL REVIEW AN AGENCY RECORD IN ITS REVIEW, TO  
5 PROVIDE EXCEPTIONS FOR REVIEWING AN AGENCY RECORD AND TO PROVIDE A STAN-  
6 DARD OF REVIEW; AMENDING SECTION 67-5255, IDAHO CODE, TO REDESIGNATE  
7 THE SECTION; AMENDING SECTION 67-5272, IDAHO CODE, TO REDESIGNATE THE  
8 SECTION; AMENDING SECTION 7-1417, IDAHO CODE, TO PROVIDE A CORRECT CODE  
9 REFERENCE; AMENDING SECTION 26-31-208, IDAHO CODE, TO PROVIDE CORRECT  
10 CODE REFERENCES; AMENDING SECTION 26-31-309, IDAHO CODE, TO PROVIDE A  
11 CORRECT CODE REFERENCE; AMENDING SECTION 28-46-302, IDAHO CODE, TO PRO-  
12 VIDE CORRECT CODE REFERENCES; AMENDING SECTION 28-46-404, IDAHO CODE,  
13 TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 32-1612, IDAHO  
14 CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 33-5209C,  
15 IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION  
16 40-709A, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SEC-  
17 TION 41-227, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE  
18 A TECHNICAL CORRECTION; AMENDING SECTION 47-324, IDAHO CODE, TO PROVIDE  
19 A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING  
20 SECTION 50-222, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMEND-  
21 ING SECTION 54-2509, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND  
22 TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 58-122, IDAHO CODE, TO  
23 PROVIDE CORRECT CODE REFERENCES AND TO REMOVE A CODE REFERENCE; AMEND-  
24 ING SECTION 67-2317, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE;  
25 AND AMENDING SECTION 67-5206, IDAHO CODE, TO PROVIDE CORRECT CODE REF-  
26 ERENCES. AMENDING CHAPTER 52, TITLE 67, IDAHO CODE, BY THE ADDITION OF A  
27 NEW SECTION 67-5245, IDAHO CODE, AMENDING CHAPTER 52, TITLE 67, IDAHO  
28 CODE, BY THE ADDITION OF A NEW SECTION 67-5270, IDAHO CODE, AMENDING  
29 SECTION 67-2601, IDAHO CODE, AMENDING SECTION 67-5241, IDAHO CODE,  
30 AMENDING SECTION 67-5279, IDAHO CODE, AMENDING CHAPTER 52, TITLE 67,  
31 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5272, IDAHO CODE, AMEND-  
32 ING CHAPTER 52, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION  
33 67-5273, IDAHO CODE, AND PROVIDING AN EFFECTIVE DATE AMENDING CHAPTER  
34 52, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5274, IDAHO  
35 CODE,

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

37 SECTION 1. That Section 67-5201, Idaho Code, be, and the same is hereby  
38 amended to read as follows:

39 67-5201. DEFINITIONS. As used in this act:

40 (1) "Administrative code" means the Idaho administrative code estab-  
41 lished in this chapter.

42 (2) "Agency" means each state board, commission, department or officer  
43 authorized by law to make rules or to determine contested cases, but does not  
44 include the legislative or judicial branches, executive officers listed in  
45 section 1, article IV, of the constitution of the state of Idaho in the exer-  
46 cise of powers derived directly and exclusively from the constitution, the  
47 state militia or the state board of correction.

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1 (3) "Agency action" means:

2 (a) The whole or part of a rule or order;

3 (b) The failure to issue a rule or order; or

4 (c) An agency's performance of, or failure to perform, any duty placed  
5 on it by law.

6 (4) "Agency decision" means an agency action excluding rulemaking.

7 (5) "Agency head" means an individual or body of individuals in whom the  
8 ultimate legal authority of the agency is vested by any provision of law.

9 (56) "Bulletin" means the Idaho administrative bulletin established in  
10 this chapter.

11 (67) "Contested case" means a proceeding an adjudication arising out  
12 of an agency order or failure to issue an agency order, from which results  
13 in the issuance of an order an opportunity for an evidentiary hearing is re-  
14 quired by the federal constitution, a federal statute or the constitution or  
15 a statute of this state. "Contested case" shall not mean a proceeding by the  
16 public utilities commission, the industrial commission, the Idaho depart-  
17 ment of water resources or another agency for which an alternative adjudica-  
18 tion process is provided by statute.

19 (78) "Contested case order" means an order issued by a hearing officer  
20 resolving issues in a contested case.

21 (9) "Coordinator" means the administrative rules coordinator pre-  
22 scribed in section 67-5202, Idaho Code.

23 (810) "Document" means any executive order, notice, rule or statement  
24 of policy of an agency.

25 (11) "Final order" means (a) a contested case order that is final, (b)  
26 a final order after agency head review pursuant to section 67-5254, Idaho  
27 Code, or (c) a declaratory ruling order that is final and subject to judicial  
28 review.

29 (912) "Final rule" means a rule that has been adopted by an agency under  
30 the regular rulemaking process and is in effect.

31 (13) "Hearing officer" means an individual, appointed by the chief ad-  
32 ministrative hearing officer of the office of administrative hearings.

33 (104) "License" means the whole or part of any agency permit, certifi-  
34 cate, approval, registration, charter, or similar form of authorization re-  
35 quired by law, but does not include a license required solely for revenue  
36 purposes.

37 (115) "Official text" means the text of a document issued, prescribed,  
38 or promulgated by an agency in accordance with this chapter, and is the only  
39 legally enforceable text of such document. Judicial notice shall be taken  
40 of all documents issued, prescribed, or promulgated in accordance with this  
41 chapter.

42 (126) "Order" means an agency action of particular applicability that  
43 determines the legal rights, duties, privileges, immunities, or other legal  
44 interests of one (1) or more specific persons. The granting of an applica-  
45 tion for a license that is unconditional in respect to the license requested,  
46 and that does not affect the rights of a third party which may have a right to  
47 commence a contested case, is not an order.

48 (137) "Party" means each person or agency named or admitted as a party,  
49 or properly seeking and entitled as of right to be admitted as a party.

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1 (148) "Pending rule" means a rule that has been adopted by an agency un-  
2 der the regular rulemaking process and remains subject to legislative re-  
3 view.

4 (159) "Person" means any individual, partnership, corporation, associ-  
5 ation, governmental subdivision or agency, or public or private organiza-  
6 tion or entity of any character.

7 (20) "Preliminary review" means the receipt, collection, processing,  
8 and analyzing of information, or other activity of an agency preparatory to  
9 the making of an agency decision.

10 (~~1621~~) "Proposed rule" means a rule published in the bulletin as pro-  
11 vided in section 67-5221, Idaho Code.

12 (~~1722~~) "Provision of law" means the whole or a part of the state or fed-  
13 eral constitution, or of any state or federal:

14 (a) Statute; or

15 (b) Rule or decision of court.

16 (~~1823~~) "Publish" means to bring before the public by publication in the  
17 bulletin or administrative code, by electronic means or as otherwise specif-  
18 ically provided by law.

19 (24) "Record" means information that is inscribed on a tangible medium  
20 or that is stored in an electronic or other medium and is retrievable in per-  
21 ceivable form.

22 (~~1925~~) "Rule" means the whole or a part of an agency statement of general  
23 applicability that has been promulgated in compliance with the provisions of  
24 this chapter and that implements, interprets, or prescribes:

25 (a) Law or policy; or

26 (b) The procedure or practice requirements of an agency. The term in-  
27 cludes the amendment, repeal, or suspension of an existing rule, but  
28 does not include:

29 (i) Statements concerning only the internal management or in-  
30 ternal personnel policies of an agency and not affecting private  
31 rights of the public or procedures available to the public; or

32 (ii) Declaratory rulings issued pursuant to section 67-5232,  
33 Idaho Code; or

34 (iii) Intra-agency memoranda; or

35 (iv) Any written statements given by an agency which pertain to  
36 an interpretation of a rule or to the documentation of compliance  
37 with a rule.

38 (206) "Rulemaking" means the process for formulation, adoption, amend-  
39 ment or repeal of a rule.

40 (217) "Standard" means a manual, guideline, criterion, specification,  
41 requirement, measurement or other authoritative principle providing a model  
42 or pattern in comparison with which the correctness or appropriateness of  
43 specified actions, practices or procedures may be determined.

44 (228) "Submitted for review" means that a rule has been provided to the  
45 legislature for review at a regular or special legislative session as pro-  
46 vided in section 67-5291, Idaho Code.

47 (239) "Temporary rule" means a rule authorized by the governor to be-  
48 come effective before it has been submitted to the legislature for review and  
49 which expires by its own terms or by operation of law no later than the con-

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1 clusion of the next succeeding regular legislative session unless extended  
2 or replaced by a final rule as provided in section 67-5226, Idaho Code.

3 SECTION 2. That Section 67-5240, Idaho Code, be, and the same is hereby  
4 repealed.

5 SECTION 3. That Section 67-5241, Idaho Code, be, and the same is hereby  
6 amended to read as follows:

7 67-5241. INFORMAL DISPOSITION.

8 ~~(1) Unless prohibited by other provisions of law:~~

9 ~~(a) an agency or a presiding officer may decline to initiate a contested  
10 case;~~

11 ~~(b) any part of the evidence in a contested case may be received in writ-  
12 ten form if doing so will expedite the case without substantially preju-  
13 dicing the interests of any party;~~

14 ~~(c) (1) Informal disposition by written agreement prior to filing a re-  
15 quest for contested case proceeding by a party is not a contested case.~~

16 ~~(2) Informal disposition may be made of any contested case by negoti-  
17 ation, stipulation, agreed settlement, or consent order. Informal settle-  
18 ment of matters is to be encouraged. Full disposition by written agreement  
19 after the filing of a request for contested case proceeding by a party must  
20 be filed with the office of administrative hearings and becomes a contested  
21 case order upon filing, subject to judicial review time requirements for ju-  
22 dicial review.~~

23 ~~(d) the parties may stipulate as to the facts, reserving the right to  
24 appeal to a court of competent jurisdiction on issues of law.~~

25 ~~(2) An agency or a presiding officer may request such additional in-  
26 formation as required to decide whether to initiate or to decide a contested  
27 case as provided in subsection (1) of this section.~~

28 ~~(3) If an agency or a presiding officer declines to initiate or decide  
29 a contested case under the provisions of this section, the agency or the of-  
30 ficer shall furnish a brief statement of the reasons for the decision to all  
31 persons involved. This subsection does not apply to investigations or in-  
32 quiries directed to or performed by law enforcement agencies defined in sec-  
33 tion 74-101(7), Idaho Code.~~

34 ~~(4) The agency may not abdicate its responsibility for any informal  
35 disposition of a contested case. Disposition of a contested case as provided  
36 in this section is a final agency action.~~

37 SECTION 4. That Sections 67-5242 through 67-5254, Idaho Code, be, and  
38 the same are hereby repealed.

39 SECTION 5. That Sections 67-5270 and 67-5271, Idaho Code, be, and the  
40 same are hereby repealed.

41 SECTION 6. That Sections 67-5273 through 67-5279, Idaho Code, be, and  
42 the same are hereby repealed.

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1 SECTION 7. That Chapter 52, Title 67, Idaho Code, be, and the same is  
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
3 ignated as Section 67-5242, Idaho Code, and to read as follows:

4 67-5242. PRELIMINARY REVIEW -- EXCLUSION. (1) Except as otherwise  
5 provided by law, the provisions of this act do not apply to an agency a pre-  
6 liminary review until an order is issued, not issued within the time required  
7 by law, or the agency fails to perform a duty required by law.

8 (2) Notwithstanding subsection (1) of this section, an agency may use,  
9 and adopt by rule, provisions of this act for use in preliminary reviews con-  
10 sistent with requirements of due process.

11 (3) If an agency determines that as part of a preliminary review the use  
12 of a fact finder is beneficial or legally required, it has authority to as-  
13 sign an employee or contract with a private individual or entity to perform  
14 such fact finding. Such fact finder shall not be from the office of adminis-  
15 trative hearings, and any fact finding shall be for the use of the agency in  
16 making an agency decision, and is not binding in any way as findings of fact  
17 in a contested case proceeding.

18 SECTION 8. That Chapter 52, Title 67, Idaho Code, be, and the same is  
19 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
20 ignated as Section 67-5243, Idaho Code, and to read as follows:

21 67-5243. COMMENCEMENT OF CONTESTED CASES. (1) This section does not  
22 apply to an emergency adjudication under section 67-5247, Idaho Code, except  
23 as provided in section 67-5247, Idaho Code.

24 (2) An agency shall give notice to a person when the agency makes a deci-  
25 sion that would entitle the person to initiate a contested case proceeding.  
26 The notice must be in writing, set forth the agency decision, inform the per-  
27 son of the right, procedure and time limit to file a contested case request,  
28 and provide a copy of the procedures governing contested cases.

29 (3) Within twenty-eight (28) days of receipt of the notice provided for  
30 in subsection (2) of this section, the affected person may file a request for  
31 a contested case proceeding that sets forth the grounds for the request for a  
32 contested case proceeding, with:

33 (a) The agency who then shall, within seven (7) days of receipt of the  
34 request for a contested case proceeding, file the request with the of-  
35 fice of administrative hearings; or

36 (b) The office of administrative hearings who shall within seven (7)  
37 days of receipt of the request for contested case proceeding, forward a  
38 copy of the same to the agency.

39 A contested case proceeding shall be considered initiated upon filing the  
40 request for contested case proceeding with the office of administrative  
41 hearings.

42 (4) In a contested case proceeding initiated by a person, not later than  
43 seven (7) days after the filing of the contested case proceeding request with  
44 the office of administrative hearings, the office of administrative hear-  
45 ings shall give notice to all parties that the case has been commenced. The  
46 notice must contain:

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- 1 (a) A statement that a case has been commenced that may result in an or-  
2 der affecting the rights of the parties;  
3 (b) A short and plain statement of the matters asserted in the request  
4 for a contested case proceeding;  
5 (c) A statement of the legal authority under which the hearing will be  
6 held citing the statutes and any rules involved;  
7 (d) The official file or other reference number and the name of the pro-  
8 ceeding;  
9 (e) The name, official title and mailing address of the hearing officer  
10 and the name, official title, mailing address and telephone number of  
11 the agency's representative;  
12 (f) A statement that a party that fails to attend or participate in any  
13 subsequent proceeding in the case may be held in default;  
14 (g) A statement of the date, time, place and nature of the prehearing  
15 conference or hearing, if any;  
16 (h) The names and last known addresses of all parties and other persons  
17 to which notice is being given;  
18 (i) Any other information that the hearing officer considers desirable  
19 to expedite the proceedings.

20 SECTION 9. That Chapter 52, Title 67, Idaho Code, be, and the same is  
21 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
22 ignated as Section 67-5244, Idaho Code, and to read as follows:

23 67-5244. CONTESTED CASE PROCEDURE. (1) In a contested case, the hear-  
24 ing officer shall give all parties a timely opportunity to file pleadings,  
25 motions and objections. The hearing officer may give all parties the oppor-  
26 tunity to file briefs, proposed findings of fact and conclusions of law, and  
27 proposed contested case orders. The hearing officer, with the consent of all  
28 parties, may refer the parties in a contested case to mediation or other dis-  
29 pute resolution procedure.

30 (2) In a contested case, to the extent necessary for full disclosure of  
31 all relevant facts and issues, the hearing officer shall give all parties the  
32 opportunity to respond, present evidence and argument, conduct cross-exami-  
33 nation and submit rebuttal evidence.

34 (3) Except as otherwise provided by law other than this act, the hear-  
35 ing officer may conduct all or part of an evidentiary hearing or a prehearing  
36 conference by telephone, television, video conference or other electronic  
37 means. The hearing may be conducted by telephone or other method by which the  
38 witnesses may not be seen only if all parties consent or the hearing officer  
39 finds that this method will not impair reliable determination of the credi-  
40 bility of testimony. Each party must be given an opportunity to attend, hear  
41 and be heard at the proceeding as it occurs.

42 (4) Any part of the evidence in a contested case may be received in writ-  
43 ten form if doing so will expedite the case without substantially prejudic-  
44 ing the interests of any party.

45 (5) Except as otherwise provided by law or in subsection (6) of this  
46 section, a hearing in a contested case must be open to the public. A hearing  
47 conducted by telephone, television, video conference or other electronic  
48 means is open to the public if members of the public have an opportunity to

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1 attend the hearing at the place where the hearing officer is located or to  
2 hear or see the proceeding as it occurs.

3 (6) A hearing officer may close a hearing to the public on a ground on  
4 which a court of this state may close a judicial proceeding to the public or  
5 pursuant to law of this state other than this act.

6 (7) Unless prohibited by law of this state other than this act, a party,  
7 at the party's expense, may be advised or represented by counsel. If allowed  
8 by administrative rule or statute, a party may be advised or represented by  
9 another individual. A corporate or other business entity may be represented  
10 by an officer, general partner or manager of the corporation or business en-  
11 tity.

12 (8) A hearing officer shall ensure that a hearing record is created that  
13 complies with section 67-5246, Idaho Code.

14 (9) The decision in a contested case must be based on the hearing record  
15 and contain a statement of the findings of fact and conclusions of law upon  
16 which the decision is based. The decision must be prepared electronically  
17 and, on request, made available in writing.

18 (10) The parties may stipulate as to the facts, reserving the right to  
19 appeal to a court of competent jurisdiction on issues of law.

20 (11) Unless prohibited by law of this state other than this act, a hear-  
21 ing officer may dispose of a contested case without a hearing by stipulation.

22 SECTION 10. That Chapter 52, Title 67, Idaho Code, be, and the same is  
23 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
24 ignated as Section 67-5245, Idaho Code, and to read as follows:

25 67-5245. EVIDENCE IN CONTESTED CASES. The following rules apply in a  
26 contested case:

27 (1) Except as otherwise provided in subsection (2) of this section, all  
28 relevant evidence is admissible, including hearsay evidence, if it is of a  
29 type commonly relied on by a reasonably prudent individual in the conduct of  
30 the affairs of the individual.

31 (2) The hearing officer may exclude evidence with or without objection  
32 if the evidence is irrelevant, immaterial, unduly repetitious, or exclud-  
33 able on constitutional or statutory grounds or on the basis of an evidentiary  
34 privilege recognized in the courts of this state.

35 (3) If the hearing officer excludes evidence with or without objection,  
36 the offering party may make an offer of proof before further evidence is pre-  
37 sented or at a later time determined by the hearing officer.

38 (4) Documentary evidence may be received in the form of a copy if the  
39 original is not readily available. On request, parties must be given an op-  
40 portunity to compare the copy with the original.

41 (5) Testimony must be made under oath or affirmation.

42 (6) Evidence must be made part of the hearing record of the case. Infor-  
43 mation or evidence may not be considered in determining the case unless it is  
44 part of the hearing record. If the hearing record contains information that  
45 is confidential, the hearing officer may conduct a closed hearing to discuss  
46 the information, issue necessary protective orders, and seal all or part of  
47 the hearing record.



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1           (7) The hearing officer may take official notice of all facts of which  
2 judicial notice may be taken and of scientific, technical or other facts  
3 within the specialized knowledge of the agency. A party must be notified at  
4 the earliest practicable time of the facts proposed to be noticed and their  
5 source, including any staff memoranda or data. The party must be afforded  
6 an opportunity to contest any officially noticed fact before the decision  
7 becomes final.

8           SECTION 11. That Chapter 52, Title 67, Idaho Code, be, and the same is  
9 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
10 ignated as Section 67-5246, Idaho Code, and to read as follows:

11           67-5246. HEARING RECORD IN CONTESTED CASES. (1) The office of admin-  
12 istrative hearings shall maintain the hearing record created under section  
13 67-5245, Idaho Code, in each contested case for a period of not less than six  
14 (6) months after the expiration of the last date for judicial review, unless  
15 otherwise provided by law.

16           (2) The hearing record must contain:

17           (a) A recording of each proceeding;

18           (b) Notice of each proceeding;

19           (c) Any prehearing order;

20           (d) Any motion, pleading, brief, request and intermediate ruling;

21           (e) Evidence admitted;

22           (f) A statement of any matter officially noticed;

23           (g) Any proffer of proof and objection and ruling thereon;

24           (h) Any proposed finding, requested order, and exception;

25           (i) Any transcript of the proceeding;

26           (j) Any contested case order and any orders preliminary thereto, or any  
27 order on reconsideration; and

28           (k) Any matter placed on the record after an ex parte communication un-  
29 der section 67-5248, Idaho Code.

30           (3) The hearing record constitutes the exclusive basis for hearing of-  
31 ficer action in a contested case.

32           SECTION 12. That Chapter 52, Title 67, Idaho Code, be, and the same is  
33 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
34 ignated as Section 67-5247, Idaho Code, and to read as follows:

35           67-5247. EMERGENCY ADJUDICATION PROCEDURE. (1) If otherwise autho-  
36 rized by law of this state, an agency may take action and issue an order to  
37 address an immediate danger to the public health or safety. The agency shall  
38 take only such actions as are necessary to prevent or avoid the immediate  
39 danger to the public health or safety that justifies the use of an emergency  
40 adjudication.

41           (2) Before issuing an order under this section, an agency, if practica-  
42 ble, shall give notice and an opportunity to be heard to the person to which  
43 the agency action is directed. The notice of the hearing and the hearing may  
44 be oral or written and may be by telephone, facsimile or other electronic  
45 means.

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1 (3) An order issued under this section must briefly explain the factual  
2 and legal reasons for using emergency adjudication procedures.

3 (4) As soon as practicable, but not more than seven (7) days after is-  
4 suance of an order, an agency shall give notice to the person to which the  
5 agency action is directed that an order has been issued. The order is effec-  
6 tive when signed by the agency head or the designee of the agency head.

7 (5) After issuing an order pursuant to this section, an agency shall  
8 proceed as soon as practicable, but not more than thirty (30) days, to pro-  
9 vide notice and an opportunity for a hearing following the procedure under  
10 section 67-5244, Idaho Code, to determine the issues underlying the order.  
11 If an objection is received by an agency head, the notice provided pursuant  
12 to this subsection shall be sent to the non-objecting party. If an objection  
13 is received it shall be treated as a request for a contested case proceeding  
14 under section 67-5243.

15 (6) An order issued under this section may be effective for not longer  
16 than one hundred twenty (120) days or until the effective date of any order  
17 issued under subsection (6) of this section, whichever is shorter. Provided  
18 however, an order may be effective for a lengthier period of time for good  
19 cause as determined by the hearing officer in the event petitioned by the  
20 agency with notice to all parties.

21 SECTION 13. That Chapter 52, Title 67, Idaho Code, be, and the same is  
22 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
23 ignated as Section 67-5248, Idaho Code, and to read as follows:

24 67-5248. EX PARTE COMMUNICATIONS. (1) Except as otherwise provided in  
25 subsection (2) of this section, while a contested case is pending, the hear-  
26 ing officer may not make to or receive from any person any communication con-  
27 cerning the case without notice and opportunity for all parties to partici-  
28 pate in the communication. For the purpose of this section, a contested case  
29 is considered pending upon the filing of a request for contested case pro-  
30 ceeding with the office of administrative hearings.

31 (2) A hearing officer may communicate about a pending contested case  
32 with any person if the communication is required for the disposition of ex  
33 parte matters authorized by statute or concerns an uncontested procedural  
34 issue.

35 (3) If a communication prohibited by this section is made, the hearing  
36 officer shall notify all parties of the prohibited communication and per-  
37 mit parties to respond in a record not later than fifteen (15) days after the  
38 notice is given. For good cause, the hearing officer may permit additional  
39 testimony in response to the prohibited communication.

40 (4) If necessary to eliminate the effect of a communication received in  
41 violation of this section, a hearing officer may be disqualified under sec-  
42 tion 67-5274, Idaho Code, the parts of the record pertaining to the communi-  
43 cation may be sealed by protective order, or other appropriate relief may be  
44 granted, including an adverse ruling on the merits of the case or dismissal  
45 of the application.

1 SECTION 14. That Chapter 52, Title 67, Idaho Code, be, and the same is  
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
3 ignated as Section 67-5250, Idaho Code, and to read as follows:

4 67-5250. SUBPOENAS. (1) On request by a party in a contested case, the  
5 hearing officer, on a showing of general relevance and reasonable scope of  
6 the evidence sought for use at the hearing, shall issue a subpoena for the  
7 attendance of a witness and the production of books, records and other evi-  
8 dence.

9 (2) Unless otherwise provided by law or agency rule, a subpoena issued  
10 under subsection (1) of this section shall be served and, on application to  
11 the court by a party or the agency, enforced in the manner provided by law for  
12 the service and enforcement of a subpoena in a civil action.

13 (3) Witness fees shall be paid by the party requesting a subpoena in the  
14 manner provided by law for witness fees in a civil action.

15 (4) The provisions of this section shall provide the exclusive method  
16 for the issuance of subpoenas in all contested cases.

17 SECTION 15. That Chapter 52, Title 67, Idaho Code, be, and the same is  
18 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
19 ignated as Section 67-5251, Idaho Code, and to read as follows:

20 67-5251. DISCOVERY. (1) In this section, "statement" includes a  
21 record of a person's written statement signed by the person and a record that  
22 summarizes an oral statement made by the person.

23 (2) Except in an emergency hearing under section 67-5247, Idaho Code, a  
24 party, on written notice to another party at least thirty (30) days before an  
25 evidentiary hearing, unless otherwise ordered by the hearing officer under  
26 this section, may:

27 (a) Obtain the names and addresses of witnesses the other party will  
28 present at the hearing to the extent known to the other party; and

29 (b) Inspect and copy any of the following materials in the possession,  
30 custody or control of the other party:

31 (i) Statements of parties and witnesses proposed to be called by  
32 the other party;

33 (ii) All records, including reports of mental, physical, and  
34 blood examinations, and other evidence the other party proposes to  
35 offer;

36 (iii) Investigative reports made by or on behalf of the agency or  
37 other party pertaining to the subject matter of the adjudication;

38 (iv) Statements of expert witnesses proposed to be called by the  
39 other party;

40 (v) Any exculpatory material in the possession of the agency; and

41 (vi) Other materials for good cause.

42 (3) Parties to a contested case have a duty to supplement responses pro-  
43 vided under subsection (2) of this section to include information thereafter  
44 acquired, to the extent that the information will be relied on in the hear-  
45 ing.

46 (4) On request, the hearing officer may issue a protective order for  
47 any material for which discovery is sought under this section that is exempt,

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1 privileged, or otherwise made confidential or protected from disclosure by  
2 law of this state other than this act and material the disclosure of which  
3 would result in annoyance, embarrassment, oppression or undue burden or ex-  
4 pense to any person.

5 (5) On request, the hearing officer may issue an order compelling dis-  
6 covery for refusal to comply with a discovery request unless good cause ex-  
7 ists for refusal. Failure to comply with the order may be enforced according  
8 to the rules of civil procedure.

9 (6) On request and for good cause, the hearing officer may issue an or-  
10 der authorizing additional discovery tools allowed under the Idaho rules of  
11 civil procedure.

12 SECTION 16. That Chapter 52, Title 67, Idaho Code, be, and the same is  
13 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
14 ignated as Section 67-5252, Idaho Code, and to read as follows:

15 67-5252. DEFAULT. (1) Unless otherwise provided by law of this state  
16 other than this act, if a party without good cause fails to attend or partic-  
17 ipate in a prehearing conference or hearing in a contested case, the hearing  
18 officer may issue a default order.

19 (2) If a default order is issued, the hearing officer may conduct any  
20 further proceedings necessary to complete the adjudication without the de-  
21 faulting party and shall determine all issues in the adjudication, including  
22 those affecting the defaulting party, and issue a contested case order.

23 (3) A contested case order issued against a defaulting party may be  
24 based on the defaulting party's admissions or other evidence that may be used  
25 without notice to the defaulting party. If the burden of proof is on the  
26 defaulting party to establish that the party is entitled to the agency action  
27 sought, the hearing officer may issue a contested case order without taking  
28 evidence.

29 (4) Not later than sixty (60) days after notice to a party subject to  
30 a default order that any resulting contested case order has been rendered  
31 against the party, the party may request the hearing officer to vacate the  
32 contested case order. If good cause is shown for the party's failure to  
33 appear, the hearing officer shall vacate the contested case order and, af-  
34 ter proper service of notice, conduct another evidentiary hearing. If good  
35 cause is not shown for the party's failure to appear, the hearing officer  
36 shall deny the motion to vacate.

37 SECTION 17. That Chapter 52, Title 67, Idaho Code, be, and the same is  
38 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
39 ignated as Section 67-5253, Idaho Code, and to read as follows:

40 67-5253. CONTESTED CASE ORDERS. (1) A contested case order issued by  
41 a hearing officer becomes final twenty-eight (28) days after issuance, un-  
42 less reviewed by the agency head, or unless a request for reconsideration is  
43 filed.

44 (2) A contested case order must be served in a record on each party  
45 and the agency head not later than sixty (60) days after the hearing ends,  
46 the record closes, or memoranda, briefs, or proposed findings are submitted,

1 whichever is latest. The hearing officer may extend the time by stipulation,  
2 waiver, or for good cause. The contested case order shall be accompanied by  
3 proof of service stating the service date, each party who was served and the  
4 method of service.

5 (3) A contested case order must separately state findings of fact and  
6 conclusions of law on all material issues of fact, law, or discretion, the  
7 remedy prescribed, and, if applicable, the action taken on a request for a  
8 stay. The hearing officer may permit a party to submit proposed findings of  
9 fact and conclusions of law. A contested case order must state any circum-  
10 stances under which the contested case order, without further notice, may  
11 become a final order.

12 (4) Findings of fact must be based on the evidence and matters offi-  
13 cially noticed in the hearing record in the contested case.

14 (5) A contested case order is issued under this section when it is  
15 signed by the hearing officer.

16 (6) A contested case order is effective twenty-eight (28) days after  
17 its service date unless reconsideration is granted under section 67-5256,  
18 Idaho Code, or a stay is granted under section 67-5257, Idaho Code, or if  
19 there is an agency review under section 67-5254, Idaho Code.

20 (7) The hearing officer shall attach to the contested case order the  
21 available procedures and time limits for seeking reconsideration or other  
22 administrative relief and must state the time limits for seeking judicial  
23 review of the contested case order.

24 SECTION 18. That Chapter 52, Title 67, Idaho Code, be, and the same is  
25 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
26 ignated as Section 67-5254, Idaho Code, and to read as follows:

27 67-5254. AGENCY REVIEW OF CONTESTED CASE ORDER. (1) An agency head may  
28 review a contested case order before the order is final. If the agency head  
29 decides to review a contested case order, the agency head shall give notice  
30 in a record to the parties and the administrative hearing officer that it in-  
31 tends to review the order. A notice of review of a contested case order by  
32 an agency head must be filed with the office of administrative hearings not  
33 later than twenty-eight (28) days after the service date of the hearing of-  
34 ficer's order. The agency head shall also contemporaneously serve a copy of  
35 the notice of review on the parties. The office of administrative hearings  
36 shall serve notice within three (3) days to all parties that a notice of re-  
37 view has been filed by the agency head, and the date of the filing.

38 (2) A party may request an agency head to review a contested case order  
39 before it is final. An agency head may review or decline to review a con-  
40 tested case order by filing a request for agency review with the office of ad-  
41 ministrative hearings no later than twenty-eight (28) days after the service  
42 of the contested case order. The office of administrative hearings shall  
43 serve notice within three (3) days upon all parties that a request for re-  
44 view by the agency head has been filed. The agency head shall have fourteen  
45 (14) days from the notice to file a notice with the office of administrative  
46 hearings with service upon the other parties either accepting or declining  
47 the request for review. If declined, the contested case order shall be final

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1 from the date of the notice declining review or twenty-eight (28) days after  
2 filing of the contested case order, whichever is later.

3 (3) If a request for review is not filed or the agency head does not  
4 elect to review the contested case order within the prescribed time limit,  
5 the order becomes a final order.

6 (4) A notice of agency review or a request for agency review may not  
7 be filed during the pendency of a request for reconsideration under section  
8 67-5256, Idaho Code. If request for reconsideration is filed after a notice  
9 of agency review or a request for agency review, the request for reconsid-  
10 eration takes precedence and shall be decided first by the hearing officer.  
11 If the reconsideration is granted, a pending notice of or request for agency  
12 head review shall be deemed moot, subject to filing of a new notice of or re-  
13 quest for review following filing of the reconsidered contested case order.  
14 If the request for reconsideration is denied, the agency head review process  
15 shall proceed as if the request for reconsideration had not been filed with  
16 any relevant time periods tolled during the pendency of the request for re-  
17 consideration.

18 (5) When reviewing a contested case order, the agency head shall ex-  
19 ercise the decision-making power that the agency head would have had if the  
20 agency head had conducted the hearing that produced the order, except that  
21 the agency head shall not modify findings of fact and except to the extent  
22 that the issues subject to review are limited by law of this state other than  
23 this act or by order of the agency head on notice to the parties.

24 (6) If an agency head reviews a contested case order, the agency head  
25 shall issue a final order disposing of the proceeding not later than sixty  
26 (60) days after the notice to review the contested case order was filed with  
27 the office of administrative hearings.

28 (7) An order issued after agency head review of a contested case order  
29 must identify any difference between the final order and the contested case  
30 order and must state the law that supports any difference in legal conclu-  
31 sions and the policy reasons that support any difference in the exercise of  
32 discretion. Findings of fact shall not be modified in the review process.  
33 A final order under this section must include, or incorporate by express  
34 reference to the contested case order, the matters required by section  
35 67-5253(3), Idaho Code. The agency head shall file the order with the office  
36 of administrative hearings, which order shall be final upon filing, and no-  
37 tify the parties of the order.

38 SECTION 19. That Chapter 52, Title 67, Idaho Code, be, and the same is  
39 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
40 ignated as Section 67-5256, Idaho Code, and to read as follows:

41 67-5256. RECONSIDERATION. (1) A party, not later than fourteen (14)  
42 days after the service date of a contested case order, may file a request for  
43 reconsideration with the office of administrative hearings that states the  
44 specific grounds on which relief is requested.

45 (2) If a request for reconsideration is timely filed, and if the re-  
46 quester has complied with procedural rules for reconsideration, the time for  
47 filing a request for judicial review does not begin until the hearing officer  
48 disposes of the request for reconsideration.

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1 (3) Not later than twenty-one (21) days after a request is filed under  
2 subsection (1) of this section, the hearing officer shall issue a written or-  
3 der denying the request, granting the request and modifying the contested  
4 case order, or granting the request and setting the matter for further pro-  
5 ceedings. If the hearing officer fails to act upon the request not later than  
6 twenty-eight (28) days after filing, or a longer period agreed to by the par-  
7 ties, the request is deemed denied.

8 SECTION 20. That Chapter 52, Title 67, Idaho Code, be, and the same is  
9 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
10 ignated as Section 67-5257, Idaho Code, and to read as follows:

11 67-5257. STAY. Except as otherwise provided by law of this state other  
12 than this act, a party, not later than seven (7) days after the service date  
13 of the final order, may request the agency to stay a final order pending judi-  
14 cial review. The agency may grant the request for a stay pending judicial re-  
15 view if the agency finds that justice requires. The agency may grant or deny  
16 the request for stay of the order before, on, or after the effective date of  
17 the order.

18 SECTION 21. That Chapter 52, Title 67, Idaho Code, be, and the same is  
19 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
20 ignated as Section 67-5258, Idaho Code, and to read as follows:

21 67-5258. AVAILABILITY OF ORDERS -- INDEX -- INDEXING OF GUIDANCE DOC-  
22 UMENTS. (1) Except as otherwise provided in subsections (2) and (3) of this  
23 section, an agency shall create an index of all final orders in contested  
24 cases and make the index and all final orders available for public inspection  
25 and copying, at cost, in its principal offices.

26 (2) Final orders that are exempt, privileged, or otherwise made confi-  
27 dential or protected from disclosure by the public records law of this state  
28 are not public records and may not be indexed.

29 (3) An agency may not rely on a final order adverse to a party other than  
30 the agency as precedent in future adjudications, unless the agency desig-  
31 nates the order as a precedent and the order has been published, placed in an  
32 index, and made available for public inspection.

33 (4) Unless otherwise prohibited by any provision of law, each agency  
34 shall index by subject all agency guidance documents. The index and the  
35 guidance documents shall be available for public inspection and copying at  
36 cost in the main office and each regional or district office of the agency.  
37 As used in this section, "agency guidance" means all written documents,  
38 other than rules, orders, and pre-decisional material, that are intended to  
39 guide agency actions affecting the rights or interests of persons outside  
40 the agency. "Agency guidance" shall include memoranda, manuals, policy  
41 statements, interpretations of law or rules, and other materials that are  
42 of general applicability, whether prepared by the agency alone or jointly  
43 with other persons. The indexing of a guidance document does not give that  
44 document the force and effect of law or other precedential authority.

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1 SECTION 22. That Chapter 52, Title 67, Idaho Code, be, and the same is  
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
3 ignated as Section 67-5259, Idaho Code, and to read as follows:

4 67-5259. LICENSES. (1) If a licensee has made timely and sufficient  
5 application for the renewal of a license or a new license for any activity  
6 of a continuing nature, the existing license does not expire until the agency  
7 takes final action on the application and, if the application is denied or  
8 the terms of the new license are limited, until the last day for seeking re-  
9 view of the agency order or a later date fixed by the reviewing court.

10 (2) A revocation, suspension, annulment, or withdrawal of a license is  
11 not lawful unless, before the institution of agency proceedings, the agency  
12 notifies the licensee of facts or conduct that warrants the intended action  
13 and the licensee is given an opportunity to show compliance with all lawful  
14 requirements for the retention of the license. If the agency finds that im-  
15 mediate danger to public health or safety requires emergency action and in-  
16 corporates a finding to that effect in its order, summary suspension of a  
17 license may be ordered pending proceedings for revocation or other action.  
18 These proceedings must be promptly instituted and concluded and performed in  
19 accordance with the provisions of section 67-5247, Idaho Code.

20 (3) A revocation, suspension, annulment, or withdrawal of a license  
21 that is in conflict with the provisions of this section shall be null, void  
22 and of no force and effect.

23 SECTION 23. That Chapter 52, Title 67, Idaho Code, be, and the same is  
24 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
25 ignated as Section 67-5260, Idaho Code, and to read as follows:

26 67-5260. RIGHT TO JUDICIAL REVIEW -- FINAL AGENCY ACTION REVIEW-  
27 ABLE. (1) In this section, and sections 67-5262 through 67-5267, Idaho Code,  
28 as to contested case orders, "final agency action" means, an act of an agency  
29 that imposes an obligation, grants or denies a right, confers a benefit, or  
30 determines a legal relationship as a result of an administrative proceeding.  
31 The term includes an informal disposition as provided in section 67-5241,  
32 Idaho Code. The term does not include agency action that is a failure to act.

33 (2) Except to the extent that a statute of this state other than this act  
34 limits or precludes judicial review, a person who meets the requirements of  
35 this section is entitled to judicial review of a final agency action.

36 (3) A person entitled to judicial review of a final agency action under  
37 subsection (2) of this section is entitled to judicial review of an agency  
38 action that is not final if postponement of judicial review would result in  
39 an inadequate remedy or irreparable harm that outweighs the public benefit  
40 derived from postponing judicial review.

41 (4) A court may compel an agency to take action that is unlawfully with-  
42 held or unreasonably delayed.

43 SECTION 24. That Chapter 52, Title 67, Idaho Code, be, and the same is  
44 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
45 ignated as Section 67-5262, Idaho Code, and to read as follows:



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1           67-5262. TIME TO SEEK JUDICIAL REVIEW OF AGENCY ACTION -- LIMITA-  
2 TIONS. (1) A request for judicial review of a temporary or final rule may be  
3 filed at any time, except as limited by section 67-5231, Idaho Code.

4           (2) A request for judicial review of a final order must be filed within  
5 twenty-eight (28) days of the service date of the final order, or, if recon-  
6 sideration is sought, within twenty-eight (28) days after the service date  
7 of the decision thereon. A cross-request for judicial review may be filed  
8 within fourteen (14) days after a party is served with a copy of the notice of  
9 the request for judicial review.

10          (3) A request for judicial review of a final agency action other than  
11 a rule or order must be filed within twenty-eight (28) days of the agency  
12 action, except as provided by other provision of law. The time for filing a  
13 request for review shall be extended during the pendency of the requester's  
14 timely attempts to exhaust administrative remedies, if the attempts are  
15 clearly not frivolous or repetitious. A cross-request for judicial review  
16 may be filed within fourteen (14) days after a party is served with a copy of  
17 the notice of the request for judicial review.

18          (4) The time for seeking judicial review under this section is tolled  
19 during any time a party pursues an administrative remedy before the agency,  
20 which remedy must be exhausted as a condition of judicial review.

21          (5) A party may not request for judicial review while seeking reconsid-  
22 eration under section 67-5256, Idaho Code. During the time a request for re-  
23 consideration is pending before an agency, the time for seeking judicial re-  
24 view in subsection (1) of this section is tolled.

25          SECTION 25. That Chapter 52, Title 67, Idaho Code, be, and the same is  
26 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
27 ignated as Section 67-5263, Idaho Code, and to read as follows:

28          67-5263. STAYS PENDING APPEAL. A request for judicial review does not  
29 automatically stay an agency decision. A challenging party may request the  
30 reviewing court for a stay on the same basis as stays are granted under the  
31 Idaho rules of civil procedure, and the reviewing court may grant a stay  
32 regardless of whether the challenging party first sought a stay from the  
33 agency.

34          SECTION 26. That Chapter 52, Title 67, Idaho Code, be, and the same is  
35 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
36 ignated as Section 67-5264, Idaho Code, and to read as follows:

37          67-5264. STANDING. Any party to a contested case has standing to ob-  
38 tain judicial review of a final order.

39          SECTION 27. That Chapter 52, Title 67, Idaho Code, be, and the same is  
40 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
41 ignated as Section 67-5265, Idaho Code, and to read as follows:

42          67-5265. EXHAUSTION OF ADMINISTRATIVE REMEDIES. (1) Subject to sub-  
43 section (3) of this section, or law of this state other than this act that  
44 provides that a person need not exhaust administrative remedies, a person

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1 may file a request for judicial review under this act only after exhausting  
2 all administrative remedies available within the agency whose action is be-  
3 ing challenged and within any other agency authorized to exercise adminis-  
4 trative review.

5 (2) Filing a request for reconsideration or a stay of proceedings is not  
6 a prerequisite for seeking judicial review.

7 (3) The court may relieve a requester of the requirement to exhaust any  
8 or all administrative remedies to the extent the administrative remedies are  
9 inadequate or the requirement would result in irreparable harm.

10 SECTION 28. That Chapter 52, Title 67, Idaho Code, be, and the same is  
11 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
12 ignated as Section 67-5266, Idaho Code, and to read as follows:

13 67-5266. RECORD ON JUDICIAL REVIEW -- EXCEPTIONS. (1) If the hearing  
14 officer was required by the provisions of this act to maintain a record dur-  
15 ing the proceeding that gave rise to the action under review, the court re-  
16 view is confined to that record and to matters arising from that record.

17 (2) In any case to which subsection (1) of this section does not ap-  
18 ply, the record for review consists of the unprivileged materials that the  
19 hearing officer directly or indirectly considered or that were submitted for  
20 consideration by any person in connection with the action under review, in-  
21 cluding information that is adverse to the agency's position. If the agency  
22 action was ministerial or was taken on the basis of a minimal or no adminis-  
23 trative record, the court may receive evidence relating to the agency's ba-  
24 sis for taking the action.

25 (3) In any case to which subsection (1) of this section does not apply,  
26 if a challenging party makes a substantial showing of need, the court may al-  
27 low discovery or other evidentiary proceedings and consider evidence out-  
28 side the record to:

29 (a) Ensure that the record is complete as required by this act and other  
30 applicable law;

31 (b) Adjudicate allegations of procedural error not disclosed by the  
32 record; or

33 (c) Prevent manifest injustice.

34 (4) Notwithstanding the provisions of subsection (1) of this section,  
35 if, before the date set for hearing, application is made to the court for  
36 leave to present additional evidence and it is shown to the satisfaction of  
37 the court that the additional evidence is material, relates to the validity  
38 of the action, and that there were good reasons for failure to present it in  
39 the proceeding before the hearing officer, the court may remand the matter  
40 to the hearing officer with directions that the hearing officer receive ad-  
41 ditional evidence and conduct additional fact-finding. The hearing officer  
42 may modify its action by reason of the additional evidence and shall file any  
43 modifications, new findings, or decisions with the reviewing court.

44 SECTION 29. That Chapter 52, Title 67, Idaho Code, be, and the same is  
45 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
46 ignated as Section 67-5267, Idaho Code, and to read as follows:

1           67-5267. STANDARD OF REVIEW. Except as provided by law of this state  
2 other than this act, in judicial review of a final agency order, the follow-  
3 ing rules apply:

4           (1) When the agency was required by the provisions of this chapter or by  
5 other provisions of law to issue a final agency order, the court shall affirm  
6 the final agency order unless the court finds that the findings, inferences,  
7 conclusions, or decisions are:

8           (a) in violation of constitutional or statutory provisions;

9           (b) in excess of statutory authority;

10           (c) made upon unlawful procedure;

11           (d) not supported by substantial evidence on the record as a whole; or

12           (e) arbitrary, capricious, or an abuse of discretion.

13           (2) The court shall affirm, modify or set aside the final agency order,  
14 in whole or in part, or remand for further proceedings as necessary.

15           SECTION 30. That Section 67-5255, Idaho Code, be, and the same is hereby  
16 amended to read as follows:

17           ~~67-5255~~68. DECLARATORY RULINGS BY AGENCIES. (1) Any person may  
18 petition request an agency for a declaratory ruling as to the applicability  
19 of any order issued by the agency.

20           ~~(2) A petition for a declaratory ruling does not preclude an agency from~~  
21 ~~initiating a contested case in the matter.~~

22           ~~(3)~~ A declaratory ruling issued by an agency under this section is a fi-  
23 nal agency action.

24           SECTION 31. That Section 67-5272, Idaho Code, be, and the same is hereby  
25 amended to read as follows:

26           ~~67-5272~~69. VENUE -- FORM OF ACTION. (1) Except when required by other  
27 provision of law, proceedings for review or declaratory judgment are insti-  
28 tuted by filing a petition request in the district court of the county in  
29 which:

30           (a) the hearing was held; or

31           (b) the final agency action was taken; or

32           (c) the aggrieved party resides or operates its principal place of  
33 business in Idaho; or

34           (d) the real property or personal property that was the subject of the  
35 agency decision is located.

36           (2) When two (2) or more ~~petitions~~ requests for judicial review of the  
37 same agency action are filed in different counties or are assigned to dif-  
38 ferent district judges in the same county, upon motion filed by any party to  
39 any of the proceedings for judicial review of the same agency action, the  
40 separate consideration of the ~~petitions~~ requests in different counties or  
41 by different district judges shall be stayed. The administrative judge in  
42 the judicial district in which the first ~~petition~~ request was filed, after  
43 appropriate consultation with the affected district judges and the affected  
44 administrative judges, shall then order consolidation of the judicial re-  
45 view of the ~~petitions~~ requests before one (1) district judge in one (1)

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1 county in which a ~~petition for~~ request judicial review was properly filed,  
2 at which time the stay shall be lifted.

3 SECTION 32. That Chapter 52, Title 67, Idaho Code, be, and the same is  
4 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
5 ignated as Section 67-5270, Idaho Code, and to read as follows:

6 67-5270. CREATION OF OFFICE OF ADMINISTRATIVE HEARINGS -- POWERS AND  
7 DUTIES. (1) There is hereby created in the department of self-governing  
8 agencies the office of administrative hearings.

9 (2) The office of administrative hearings shall:

10 (a) Conduct all contested case proceedings as provided in this act;

11 (b) At its discretion, conduct such hearings, mediations and arbitra-  
12 tions not provided for by this chapter if requested so by agencies, at  
13 such monetary rates as established by the office;

14 (c) Promulgate rules pursuant to this chapter to implement provisions  
15 relating to adjudication in contested cases;

16 (d) Hire and manage such support staff as may be reasonably necessary  
17 for operations of the office of administrative hearings, including  
18 staff support for the advisory council to the office of administrative  
19 hearings; and

20 (e) Have such further powers and duties as provided for the chief admin-  
21 istrative hearing officer pursuant to section 67-5272, Idaho Code.

22 (3) The office of administrative hearings shall be subject to audit in  
23 the same manner as other agencies of the state.

24 SECTION 33. That Chapter 52, Title 67, Idaho Code, be, and the same is  
25 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
26 ignated as Section 67-5271, Idaho Code, and to read as follows:

27 67-5271. CHIEF ADMINISTRATIVE HEARING OFFICER -- APPOINTMENT -- QUAL-  
28 IFICATIONS -- POWERS AND DUTIES -- REMOVAL. (1) A chief administrative hear-  
29 ing officer shall be appointed on a non-partisan basis by the governor, and  
30 confirmed by the senate, to serve a six (6) year term. A person may serve mul-  
31 tiple terms. Provided however, there is no right to reappointment.

32 (2) A chief administrative hearing officer shall:

33 (a) Conduct contested case proceedings as provided for in this act;

34 (b) Devote full time to the duties of the office and may not engage in  
35 the practice of law and may not hold any other public or private sector  
36 position except for volunteer positions;

37 (c) Serve as the administrator of the office;

38 (d) Appoint, supervise and remove hearing officers and staff as deemed  
39 appropriate and consistent with budgetary authorization;

40 (e) Promulgate rules adopting a code of conduct for the chief admin-  
41 istrative hearing officer and all hearing officers and monitor hearing  
42 officer compliance with such code of conduct;

43 (f) Protect and ensure the decisional independence of hearing offi-  
44 cers;

45 (g) Provide training for hearing officers;

1 (h) Monitor the quality of all contested case proceedings, and any  
2 other hearings, mediations and arbitrations not provided for by this  
3 chapter;

4 (i) Submit a written report on the activities of the office, the quality  
5 of its work, its compliance with the code of conduct, and such other mat-  
6 ters as deemed appropriate, for the immediately preceding fiscal year,  
7 to the governor, judiciary, rules and administration committee of the  
8 house of representatives, the judiciary and rules committee of the sen-  
9 ate and to the advisory council to the office of administrative hearings  
10 on or before the first day of each legislative session;

11 (j) At his discretion, create specialized subject matter divisions  
12 within the office;

13 (k) At his discretion, retain independent contractor hearing officers  
14 at such compensation rates as he shall determine necessary and appro-  
15 priate within budgetary authorization;

16 (l) At his discretion, assign one or more employee hearing officers to  
17 fill in for him on a temporary basis not to exceed twenty-eight (28) con-  
18 tinuous days.

19 (3) The chief administrative hearing officer shall receive the same  
20 compensation and benefits as a member of the Idaho industrial commission at  
21 the time of appointment. Provided however, the compensation of the chief  
22 administrative hearing officer shall not change during his term of office.

23 (4) A chief administrative hearing officer may be removed from office  
24 upon impeachment by the house of representatives and conviction by the sen-  
25 ate.

26 SECTION 34. That Chapter 52, Title 67, Idaho Code, be, and the same is  
27 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
28 ignated as Section 67-5272, Idaho Code, and to read as follows:

29 67-5272. ADDITIONAL REQUIREMENTS. The chief administrative hearing  
30 officer and all hearing officers shall:

31 (1) Comply with the code of conduct adopted pursuant to rule.

32 (2) Take an oath of office before beginning their duties.

33 (3) Meet the following qualifications on the effective date of their  
34 appointments:

35 (a) Be at least thirty (30) years of age;

36 (b) Be a citizen of the United States;

37 (c) Have been a legal resident of the state of Idaho for at least two (2)  
38 continuous years immediately preceding such appointment;

39 (d) Have been in good standing as an active or judicial member of the  
40 Idaho state bar for at least two (2) continuous years immediately pre-  
41 ceding such appointment;

42 (e) Have held a license to practice law or held a judicial office in one  
43 (1) or more jurisdictions for at least five (5) continuous years immedi-  
44 ately preceding such appointment;

45 (f) Have not served in the executive branch of Idaho government for a  
46 period of two (2) continuous years preceding appointment; and

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1 (g) Have not participated in any phase of a contested or other case on  
2 which he or she is serving as the hearing officer, mediator or arbitra-  
3 tor.

4 For purposes of this subsection, the following terms have the following  
5 meanings: (a) "active," "judicial" and "good standing" have the same defini-  
6 tions as those terms are given by rule 301 of the Idaho bar commission rules  
7 or any successors to those rules; and (b) "jurisdiction" means a state or  
8 territory of the United States, the District of Columbia or any branch of the  
9 United States military.

10 (4) Have the power in contested case proceedings pursuant to this act  
11 to issue subpoenas, administer oaths, control the course of the proceedings,  
12 order or encourage the use of alternative dispute resolution when appropri-  
13 ate, enter such awards for costs and attorney fees as authorized by law and  
14 perform other necessary and appropriate acts in the performance of their du-  
15 ties.

16 (5) Conduct such contested case proceedings pursuant to this chapter,  
17 duly promulgated rules, guidelines and practices, as well as other hearings,  
18 mediations and arbitration as may be assigned by the chief administrative  
19 hearing officer and perform such other duties as may be assigned by the chief  
20 administrative hearing officer.

21 SECTION 35. That Chapter 52, Title 67, Idaho Code, be, and the same is  
22 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
23 ignated as Section 67-5273, Idaho Code, and to read as follows:

24 67-5273. ADMINISTRATIVE HEARING OFFICERS. Administrative hearing of-  
25 ficers shall receive compensation and benefits as determined by the chief  
26 administrative hearing officer and approved by the advisory council to the  
27 office of administrative hearings. Provided however, the compensation of a  
28 hearing officer shall not change during his term of office. Hearing officers  
29 shall be considered classified employees of the state, with all duties and  
30 protections thereof. Hearing officers shall not be assigned or perform du-  
31 ties inconsistent with the duties and responsibilities of a hearing officer.

32 SECTION 36. That Chapter 52, Title 67, Idaho Code, be, and the same is  
33 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
34 ignated as Section 67-5274, Idaho Code, and to read as follows:

35 67-5274. DISQUALIFICATION. (1) A hearing officer is subject to dis-  
36 qualification for bias, prejudice, financial interest, ex parte communica-  
37 tions as provided in section 67-5248, Idaho Code, or any other factor that  
38 would cause a reasonable person to question the impartiality of the hearing  
39 officer. A hearing officer, after making a reasonable inquiry, shall dis-  
40 close to the parties any known facts related to grounds for disqualification  
41 that are material to the impartiality of the hearing officer in the proceed-  
42 ing.

43 (2) A party may request the disqualification of a hearing officer  
44 promptly after notice that the person will preside or, if later, promptly on  
45 discovering facts establishing a ground for disqualification. The request  
46 must state with particularity the ground on which it is claimed that a fair

1 and impartial hearing cannot be accorded or the applicable rule or canon  
2 of practice or ethics that requires disqualification. The request may be  
3 denied if the party fails to exercise due diligence in requesting disquali-  
4 fication after discovering a ground for disqualification.

5 (3) A hearing officer whose disqualification is requested shall decide  
6 whether to grant the request and shall state in a record the facts and reasons  
7 for the decision. The decision to deny disqualification is not subject to  
8 interlocutory judicial review.

9 (4) If a substitute hearing officer is required, the substitute must be  
10 appointed by the office of administrative hearings.

11 SECTION 37. That Chapter 52, Title 67, Idaho Code, be, and the same is  
12 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
13 ignated as Section 67-5275, Idaho Code, and to read as follows:

14 67-5275. ADVISORY COUNCIL TO THE OFFICE OF ADMINISTRATIVE HEAR-  
15 INGS. (1) There is hereby created the advisory council to the office of  
16 administrative hearings, hereinafter referred to as "the council."

17 (2) The council shall consist of nine (9) members that may not include  
18 the chief administrative hearing officer or any hearing officers of the of-  
19 fice of administrative hearings. Members shall include the following:

20 (a) The chairman and most senior minority party member of the senate ju-  
21 diciary and rules committee;

22 (b) The chairman and most senior minority party member of the house ju-  
23 diciary, rules and administration committee;

24 (c) The attorney general or a deputy attorney general designated by the  
25 attorney general;

26 (d) Two (2) state agency directors or their designees appointed by the  
27 governor. Provided however, a designee of an agency director must be an  
28 employee of the agency and may not be a deputy attorney general. Pro-  
29 vided further, only those agencies subject to application of the con-  
30 tested case provisions of this act shall be eligible for appointment;

31 (e) One (1) member of the public appointed by the governor, who is not  
32 a member of the Idaho state bar and who has no employment, independent  
33 contractor or financial relationship with the office of administrative  
34 hearings;

35 (f) One (1) member of the Idaho state bar appointed by the president of  
36 the Idaho state bar.

37 (3) The terms of the attorney general or his designee, the agency di-  
38 rectors or their designees, the public member and the Idaho state bar member  
39 shall be four (4) years commencing July 1, 2018. A designee may be replaced  
40 by the designating authority at any time. A vacancy shall exist with respect  
41 to any agency director or Idaho state bar member who no longer holds the po-  
42 sition required to be a member, and with respect to a public member, who no  
43 longer meets the qualifications for being a public member. Members may serve  
44 more than one (1) term.

45 (4) Members shall serve without honorarium or compensation of any kind,  
46 but shall be reimbursed for actual and necessary expenses, subject to the  
47 limits provided in section 67-2008, Idaho Code.

1 (5) Action by the council shall be by a majority of those voting, and a  
2 quorum shall consist of a majority of the members.

3 (6) Members shall elect a chair and vice-chair, who shall serve in place  
4 of the chair when he is absent or vacates the position and in which case a new  
5 vice-chair shall be elected, at the council's first meeting and every four  
6 (4) years thereafter.

7 (7) Members shall enact such by-laws as they determine necessary and  
8 appropriate. The office of administrative hearings shall provide the coun-  
9 cil with staff support.

10 (8) The council's duties shall be as follows:

11 (a) Make recommendations to the chief administrative hearing officer  
12 about:

13 (i) Matters it believes the chief administrative hearing offi-  
14 cer or office of administrative hearings should act on, or refrain  
15 from acting on;

16 (ii) Issues and procedures relating to the duties of the chief ad-  
17 ministrative hearing officer and office of administrative hear-  
18 ings;

19 (iii) Rules, policies, guidelines and practices being considered  
20 for promulgation or adoption by the office of administrative hear-  
21 ings;

22 (iv) The annual report pursuant to section 67-5271, Idaho Code;

23 (v) The code of conduct;

24 (vi) Hearing officer training; and

25 (vii) Such other matters as the council deems appropriate.

26 (b) Make recommendations at least once every four (4) years to the gov-  
27 ernor, the chief administrative hearing officer and the legislature re-  
28 garding whether to keep, expand or eliminate agency and program exemp-  
29 tions from the contested case provisions of the administrative proce-  
30 dures act.

31 (c) Meet at such time and places as the council determines. Provided  
32 however, the council shall meet no less than two (2) times per calendar  
33 year and no more than six (6) times per calendar year.

34 SECTION 38. That Chapter 52, Title 67, Idaho Code, be, and the same is  
35 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
36 ignated as Section 67-5276, Idaho Code, and to read as follows:

37 67-5276. COOPERATION OF AGENCIES. (1) Every agency shall cooperate  
38 with the office of administrative hearings in the discharge of its duties.

39 (2) No agency or state officer shall attempt to influence the selection  
40 of a hearing officer for any matter other than mediations, and the chief  
41 administrative hearing officer shall not permit any such influence, but  
42 agencies and officers may inform the office of administrative hearings of  
43 their views regarding expertise needed or desired with respect to classes  
44 and types of potential contested cases.

45 (3) Upon filing of a request for contested case proceeding, and at the  
46 time a contested case proceeding is considered initiated in the office of  
47 administrative hearings, the agency shall take no further action with re-



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1 spect to such matter except as otherwise authorized by this act or pursuant  
2 to other law.

3 SECTION 39. That Section 67-2601, Idaho Code, be, and the same is hereby  
4 amended to read as follows:

5 67-2601. DEPARTMENT CREATED -- ORGANIZATION -- BUREAU OF OCCUPATIONAL  
6 LICENSES CREATED. (1) There is hereby created the department of self-govern-  
7 ing agencies. The department shall, for the purposes of section 20, article  
8 IV, of the constitution of the state of Idaho, be an executive department of  
9 the state government.

10 (2) The department shall consist of the following:

11 (a) Agricultural commodity commissions: Idaho apple commission, as  
12 provided by chapter 36, title 22, Idaho Code; Idaho bean commission,  
13 as provided by chapter 29, title 22, Idaho Code; Idaho beef council, as  
14 provided by chapter 29, title 25, Idaho Code; Idaho cherry commission,  
15 as provided by chapter 37, title 22, Idaho Code; Idaho dairy products  
16 commission, as provided by chapter 31, title 25, Idaho Code; Idaho pea  
17 and lentil commission, as provided by chapter 35, title 22, Idaho Code;  
18 Idaho potato commission, as provided by chapter 12, title 22, Idaho  
19 Code; the Idaho wheat commission, as provided by chapter 33, title 22,  
20 Idaho Code; the Idaho aquaculture commission, as provided by chapter  
21 44, title 22, Idaho Code; and the Idaho alfalfa and clover seed commis-  
22 sion, as provided in chapter 42, title 22, Idaho Code.

23 (b) Professional and occupational licensing boards: Idaho state board  
24 of accountancy, as provided by chapter 2, title 54, Idaho Code; board  
25 of acupuncture, as provided by chapter 47, title 54, Idaho Code; board  
26 of architectural examiners, as provided by chapter 3, title 54, Idaho  
27 Code; state athletic commission, as provided by chapter 4, title 54,  
28 Idaho Code; board of barber examiners, as provided by chapter 5, ti-  
29 tle 54, Idaho Code; board of commissioners of the Idaho state bar,  
30 as provided by chapter 4, title 3, Idaho Code; board of chiropractic  
31 physicians, as provided by chapter 7, title 54, Idaho Code; Idaho board  
32 of cosmetology, as provided by chapter 8, title 54, Idaho Code; Idaho  
33 state licensing board of professional counselors and marriage and fam-  
34 ily therapists, as provided by chapter 34, title 54, Idaho Code; state  
35 board of dentistry, as provided by chapter 9, title 54, Idaho Code;  
36 state board of denturistry, as provided by chapter 33, title 54, Idaho  
37 Code; Idaho board of licensure of professional engineers and profes-  
38 sional land surveyors, as provided by chapter 12, title 54, Idaho Code;  
39 state board of registration for professional geologists, as provided by  
40 chapter 28, title 54, Idaho Code; speech and hearing services licensure  
41 board, as provided by chapter 29, title 54, Idaho Code; Idaho physical  
42 therapy licensure board, as provided by chapter 22, title 54, Idaho  
43 Code; Idaho state board of landscape architects, as provided by chapter  
44 30, title 54, Idaho Code; liquefied petroleum gas safety board, as pro-  
45 vided by chapter 53, title 54, Idaho Code; state board of medicine, as  
46 provided by chapter 18, title 54, Idaho Code; state board of morticians,  
47 as provided by chapter 11, title 54, Idaho Code; board of naturopathic  
48 medical examiners, as provided by chapter 51, title 54, Idaho Code;

1 board of nursing, as provided by chapter 14, title 54, Idaho Code; board  
2 of examiners of nursing home administrators, as provided by chapter 16,  
3 title 54, Idaho Code; state board of optometry, as provided by chapter  
4 15, title 54, Idaho Code; Idaho outfitters and guides licensing board,  
5 as provided by chapter 21, title 36, Idaho Code; board of pharmacy, as  
6 provided by chapter 17, title 54, Idaho Code; state board of podiatry,  
7 as provided by chapter 6, title 54, Idaho Code; Idaho state board of psy-  
8 chologist examiners, as provided by chapter 23, title 54, Idaho Code;  
9 Idaho real estate commission, as provided by chapter 20, title 54, Idaho  
10 Code; real estate appraiser board, as provided by chapter 41, title 54,  
11 Idaho Code; board of social work examiners, as provided by chapter 32,  
12 title 54, Idaho Code; the board of veterinary medicine, as provided by  
13 chapter 21, title 54, Idaho Code; the board of examiners of residen-  
14 tial care facility administrators, as provided by chapter 42, title  
15 54, Idaho Code; the certified shorthand reporters board, as provided  
16 by chapter 31, title 54, Idaho Code; the driving businesses licensure  
17 board, as provided by chapter 54, title 54, Idaho Code; the board of  
18 drinking water and wastewater professionals, as provided by chapter 24,  
19 title 54, Idaho Code; and the board of midwifery, as provided by chapter  
20 55, title 54, Idaho Code.

21 (c) The board of examiners, pursuant to section 67-2001, Idaho Code.

22 (d) The division of building safety: building code board, chapter 41,  
23 title 39, Idaho Code; electrical board, chapter 10, title 54, Idaho  
24 Code; public works contractors license board, chapter 19, title 54,  
25 Idaho Code; plumbing board, chapter 26, title 54, Idaho Code; public  
26 works construction management, chapter 45, title 54, Idaho Code; the  
27 heating, ventilation and air conditioning board, chapter 50, title 54,  
28 Idaho Code; and factory built structures advisory board, chapter 43,  
29 title 39, Idaho Code.

30 (e) The division of veterans services to be headed by a division ad-  
31 ministrator who shall be a nonclassified employee exempt from the pro-  
32 visions of chapter 53, title 67, Idaho Code. The administrator of the  
33 division shall administer the provisions of chapter 2, title 65, Idaho  
34 Code, and chapter 9, title 66, Idaho Code, with the advice of the vet-  
35 erans affairs commission established under chapter 2, title 65, Idaho  
36 Code, and shall perform such additional duties as are imposed upon him  
37 by law.

38 (f) The board of library commissioners, pursuant to section 33-2502,  
39 Idaho Code.

40 (g) The Idaho state historical society, pursuant to section 67-4123,  
41 Idaho Code.

42 (h) The state public defense commission, pursuant to section 19-849,  
43 Idaho Code.

44 (i) The office of administrative hearings, pursuant to section  
45 67-5270, Idaho Code.

46 (3) The bureau of occupational licenses is hereby created within the  
47 department of self-governing agencies.

48 SECTION 40. That Section 7-1417, Idaho Code, be, and the same is hereby  
49 amended to read as follows:

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1 7-1417. FINAL ORDER OF SUSPENSION. (1) A license suspension order is-  
2 sued by the court shall be final and conclusive between the parties unless an  
3 appeal is filed within twenty-eight (28) days.

4 (2) A license suspension order issued by a hearing officer of the de-  
5 partment shall be final and conclusive between the parties unless an appeal  
6 to district court is filed within twenty-eight (28) days, notwithstanding  
7 the provisions of section 67-524353, Idaho Code.

8 SECTION 41. That Section 26-31-208, Idaho Code, be, and the same is  
9 hereby amended to read as follows:

10 26-31-208. RECORDS -- REPORTS -- RENEWAL AND REINSTATEMENT OF LI-  
11 CENSE. (1) Every licensee under this part shall maintain records in the  
12 United States, including financial records in conformity with generally  
13 accepted accounting principles, in a manner that will enable the director  
14 to determine whether the licensee is complying with the provisions of this  
15 part. The recordkeeping system of the licensee shall be sufficient if it  
16 makes the required information reasonably available to the director. The  
17 records need not be kept in the place of business where residential mortgage  
18 loans are made, if the director is given free access to the records wherever  
19 located. The records pertaining to any loan need not be preserved for more  
20 than three (3) years after making the final entry relating to the loan.

21 (2) Every mortgage broker or mortgage lender licensed under this part  
22 that employs or contracts with a mortgage loan originator licensed under  
23 part 3 of this chapter, for the purpose of conducting mortgage loan origina-  
24 tion activities in Idaho, shall:

25 (a) Notify the director through the NMLSR, or as otherwise prescribed  
26 by the director, of the employment of, or contractual relationship  
27 with, a mortgage loan originator licensee within thirty (30) days of  
28 such employment or contract;

29 (b) Notify the director through the NMLSR, or as otherwise prescribed  
30 by the director, of the termination of employment of, or contractual re-  
31 lationship with, a mortgage loan originator licensee within thirty (30)  
32 days of such termination; and

33 (c) Maintain any records relating to the employment of, or contractual  
34 relationship with, a mortgage loan originator licensee, for a period  
35 not to exceed three (3) years.

36 (3) On or before December 31 of each year, every mortgage broker and  
37 mortgage lender licensee under this part shall pay through the NMLSR, or  
38 as otherwise prescribed by the director, a nonrefundable annual license  
39 renewal fee of one hundred fifty dollars (\$150), and file with the director  
40 through the NMLSR, or as otherwise prescribed by the director, a renewal  
41 application containing such information as the director may require.  
42 Notwithstanding the provisions of section 67-52549, Idaho Code, a license  
43 issued under this part automatically expires if not timely renewed accord-  
44 ing to the requirements of this section. Notwithstanding the provisions of  
45 section 67-52549, Idaho Code, branch licenses issued under this part also  
46 expire upon the expiration, relinquishment or revocation of a license issued  
47 under this part to a licensee's designated home office.

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1 (4) The director may reinstate an expired license during the time pe-  
2 riod of January 1 through February 28, immediately following license expira-  
3 tion if the director finds that the applicant meets the requirements for li-  
4 censure under this part after submission to the director of:

5 (a) A complete application for renewal;

6 (b) The fees required to apply for license renewal unless previously  
7 paid for the period for which the license renewal applies; and

8 (c) A reinstatement fee of two hundred dollars (\$200).

9 (5) Within forty-five (45) days of the end of each calendar quarter,  
10 each mortgage broker and mortgage lender licensee under this part shall sub-  
11 mit quarterly mortgage call reports through the NMLSR, which shall be in such  
12 form and shall contain such information as the director may require.

13 (6) Within forty-five (45) days of the end of each calendar year, each  
14 mortgage broker and mortgage lender licensee under this part shall submit  
15 an annual report of financial condition through the NMLSR, which shall be in  
16 such form and shall contain such information as the director may require.

17 SECTION 42. That Section 26-31-309, Idaho Code, be, and the same is  
18 hereby amended to read as follows:

19 26-31-309. LICENSE RENEWAL AND REINSTATEMENT REQUIREMENTS. (1) The  
20 minimum standards for license renewal for mortgage loan originators li-  
21 censed under this part shall include the following:

22 (a) The mortgage loan originator continues to meet the minimum stan-  
23 dards for license issuance pursuant to section 26-31-306, Idaho Code;

24 (b) The mortgage loan originator has satisfied the annual continuing  
25 education requirements pursuant to section 26-31-310, Idaho Code; and

26 (c) The mortgage loan originator has filed with the director through  
27 the NMLSR, on or before December 31 of each year, a renewal application  
28 containing such information as the director may require, accompanied  
29 by a nonrefundable annual license renewal fee of one hundred dollars  
30 (\$100).

31 (2) If a mortgage loan originator fails to timely satisfy the provi-  
32 sions of subsection (1) of this section, notwithstanding the provisions of  
33 section 67-5254<sup>9</sup>, Idaho Code, then his license automatically and immedi-  
34 ately expires.

35 (3) The director may reinstate an expired license during the time pe-  
36 riod of January 1 through February 28, immediately following license expi-  
37 ration if the director finds that the former licensee meets the requirements  
38 for licensure under this part after submission to the director of:

39 (a) A complete application for renewal;

40 (b) The fees required to apply for license renewal unless previously  
41 paid for the period for which the license renewal applies; and

42 (c) A reinstatement fee of one hundred dollars (\$100).

43 SECTION 43. That Section 28-46-302, Idaho Code, be, and the same is  
44 hereby amended to read as follows:

45 28-46-302. LICENSE TO MAKE REGULATED CONSUMER LOANS. (1) The adminis-  
46 trator shall receive and act on all applications for a license to do busi-

1     ness as a regulated lender. Applications shall be filed in the manner pre-  
2     scribed by the administrator, shall contain such information as the admin-  
3     istrator may reasonably require, shall be updated as necessary to keep the  
4     information current, and shall be accompanied by an application fee of three  
5     hundred fifty dollars (\$350). When an application for licensure is denied  
6     or withdrawn, the administrator shall retain all fees paid by the applicant.  
7     The administrator may deny an application for a license if the administrator  
8     finds that:

9         (a) The financial responsibility, character, and fitness of the appli-  
10        cant, and of the officers and directors thereof (if the applicant is a  
11        corporation) are not such as to warrant belief that the business will be  
12        operated honestly and fairly within the purposes of this act;

13        (b) The applicant does not maintain at least thirty thousand dollars  
14        (\$30,000) in liquid assets, as determined in accordance with generally  
15        accepted accounting principles, available for the purpose of making  
16        loans under this chapter;

17        (c) The applicant has had a license, substantially equivalent to a  
18        license under this chapter and issued by any state, denied, revoked or  
19        suspended under the law of such state;

20        (d) The applicant has filed an application for a license which is false  
21        or misleading with respect to any material fact;

22        (e) The application does not contain all of the information required by  
23        the administrator; or

24        (f) The application is not accompanied by an application fee of three  
25        hundred fifty dollars (\$350).

26        (2) A licensee under this chapter shall meet the requirements of sub-  
27        section (1) of this section at all times while licensed pursuant to this  
28        chapter. The administrator is empowered to conduct investigations as he may  
29        deem necessary, to enable him to determine the existence of the requirements  
30        set out in subsection (1) of this section.

31        (3) Upon written request, the applicant is entitled to a hearing on the  
32        question of his qualifications for a license if:

33        (a) The administrator has notified the applicant in writing that his  
34        application has been denied, or objections filed; or

35        (b) The administrator has not issued a license within sixty (60) days  
36        after the application for the license was filed.

37        If a hearing is held, the applicant and those filing objections shall  
38        reimburse, pro rata, the administrator for his reasonable and necessary ex-  
39        penses incurred as a result of the hearing. A request for a hearing may not be  
40        made more than fifteen (15) days after the administrator has mailed a writing  
41        to the applicant notifying him that the application has been denied and stat-  
42        ing in substance the administrator's finding supporting denial of the appli-  
43        cation or that objections have been filed and the substance thereof.

44        (4) The administrator may issue additional licenses to the same li-  
45        censee upon application by the licensee, in the manner prescribed by the  
46        administrator, and payment of the required application fee. A separate  
47        license shall be required for each place of business. Each license shall  
48        remain in full force and effect unless the licensee does not satisfy the  
49        renewal requirements of subsection (8) of this section, or the license is  
50        relinquished, suspended or revoked.

1 (5) No licensee shall change the location of any place of business, or  
2 consolidate, or close any locations, without giving the administrator at  
3 least fifteen (15) days' prior written notice.

4 (6) A licensee shall not engage in the business of making regulated con-  
5 sumer loans at any place of business for which he does not hold a license nor  
6 shall he engage in business under any other name than that in the license.

7 (7) A license application shall be deemed withdrawn and void if an ap-  
8 plicant submits an incomplete license application and, after receipt of a  
9 written notice of the application deficiency, fails to provide the direc-  
10 tor with information necessary to complete the application within sixty (60)  
11 days of receipt of the deficiency notice. A written deficiency notice shall  
12 be deemed received by a license applicant when:

13 (a) Placed in regular U.S. mail by the director or his agent using an  
14 address provided by the applicant on the license application; or

15 (b) E-mailed to the applicant using an e-mail address provided by the  
16 applicant on the license application; or

17 (c) Posted by the director or his agent on the NMLSR if the license ap-  
18 plication was submitted through the NMLSR.

19 (8) On or before May 31 of each year, every licensee under this chap-  
20 ter shall pay a nonrefundable annual license renewal fee of one hundred fifty  
21 dollars (\$150) per licensed location, and shall file with the administrator  
22 a renewal form containing such information as the administrator may require.  
23 Notwithstanding the provisions of section 67-52549, Idaho Code, a license  
24 issued under this part automatically expires if not timely renewed according  
25 to the requirements of this section. Notwithstanding the provisions of sec-  
26 tion 67-52549, Idaho Code, branch licenses issued under this part also ex-  
27 pire upon the expiration, relinquishment or revocation of a license issued  
28 under this part to a licensee's designated home office.

29 (9) For a period of time not to exceed sixty (60) days following license  
30 expiration, the director may reinstate an expired license if he finds that  
31 the applicant meets the requirements for licensure under this part and the  
32 applicant has submitted to the director:

33 (a) A complete application for renewal;

34 (b) The fees required to apply for license renewal unless previously  
35 paid for the period for which the license renewal applies; and

36 (c) A reinstatement fee of two hundred dollars (\$200).

37 SECTION 44. That Section 28-46-404, Idaho Code, be, and the same is  
38 hereby amended to read as follows:

39 28-46-404. APPLICATION FOR PAYDAY LOAN LICENSE. (1) Each application  
40 for a license shall be in writing and under oath to the administrator, in a  
41 form prescribed by the administrator, and shall include at least the follow-  
42 ing:

43 (a) The legal name, residence and business address of the applicant  
44 and, if the applicant is an entity, of every member, partner, director,  
45 senior officer or twenty-five percent (25%) or more equity owner of the  
46 applicant;

47 (b) The location at which the principal place of business of the appli-  
48 cant is located; and

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1 (c) Other data and information the administrator may require with re-  
2 spect to the applicant, and if the applicant is an entity, such data and  
3 information of its members, partners, directors, senior officers, or  
4 twenty-five percent (25%) or more equity owners of the applicant.

5 (2) Each application for a license shall be accompanied by an applica-  
6 tion fee in the amount of three hundred fifty dollars (\$350). Such fee shall  
7 not be subject to refund.

8 (3) The fee set forth in subsection (2) of this section shall be re-  
9 quired for each location for which an application is submitted.

10 (4) Within sixty (60) days of the filing of an application in a form  
11 prescribed by the administrator, accompanied by the fee required in subsec-  
12 tion (2) of this section, the administrator shall investigate to ascertain  
13 whether the qualifications prescribed by subsection (1) of section 28-46-  
14 403, Idaho Code, have been satisfied. If the administrator finds that the  
15 qualifications have been satisfied and approves the documents, the adminis-  
16 trator shall issue to the applicant a license to engage in the payday loan  
17 business.

18 (5) Notwithstanding the provisions of section 67-52549, Idaho Code,  
19 a license issued pursuant to this part automatically expires if not timely  
20 renewed according to the requirements of subsection (7) of this section,  
21 or the license is relinquished, suspended or revoked pursuant to this act.  
22 Notwithstanding the provisions of section 67-52549, Idaho Code, branch  
23 licenses issued under this part also expire upon the expiration, relin-  
24 quishment or revocation of a license issued under this part to a licensee's  
25 designated home office.

26 (6) A license application shall be deemed withdrawn and void if an ap-  
27 plicant submits an incomplete license application and, after receipt of a  
28 written notice of the application deficiency, fails to provide the direc-  
29 tor with information necessary to complete the application within sixty (60)  
30 days of receipt of the deficiency notice. A written deficiency notice shall  
31 be deemed received by a license applicant when:

32 (a) Placed in regular U.S. mail by the director or his agent using an  
33 address provided by the applicant on the license application; or

34 (b) E-mailed to the applicant using an e-mail address provided by the  
35 applicant on the license application; or

36 (c) Posted by the director or his agent on the NMLSR if the license ap-  
37 plication was submitted through the NMLSR.

38 (7) On or before May 31 of each year, every licensee under this part 4  
39 shall pay a nonrefundable annual license renewal fee of one hundred fifty  
40 dollars (\$150) per licensed location, and shall file with the administrator  
41 a renewal form containing such information as the administrator may require.

42 (8) For a period of time not to exceed sixty (60) days following license  
43 expiration, the director may reinstate an expired license if he finds that  
44 the applicant meets the requirements for licensure under this part and the  
45 applicant has submitted to the director:

46 (a) A complete application for renewal;

47 (b) The fees required to apply for license renewal unless previously  
48 paid for the period for which the license renewal applies; and

49 (c) A reinstatement fee of two hundred dollars (\$200).

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1 SECTION 45. That Section 32-1612, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 32-1612. ORDER FROM HEARING. (1) The department shall issue an order  
4 based upon the hearing that rejects the contest or supports the contest  
5 in whole or part. The parties may file an appeal with the district court  
6 within twenty-eight (28) days, notwithstanding the provisions of section  
7 67-524353, Idaho Code.

8 (2) The department shall notify the financial institution in writing,  
9 within two (2) business days after the receipt of the order, as to the outcome  
10 of the hearing, and provide instructions to the financial institution as to  
11 the disposition of the asset that has been frozen.

12 SECTION 46. That Section 33-5209C, Idaho Code, be, and the same is  
13 hereby amended to read as follows:

14 33-5209C. ENFORCEMENT -- REVOCATION -- APPEAL. (1) An authorized  
15 chartering entity shall continually monitor the performance and legal com-  
16 pliance of the public charter schools it oversees, including collecting and  
17 analyzing data to support ongoing evaluation according to the performance  
18 certificate. Every authorized chartering entity shall have the authority  
19 to conduct or require oversight activities that enable the authorized char-  
20 tering entity to fulfill its responsibilities pursuant to the provisions  
21 of this chapter, including conducting appropriate inquiries and investi-  
22 gations, so long as those activities are consistent with the intent of this  
23 chapter, adhere to the terms of the performance certificate and do not unduly  
24 inhibit the autonomy granted to public charter schools.

25 (2) Each authorized chartering entity shall annually publish and make  
26 available to the public a performance report for each public charter school  
27 it oversees, in accordance with the performance framework set forth in the  
28 performance certificate and section 33-5209A, Idaho Code. The authorized  
29 chartering entity may require each public charter school it oversees to sub-  
30 mit an annual report to assist the authorized chartering entity in gather-  
31 ing complete information about each school consistent with the performance  
32 framework. Each public charter school shall publish its annual performance  
33 report on the school's website.

34 (3) If an authorized chartering entity has reason to believe that a  
35 public charter school cannot remain fiscally sound for the remainder of its  
36 certificate term, it shall provide the state department of education with  
37 written notification of such concern. Upon receiving such notification,  
38 the state department of education shall have the authority to modify the  
39 percentage of the total appropriation to be paid to the public charter school  
40 pursuant to the provisions of section 33-1009(1), Idaho Code, such that  
41 equal percentages are paid on each of the prescribed dates.

42 (4) If an authorized chartering entity has reason to believe that a  
43 charter holder or public charter school has violated any provision of law, it  
44 shall notify the charter holder and the entity responsible for administering  
45 said law of the possible violation.



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1 (5) If an authorized chartering entity revokes or does not renew a char-  
2 ter, the authorized chartering entity shall clearly state, in a resolution  
3 of its governing board, the reasons for the revocation or nonrenewal.

4 (6) Within fourteen (14) days of taking action to renew, not renew or  
5 revoke a charter, the authorized chartering entity shall report to the state  
6 board of education the action taken and shall provide a copy of the report to  
7 the charter holder at the same time that the report is submitted to the state  
8 board of education. The report shall include a copy of the authorized char-  
9 tering entity's resolution setting forth the action taken and reasons for  
10 the decision and assurances as to compliance with all of the requirements set  
11 forth in this chapter.

12 (7) A charter may be revoked by the authorized chartering entity if the  
13 public charter school has failed to meet any of the specific, written con-  
14 ditions for necessary improvements established pursuant to the provisions  
15 of section 33-5209B(1), Idaho Code, by the dates specified. Revocation may  
16 not occur until the charter holder has been afforded a public hearing, un-  
17 less the authorized chartering entity determines that the continued opera-  
18 tion of the public charter school presents an imminent public safety issue,  
19 in which case the charter may be revoked immediately. Public hearings shall  
20 be conducted by the authorized chartering entity or such other person or per-  
21 sons appointed by the authorized chartering entity to conduct public hear-  
22 ings and receive evidence as a contested case in accordance with the provi-  
23 sions of ~~section 67-5242~~ chapter 52, title 67, Idaho Code. Notice and oppor-  
24 tunity to reply shall include, at a minimum, written notice setting out the  
25 basis for consideration of revocation, a period of not less than thirty (30)  
26 days within which the charter holder can reply in writing, and a public hear-  
27 ing within thirty (30) days of the receipt of the written reply.

28 (8) A decision to revoke or nonrenew a charter or to deny a revision of  
29 a charter may be appealed directly to the state board of education. With re-  
30 spect to such appeal, the state board of education shall substantially fol-  
31 low the procedure as provided in section 33-5207(5)(b), Idaho Code. In the  
32 event the state board of education reverses a decision of revocation or non-  
33 renewal, the charter holder subject to such action shall then be placed under  
34 the chartering authority of the public charter school commission.

35 SECTION 47. That Section 40-709A, Idaho Code, be, and the same is hereby  
36 amended to read as follows:

37 40-709A. PETITION FOR HIGHWAY MAINTENANCE. (1) Any county or highway  
38 district may petition the Idaho transportation board to take action, as pro-  
39 vided in this section, to provide for the maintenance of a highway or portion  
40 thereof under the jurisdiction of a county or highway district.

41 (2) The petition and supporting materials shall establish the follow-  
42 ing facts:

43 (a) That the subject highway or relevant portion thereof provides the  
44 only practical access to a city, town or other developed area;

45 (b) That the county or highway district with jurisdiction over the sub-  
46 ject highway, or relevant portion thereof, is obligated to maintain the  
47 highway or relevant portion thereof;

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1 (c) That said county or highway district historically has provided  
2 maintenance to the subject highway or relevant portion thereof suffi-  
3 cient to allow safe motorist access to the city, town or other developed  
4 area; and

5 (d) Said county or highway district is now failing to provide main-  
6 tenance sufficient to allow safe motorist access to the city, town or  
7 other developed area.

8 The petition shall not be based on failure to improve the highway or to ex-  
9 pand maintenance beyond what historically has been provided. The petition  
10 shall also document the petitioner's efforts to communicate its concerns to  
11 the subject county or highway district and explain why the issue could not be  
12 resolved. The petitioner shall provide notice to the subject county or high-  
13 way district, including a copy of the petition and all supporting materials.

14 (3) The Idaho transportation department shall publish notice of the  
15 petition as set forth in section 40-206, Idaho Code, and shall provide the  
16 subject county or highway district a reasonable opportunity to respond to  
17 the petition, to take corrective action, to explain any extenuating cir-  
18 cumstances or to otherwise address the concerns presented in the petition.  
19 Based on all information available to it, including such independent inves-  
20 tigation as it deems appropriate, the Idaho transportation department shall  
21 make a recommendation for action to the Idaho transportation board.

22 (4) The Idaho transportation board shall review the petition and the  
23 recommendation of the Idaho transportation department.

24 (5) If the Idaho transportation board determines that the petition is  
25 without merit, it may deny the petition without hearing and issue written  
26 findings and conclusions stating its reasons therefor.

27 (6) If the Idaho transportation board determines that the petition may  
28 have merit, it shall hold a hearing on the matter and allow all affected enti-  
29 ties and interested persons an opportunity to be heard.

30 (7) Following the hearing provided in subsection (6) of this section,  
31 the Idaho transportation board shall either grant or deny the petition and  
32 issue findings and conclusions stating its reasons therefor. The petition  
33 shall be granted only upon a finding that the public safety, health or wel-  
34 fare would be endangered because the subject county or highway district is  
35 inappropriately and unreasonably failing to maintain a highway or portion  
36 thereof that it is obligated to maintain and that the facts set out in subsec-  
37 tion (2) (a), (b), (c) and (d) of this section have been established. In de-  
38 termining the reasonableness of the subject county or highway district's ac-  
39 tions with respect to the highway, the Idaho transportation board shall take  
40 into account the authority of the county or highway district to temporarily  
41 close a highway, the availability of funding and other considerations ad-  
42 dressed in sections 40-1311 and 40-1315, Idaho Code. The Idaho transporta-  
43 tion board shall not approve a petition with respect to a highway or portion  
44 thereof that has been vacated or is subject to an ongoing vacation or valida-  
45 tion proceeding.

46 (8) If the petition is granted, the transportation department may un-  
47 dertake itself the maintenance of the highway or portion thereof or it may  
48 contract with another political subdivision to undertake the maintenance.  
49 In either case, the transportation department shall certify to the state  
50 controller the actual cost of maintenance undertaken by the transportation

1 department or by the contracted political subdivision. The state controller  
2 shall pay into the state highway account of the Idaho transportation depart-  
3 ment or directly to the contracted political subdivision the actual costs  
4 incurred as certified by the transportation department. Such funds shall be  
5 deducted from the funds that would otherwise have been allocated pursuant to  
6 section 40-709, Idaho Code, to the county or highway district that failed to  
7 provide adequate maintenance.

8 (9) Political subdivisions that acquire funds for roadwork of any type  
9 either pursuant to this section or by separate voluntary agreement with  
10 another political subdivision or the state are hereby authorized to expend  
11 such funds outside of their jurisdictional boundaries notwithstanding any  
12 other provision of law.

13 (10) A county or highway district that has been the subject of a peti-  
14 tion granted pursuant to this section may request a termination or modifi-  
15 cation of the arrangement authorized by the Idaho transportation department  
16 for maintenance by the Idaho transportation department or another entity. A  
17 request for termination shall be accompanied by appropriate documentation  
18 showing that the requesting entity is prepared to resume its maintenance re-  
19 sponsibility for the highway. The Idaho transportation board shall consider  
20 the request for termination or modification, taking into account the infor-  
21 mation presented by the requesting entity and any other information avail-  
22 able to the Idaho transportation board. If the Idaho transportation board  
23 determines that the concerns giving rise to the petition have been addressed  
24 and the entity is committed to resume maintenance of the highway, the Idaho  
25 transportation board shall terminate its prior action and allow the entity  
26 to resume responsibility for maintenance of the highway upon the beginning  
27 of the next fiscal year. The Idaho transportation board may also modify the  
28 existing arrangement for funding of maintenance.

29 (11) A decision by the Idaho transportation board granting or denying a  
30 petition or request under this section is a final agency action for purposes  
31 of section 67-5270(2)60, Idaho Code.

32 SECTION 48. That Section 41-227, Idaho Code, be, and the same is hereby  
33 amended to read as follows:

34 41-227. EXAMINATION REPORT. (1) The director or his examiner shall  
35 make a full and true written report of every examination made by him under  
36 this chapter, and shall verify the report by his oath.

37 (2) The report shall comprise only facts appearing upon the books, pa-  
38 pers, records or documents of the person being examined, or ascertained from  
39 testimony of individuals under oath concerning the affairs of such person,  
40 together with such conclusions and recommendations as may reasonably be war-  
41 ranted from such facts.

42 (3) Prior to a hearing and prior to any modifications the report shall  
43 be subject to disclosure according to chapter 1, title 74, Idaho Code.

44 (4) No later than sixty (60) days following completion of the examina-  
45 tion, the examiner in charge shall file with the department a verified writ-  
46 ten report of examination under oath. Upon receipt of the verified report,  
47 the department shall transmit the report to the company examined, together  
48 with a notice which shall afford the company examined a reasonable opportu-

1 nity of not more than thirty (30) days to make a written submission or rebut-  
2 tal with respect to any matters contained in the examination report.

3 (5) Within thirty (30) days of the end of the period allowed for the re-  
4 ceipt of written submissions or rebuttals, the director shall fully consider  
5 and review the report, together with any written submissions or rebuttals  
6 and any relevant portions of the examiner's work papers, and enter an order:

7 (a) Adopting the examination report as filed or with modifications or  
8 corrections. If the examination report reveals that the company is op-  
9 erating in violation of any law, regulation or prior order of the direc-  
10 tor, the director may order the company to take any action the director  
11 considers necessary and appropriate to cure such violation;

12 (b) Rejecting the examination report with directions to the examiners  
13 to reopen the examination for purposes of obtaining additional data,  
14 documentation or information, and refileing pursuant to subsection (24)  
15 of this section; or

16 (c) Calling for an investigatory hearing with no less than twenty (20)  
17 days' notice to the company for purposes of obtaining additional docu-  
18 mentation, data, information and testimony.

19 (6) (a) All orders entered pursuant to subsection (5) (a) of this sec-  
20 tion shall be accompanied by findings and conclusions resulting from  
21 the director's consideration and review of the examination report, rel-  
22 evant examiner work papers and any written submissions or rebuttals.  
23 Any such order shall be considered a final order and may be appealed  
24 pursuant to sections 67-527060 through 67-527969, Idaho Code, and shall  
25 be served upon the company by certified mail, together with a copy of the  
26 adopted examination report. Within thirty (30) days of the issuance of  
27 the adopted report, the company shall file affidavits executed by each  
28 of its directors stating under oath that they have received a copy of the  
29 adopted report and related orders.

30 (b) Any hearing conducted under subsection (5) (c) of this section by  
31 the director or authorized representative, shall be conducted in accor-  
32 dance with the provisions of chapter 52, title 67, Idaho Code, as a non-  
33 adversarial confidential investigatory proceeding as necessary for the  
34 resolution of any inconsistencies, discrepancies or disputed issues  
35 apparent upon the face of the filed examination report or raised by, or  
36 as a result of, the director's review of relevant work papers or by the  
37 written submission or rebuttal of the company. Within twenty (20) days  
38 of the conclusion of any such hearing, the director shall enter an order  
39 pursuant to the provisions of subsection (5) (a) of this section.

40 (c) The director shall not appoint a contract examiner or an employee of  
41 the department as an authorized representative to conduct the hearing.  
42 Nothing contained in this section shall require the department to dis-  
43 close any information or records which would indicate or show the con-  
44 tent of any investigation or activity of a criminal justice agency, ex-  
45 cept to the extent that the director relied upon information furnished  
46 to the director by such criminal justice agency in making his decision.

47 (7) The report when so verified and filed shall be admissible in evi-  
48 dence in any action or proceeding brought by the director against the person  
49 examined, or against its officers, employees or agents, and shall be pre-  
50 sumptive evidence of the material facts stated therein. The director or his

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1 examiners may at any time testify and offer other proper evidence as to in-  
2 formation secured or matters discovered during the course of an examination,  
3 whether or not a written report of the examination has been either made, fur-  
4 nished or filed in the department.

5 (8) After an order is entered under the provisions of subsection (5) (a)  
6 of this section, the director may publish the report or the results of the  
7 examination as contained therein which report or results are a public record  
8 and shall be exempt from the exemptions from disclosure provided in chapter  
9 1, title 74, Idaho Code.

10 (9) Nothing contained in this chapter shall prevent or be construed  
11 as prohibiting the director from disclosing the content of an examination  
12 report, preliminary examination report or results, or any matter relating  
13 thereto, to the insurance department of this or any other state or country,  
14 or to law enforcement officials of this or any other state or agency of the  
15 federal government at any time, so long as the agency or office receiving the  
16 report or matters relating thereto agrees in writing to hold it confidential  
17 and in a manner consistent with this chapter.

18 (10) All working papers, recorded information, documents and copies  
19 thereof produced by, obtained by or disclosed to the director or any other  
20 person in the course of an examination made under the provisions of this  
21 chapter shall be made available to the person or company which was the sub-  
22 ject of the examination in proceedings pursuant to chapter 52, title 67,  
23 Idaho Code, but shall otherwise be held by the director as a record not re-  
24 quired to be made public pursuant to exemptions from disclosure provided in  
25 chapter 1, title 74, Idaho Code.

26 SECTION 49. That Section 47-324, Idaho Code, be, and the same is hereby  
27 amended to read as follows:

28 47-324. RULES FOR COMMISSION -- ADMINISTRATIVE PROCEDURES. (a) The  
29 commission shall have authority to hear rulemaking proceedings, complaints  
30 filed with it pursuant to this chapter and appeals from the director's deci-  
31 sion on an application filed pursuant to this chapter. The commission may  
32 prescribe rules governing the procedure before it, subject to the provisions  
33 of the administrative procedure act, chapter 52, title 67, Idaho Code.

34 (b) In all cases where a complaint is made by the commission or any  
35 person that any provision of this act, or any rule or order of the commis-  
36 sion is being violated, notice of any hearing to be held on such application  
37 or complaint, the commission shall serve notice on the interested parties by  
38 certified mail, return receipt requested, or in the same manner as is pro-  
39 vided in the rules of civil procedure for the service of summons in civil ac-  
40 tions. Where the interested party is unknown or cannot be located, the com-  
41 mission shall serve notice by publishing at least one (1) notice of the hear-  
42 ing to such person in a newspaper in the county where the affected tract is  
43 located. Such notice must be sent, delivered or published, as appropriate,  
44 at least five (5) business days before the date of the hearing.

45 (c) Except as provided in section 47-320(1) (a), Idaho Code, and sub-  
46 section (b) of this section, any request for an order related to oil and gas  
47 activities within the commission's jurisdiction, other than a civil penalty  
48 proceeding pursuant to section 47-325, Idaho Code, or other enforcement ac-

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1 tion by the department of lands or the commission, shall be made by applica-  
2 tion to the department of lands.

3 (i) The department shall notify the applicant within five (5) busi-  
4 ness days of receipt of an application if the application is administra-  
5 tively incomplete, and in such notice shall identify the missing item or  
6 items to be supplied in order to make the application complete.

7 (ii) A decision on the merits of the application shall be made by the di-  
8 rector. The director's decision shall not be subject to any motion for  
9 reconsideration or further review, except for appeal to the commission  
10 provided in subsection (d) of this section.

11 (iii) For applications involving an order regarding unit operations or  
12 integration of a drilling unit, the department shall send a copy of the  
13 application and supporting documents to all known and located uncommit-  
14 ted owners, to all working interest owners within the unit, and to the  
15 respective city or county where the proposed unit is located. The mail-  
16 ing shall include notice of the hearing date on which the director will  
17 consider the application. The application shall be redacted pursuant  
18 to section 47-322(f), Idaho Code, and sent by certified mail. Upon re-  
19 quest, the applicant shall reimburse the department for actual mailing  
20 costs incurred under this subsection. For any uncommitted owners and  
21 working interest owners who cannot be located, an applicant shall pub-  
22 lish notice of any application for an order once in a newspaper in the  
23 county in which the affected property is located, and request the de-  
24 partment publish notice on its website, within seven (7) calendar days  
25 of filing of the complete application. Only an uncommitted owner in the  
26 affected unit may file an objection or other response to the applica-  
27 tion, and the uncommitted owner shall file seven (7) calendar days be-  
28 fore the hearing date provided in the notice.

29 (iv) For applications not involving paragraph (iii) of this subsec-  
30 tion, including exceptional locations, any uncommitted owner within  
31 the area defined in the application may file an objection or other re-  
32 sponse to the application, and the uncommitted owner shall file seven  
33 (7) calendar days before the hearing date provided in the notice.

34 (v) The director shall hear an application within thirty (30) calendar  
35 days of the filing of a complete application. Discovery is not permit-  
36 ted. The director shall issue a written decision on any such applica-  
37 tion within thirty (30) calendar days of the hearing.

38 (d) The director's decision on an application for an order may be ap-  
39 pealed to the commission by the applicant or any owner who filed an objec-  
40 tion or other response to the application within the time required. An ap-  
41 peal must be filed with the director within fourteen (14) calendar days of  
42 the date of issuance of the director's written decision. The date of is-  
43 suance shall be three (3) calendar days after the director deposits the de-  
44 cision in the U.S. mail, or the date on which he remits a decision electron-  
45 ically. Such appeal shall include the reasons and authority for the appeal,  
46 and shall identify any facts in the record supporting the appeal. Any per-  
47 son appealing shall serve a copy of the appeal materials on any other person  
48 who participated in the proceedings below, by certified mail, or by personal  
49 service. Any person who participated in the proceeding below may file a re-  
50 sponse to the appeal within five (5) calendar days of service of a copy of

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1 the appeal materials. The appellant shall provide the director with proof of  
2 service of the appeal materials on other persons as required in this section.  
3 The commission shall make a decision based on the record below as set forth  
4 in the written submittals of only the appellant and any other participating  
5 qualified person, the director's decision, and any oral argument taken by  
6 the commission at an appeal hearing.

7 (e) Appeals to the commission shall be heard at the next regularly  
8 scheduled commission hearing, or at a special meeting of the commission if  
9 determined by the commission. In no case will a hearing be later than thirty  
10 (30) days after the filing of an appeal. The commission may take argument  
11 from, but not new testimony of, the appellant and other qualified partici-  
12 pating persons at the hearing. The commission shall make a decision on the  
13 appeal at the hearing and direct the department to issue a written order  
14 within five (5) business days of the hearing. The prevailing party shall  
15 draft a proposed written order and submit it to the department within two (2)  
16 business days. The final order of the commission shall not be subject to any  
17 motion for reconsideration.

18 (f) If no appeal is filed with the commission within the required time,  
19 the decision of the director shall become the final order.

20 (g) Judicial review of actions taken by the commission shall be gov-  
21 erned by the provisions of chapter 52, title 67, Idaho Code. Only a person  
22 qualified under subsection (d) of this section who has completed the appeal  
23 procedures set forth in this section shall be considered to have exhausted  
24 administrative remedies as required in section 67-5271-65, Idaho Code.

25 (h) Each order shall include a reasoned statement in support of the  
26 decision, including a concise statement of facts supporting any findings,  
27 a statement of available procedures and time limits for appeals. Findings  
28 must be based exclusively on materials in the record. The applicant and any  
29 participating qualified person shall be served with a copy of the order. The  
30 order shall include or be accompanied by a certificate of service.

31 (i) Every application shall be signed by the applicant or his represen-  
32 tative, and his address shall be stated thereon. The signature of the ap-  
33 plicant or his representative constitutes a certificate by him that he has  
34 read the application and that to the best of his knowledge, information and  
35 belief there is good ground to support the same. Each application shall be  
36 of such form and content and accompanied by the number of copies required by  
37 rule of the commission. Each application shall be accompanied by a fee as es-  
38 tablished in statute or rule.

39 SECTION 50. That Section 50-222, Idaho Code, be, and the same is hereby  
40 amended to read as follows:

41 50-222. ANNEXATION BY CITIES. (1) Legislative intent. The legisla-  
42 ture hereby declares and determines that it is the policy of the state of  
43 Idaho that cities of the state should be able to annex lands which are reason-  
44 ably necessary to assure the orderly development of Idaho's cities in order  
45 to allow efficient and economically viable provision of tax-supported and  
46 fee-supported municipal services, to enable the orderly development of pri-  
47 vate lands which benefit from the cost-effective availability of municipal

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1 services in urbanizing areas and to equitably allocate the costs of public  
2 services in management of development on the urban fringe.

3 (2) General authority. Cities have the authority to annex land into a  
4 city upon compliance with the procedures required in this section. In any  
5 annexation proceeding, all portions of highways lying wholly or partially  
6 within an area to be annexed shall be included within the area annexed unless  
7 expressly agreed between the annexing city and the governing board of the  
8 highway agency providing road maintenance at the time of annexation. Pro-  
9 vided further, that said city council shall not have the power to declare  
10 such land, lots or blocks a part of said city if they will be connected to such  
11 city only by a shoestring or strip of land which comprises a railroad or high-  
12 way right-of-way.

13 (3) Annexation classifications. Annexations shall be classified and  
14 processed according to the standards for each respective category set forth  
15 herein. The three (3) categories of annexation are:

16 (a) Category A: Annexations wherein:

17 (i) All private landowners have consented to annexation. Annex-  
18 ation where all landowners have consented may extend beyond the  
19 city area of impact provided that the land is contiguous to the  
20 city and that the comprehensive plan includes the area of annexa-  
21 tion;

22 (ii) Any residential enclaved lands of less than one hundred (100)  
23 privately-owned parcels, irrespective of surface area, which are  
24 surrounded on all sides by land within a city or which are bounded  
25 on all sides by lands within a city and by the boundary of the  
26 city's area of impact; or

27 (iii) The lands are those for which owner approval must be given  
28 pursuant to subsection (5) (b) (v) of this section.

29 (b) Category B: Annexations wherein:

30 (i) The subject lands contain less than one hundred (100) sepa-  
31 rate private ownerships and platted lots of record and where not  
32 all such landowners have consented to annexation; or

33 (ii) The subject lands contain more than one hundred (100) sep-  
34 arate private ownerships and platted lots of record and where  
35 landowners owning more than fifty percent (50%) of the area of the  
36 subject private lands have consented to annexation prior to the  
37 commencement of the annexation process; or

38 (iii) The lands are the subject of a development moratorium or a  
39 water or sewer connection restriction imposed by state or local  
40 health or environmental agencies; provided such lands shall not be  
41 counted for purposes of determining the number of separate private  
42 ownerships and platted lots of record aggregated to determine the  
43 appropriate category.

44 (c) Category C: Annexations wherein the subject lands contain more  
45 than one hundred (100) separate private ownerships and platted lots of  
46 record and where landowners owning more than fifty percent (50%) of the  
47 area of the subject private lands have not consented to annexation prior  
48 to commencement of the annexation process.

49 (4) (a) Evidence of consent to annexation. For purposes of this sec-  
50 tion, and unless excepted in paragraph (b) of this subsection (4),



1 consent to annex shall be valid only when evidenced by written instru-  
2 ment consenting to annexation executed by the owner or the owner's  
3 authorized agent. Written consent to annex lands must be recorded in  
4 the county recorder's office to be binding upon subsequent purchasers,  
5 heirs, or assigns of lands addressed in the consent. Lands need not be  
6 contiguous or adjacent to the city limits at the time the landowner con-  
7 sents to annexation for the property to be subject to a valid consent to  
8 annex; provided however, no annexation of lands shall occur, irrespec-  
9 tive of consent, until such land becomes contiguous or adjacent to such  
10 city.

11 (b) Exceptions to the requirement of written consent to annexation.  
12 The following exceptions apply to the requirement of written consent to  
13 annexation provided for in subsection (4) (a) of this section:

14 (i) Enclaved lands: In category A annexations, no consent is nec-  
15 essary for enclaved lands meeting the requirements of subsection  
16 (3) (a) (ii) of this section;

17 (ii) Implied consent: In category B and C annexations, valid con-  
18 sent to annex is implied for the area of all lands connected to a  
19 water or wastewater collection system operated by the city if the  
20 connection was requested in writing by the owner, or the owner's  
21 authorized agent, or completed before July 1, 2008.

22 (5) Annexation procedures. Annexation of lands into a city shall fol-  
23 low the procedures applicable to the category of lands as established by this  
24 section. The implementation of any annexation proposal wherein the city  
25 council determines that annexation is appropriate shall be concluded with  
26 the passage of an ordinance of annexation.

27 (a) Procedures for category A annexations: Lands lying contiguous or  
28 adjacent to any city in the state of Idaho may be annexed by the city  
29 if the proposed annexation meets the requirements of category A. Upon  
30 determining that a proposed annexation meets such requirements, a city  
31 may initiate the planning and zoning procedures set forth in chapter 65,  
32 title 67, Idaho Code, to establish the comprehensive planning policies,  
33 where necessary, and zoning classification of the lands to be annexed.

34 (b) Procedures for category B annexations: A city may annex lands that  
35 would qualify under the requirements of category B annexation if the  
36 following requirements are met:

37 (i) The lands are contiguous or adjacent to the city and lie  
38 within the city's area of city impact;

39 (ii) The land is laid off into lots or blocks containing not more  
40 than five (5) acres of land each, whether the same shall have been  
41 or shall be laid off, subdivided or platted in accordance with any  
42 statute of this state or otherwise, or whenever the owner or pro-  
43 prietor or any person by or with his authority has sold or begun to  
44 sell off such contiguous or adjacent lands by metes and bounds in  
45 tracts not exceeding five (5) acres, or whenever the land is sur-  
46 rounded by the city. Splits of ownership which occurred prior to  
47 January 1, 1975, and which were the result of placement of public  
48 utilities, public roads or highways, or railroad lines through the  
49 property shall not be considered as evidence of an intent to de-  
50 velop such land and shall not be sufficient evidence that the land

1 has been laid off or subdivided in lots or blocks. A single sale  
2 after January 1, 1975, of five (5) acres or less to a family mem-  
3 ber of the owner for the purpose of constructing a residence shall  
4 not constitute a sale within the meaning of this section. For pur-  
5 poses of this section, "family member" means a natural person or  
6 the spouse of a natural person who is related to the owner by blood,  
7 adoption or marriage within the first degree of consanguinity;

8 (iii) Preparation and publication of a written annexation plan,  
9 appropriate to the scale of the annexation contemplated, which in-  
10 cludes, at a minimum, the following elements:

11 (A) The manner of providing tax-supported municipal ser-  
12 vices to the lands proposed to be annexed;

13 (B) The changes in taxation and other costs, using examples,  
14 which would result if the subject lands were to be annexed;

15 (C) The means of providing fee-supported municipal ser-  
16 vices, if any, to the lands proposed to be annexed;

17 (D) A brief analysis of the potential effects of annexation  
18 upon other units of local government which currently provide  
19 tax-supported or fee-supported services to the lands pro-  
20 posed to be annexed; and

21 (E) The proposed future land use plan and zoning designation  
22 or designations, subject to public hearing, for the lands  
23 proposed to be annexed;

24 (iv) Compliance with the notice and hearing procedures governing  
25 a zoning district boundary change as set forth in section 67-6511,  
26 Idaho Code, on the question of whether the property should be  
27 annexed and, if annexed, the zoning designation to be applied  
28 thereto; provided however, the initial notice of public hearing  
29 concerning the question of annexation and zoning shall be pub-  
30 lished in the official newspaper of the city and mailed by first  
31 class mail to every property owner with lands included in such  
32 annexation proposal not less than twenty-eight (28) days prior  
33 to the initial public hearing. All public hearing notices shall  
34 establish a time and procedure by which comments concerning the  
35 proposed annexation may be received in writing and heard and,  
36 additionally, public hearing notices delivered by mail shall in-  
37 clude a one (1) page summary of the contents of the city's proposed  
38 annexation plan and shall provide information regarding where the  
39 annexation plan may be obtained without charge by any property  
40 owner whose property would be subject to the annexation proposal.

41 (v) In addition to the standards set forth elsewhere in this sec-  
42 tion, annexation of the following lands must meet the following  
43 requirements:

44 (A) Property, owned by a county or any entity within the  
45 county, that is used as a fairgrounds area under the pro-  
46 visions of chapter 8, title 31, Idaho Code, or chapter 2,  
47 title 22, Idaho Code, must have the consent of a majority of  
48 the board of county commissioners of the county in which the  
49 property lies; and

1 (B) Property, owned by a nongovernmental entity, that is  
2 used to provide outdoor recreational activities to the pub-  
3 lic and that has been designated as a planned unit develop-  
4 ment of fifty (50) acres or more and does not require or uti-  
5 lize any city services must have the express written permis-  
6 sion of the nongovernmental entity owner.

7 (vi) After considering the written and oral comments of property  
8 owners whose land would be annexed and other affected persons,  
9 the city council may proceed with the enactment of an ordinance  
10 of annexation and zoning. In the course of the consideration of  
11 any such ordinance, the city must make express findings, to be set  
12 forth in the minutes of the city council meeting at which the an-  
13 nexation is approved, as follows:

14 (A) The land to be annexed meets the applicable requirements  
15 of this section and does not fall within the exceptions or  
16 conditional exceptions contained in this section;

17 (B) The annexation would be consistent with the public pur-  
18 poses addressed in the annexation plan prepared by the city;

19 (C) The annexation is reasonably necessary for the orderly  
20 development of the city;

21 (vii) Notwithstanding any other provision of this section, rail-  
22 road right-of-way property may be annexed pursuant to this sec-  
23 tion only when property within the city adjoins or will adjoin both  
24 sides of the right-of-way.

25 (c) Procedures for category C annexations: A city may annex lands that  
26 would qualify under the requirements of category C annexation if the  
27 following requirements are met:

28 (i) Compliance with the procedures governing category B annexa-  
29 tions; and

30 (ii) Evidence of consent to annexation based upon the following  
31 procedures:

32 (A) Following completion of all procedures required for  
33 consideration of a category B annexation, but prior to en-  
34 actment of an annexation ordinance and upon an affirmative  
35 action by the city council, the city shall mail notice to  
36 all private landowners owning lands within the area to be  
37 annexed, exclusive of the owners of lands that are subject  
38 to a consent to annex which complies with subsection (4) (a)  
39 of this section defining consent. Such notice shall invite  
40 property owners to give written consent to the annexation,  
41 include a description of how that consent can be made and  
42 where it can be filed, and inform the landowners where the  
43 entire record of the subject annexation may be examined.  
44 Such mailed notice shall also include a legal description of  
45 the lands proposed for annexation and a simple map depicting  
46 the location of the subject lands.

47 (B) Each landowner desiring to consent to the proposed an-  
48 nexation must submit the consent in writing to the city clerk  
49 by a date specified in the notice, which date shall not be

1 later than forty-five (45) days after the date of the mailing  
2 of such notice.

3 (C) After the date specified in the notice for receipt of  
4 written consent, the city clerk shall compile and present  
5 to the city council a report setting forth: (i) the total  
6 physical area sought to be annexed, and (ii) the total phys-  
7 ical area of the lands, as expressed in acres or square feet,  
8 whose owners have newly consented in writing to the annexa-  
9 tion, plus the area of all lands subject to a prior consent to  
10 annex which complies with subsection (4) (a) of this section  
11 defining consent. The clerk shall immediately report the  
12 results to the city council.

13 (D) Upon receiving such report, the city council shall re-  
14 view the results and may thereafter confirm whether consent  
15 was received from the owners of a majority of the land. The  
16 results of the report shall be reflected in the minutes of  
17 the city council. If the report as accepted by the city coun-  
18 cil confirms that owners of a majority of the land area have  
19 consented to annexation, the city council may enact an ordi-  
20 nance of annexation, which thereafter shall be published and  
21 become effective according to the terms of the ordinance.  
22 If the report confirms that owners of a majority of the land  
23 area have not consented to the annexation, the category C  
24 annexation shall not be authorized.

25 (6) The decision of a city council to annex and zone lands as a category  
26 B or category C annexation shall be subject to judicial review in accordance  
27 with the procedures provided in chapter 52, title 67, Idaho Code, and pur-  
28 suant to the standards set forth in section 67-527967, Idaho Code. Any such  
29 appeal shall be filed by an affected person in the appropriate district court  
30 no later than twenty-eight (28) days after the date of publication of the an-  
31 nexation ordinance. All cases in which there may arise a question of the va-  
32 lidity of any annexation under this section shall be advanced as a matter of  
33 immediate public interest and concern, and shall be heard by the district  
34 court at the earliest practicable time.

35 (7) Annexation of noncontiguous municipal airfield. A city may annex  
36 land that is not contiguous to the city and is occupied by a municipally owned  
37 or operated airport or landing field. However, a city may not annex any other  
38 land adjacent to such noncontiguous facilities which is not otherwise annex-  
39 able pursuant to this section.

40 SECTION 51. That Section 54-2509, Idaho Code, be, and the same is hereby  
41 amended to read as follows:

42 54-2509. PENALTY FOR VIOLATIONS OF LAW -- POWER OF COMMISSION. (1) Any  
43 person holding a race meet, and any other person required by this act or the  
44 rules of the commission to be licensed, participating, directly or indi-  
45 rectly, in a race meet, without first being licensed by the commission, and  
46 any person violating any of the terms or provisions of this act is guilty of a  
47 misdemeanor.

1 (a) There shall be an absolute prohibition of the use of live lures in  
2 the state of Idaho for the training of or racing of racing dogs. Any  
3 violation of the provisions of this section shall be a felony punishable  
4 by a fine not exceeding twenty-five thousand dollars (\$25,000), or by a  
5 prison term not to exceed seven (7) years, or by both such fine and im-  
6 prisonment. In addition the state racing commission shall not license  
7 any breeder, trainer or kennel whose dogs have been trained or raced  
8 with the use of live lures. The state racing commission shall adopt  
9 rules that will provide for the humane treatment of the dogs involved in  
10 any aspect of training for or engaging in dog racing.

11 (2) The commission shall have the power to exclude from any and all race  
12 courses in this state any person who the commission deems detrimental to the  
13 best interests of racing, or any person who violates any of the provisions of  
14 this act or any rule or order of the commission.

15 (3) It shall be lawful to conduct race meets on or at a race track, or  
16 otherwise, at any time during the week.

17 (4) Any person maintaining a license issued by the commission, who vio-  
18 lates the provisions of this act or the rules of the commission, may have such  
19 license suspended or revoked. In addition to such suspension or revocation  
20 the commission may levy a monetary penalty commensurate with the gravity of  
21 the offense, not to exceed two thousand five hundred dollars (\$2,500). The  
22 commission, by rule shall provide a summary procedure for such determination  
23 at the track, the penalty amount for specified violations, and shall provide  
24 for an appeal of any summary decision to the commission. At-the-track sum-  
25 mary proceedings shall not be subject to the provisions of chapter 52, ti-  
26 tle 67, Idaho Code. Hearings and appeals before the commission as allowed by  
27 this act or the rules of the commission shall be subject to chapter 52, ti-  
28 tle 67, Idaho Code, except the provisions of section 67-5254(2)-59(1), Idaho  
29 Code, which is inconsistent with the unique requirements of racing.

30 (5) All law enforcement officers in this state shall assist in the en-  
31 forcement of this act and the rules of the commission.

32 SECTION 52. That Section 58-122, Idaho Code, be, and the same is hereby  
33 amended to read as follows:

34 58-122. CONTESTED CASES -- PROCEDURE. It shall be the duty of the  
35 director of the department of lands in any or all contested cases, at the  
36 direction of the board, to appoint hearing officers, receive evidence, issue  
37 subpoenas and to hold contested case hearings in accordance with sections  
38 67-52402 through 67-527169, Idaho Code, when hearings are necessary and  
39 witnesses may be required to be examined. Provided however, that when the  
40 state board of land commissioners is exercising its duties and authorities  
41 concerning the direction, control or disposition of the public lands of the  
42 state pursuant to sections 7 and 8, article IX, of the constitution of the  
43 state of Idaho, such actions shall not be considered to be contested cases  
44 as defined in subsection (67) of section 67-5201, Idaho Code, and section  
45 67-52403, Idaho Code, unless the board, in its discretion, determines that  
46 a contested case hearing would be of assistance to the board in the exercise  
47 of its duties and authorities.

1 SECTION 53. That Section 67-2317, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 67-2317. HEARING AND DECISION OF DISPUTED ISSUES. Upon the failure  
4 or refusal of the official or agency in charge of any state public building  
5 to comply with the recommendations of the administrator of the division  
6 of building safety, the administrator may hold a hearing, pursuant to the  
7 provisions for contested cases under the administrative procedure act, as  
8 provided in sections 67-5240~~1~~ et seq., Idaho Code.

9 The administrator is empowered to conduct such hearing and render a de-  
10 cision. The administrator shall transmit a copy of the decision to the offi-  
11 cial or agency in direct control of the public building and to the governor.

12 SECTION 54. That Section 67-5206, Idaho Code, be, and the same is hereby  
13 amended to read as follows:

14 67-5206. PROMULGATION OF RULES IMPLEMENTING ADMINISTRATIVE PROCEDURE  
15 ACT. (1) In accordance with the rulemaking requirements of this chapter, the  
16 administrative rules coordinator shall promulgate rules implementing the  
17 provisions of sections 67-5203, 67-5204 and 67-5205, Idaho Code. The rules  
18 shall:

19 (a) establish a uniform numbering system applicable to rules adopted by  
20 all agencies;

21 (b) establish a uniform style and format applicable to rules adopted by  
22 all agencies;

23 (c) establish a publication schedule for the bulletin and the adminis-  
24 trative code, including deadlines for the submission of documents to be  
25 included within each publication;

26 (d) establish a uniform indexing system for agency orders; and

27 (e) include such other rules as the coordinator deems necessary to im-  
28 plement the provisions of sections 67-5203, 67-5204 and 67-5205, Idaho  
29 Code, and this section.

30 (2) In accordance with the rulemaking requirements of this chapter, the  
31 attorney general shall promulgate rules of procedure appropriate for use by  
32 as many agencies as possible. The rules shall deal with all general func-  
33 tions and duties performed in common by several agencies.

34 (3) In accordance with the rulemaking requirements of this chapter, the  
35 attorney general shall promulgate rules implementing the provisions of sec-  
36 tions 67-5220 through 67-5232, Idaho Code. The rules shall specify:

37 (a) the form and content for petitions requesting an opportunity for an  
38 oral presentation in a substantive rulemaking;

39 (b) procedures for the creation of a record of comments received at any  
40 oral presentation;

41 (c) the standards by which exemptions from regular rulemaking require-  
42 ments will be authorized to correct typographical errors, transcrip-  
43 tion errors, or clerical errors;

44 (d) the form and content for a petition for the adoption of rules and the  
45 procedure for its submission, consideration and disposition;

46 (e) procedures to facilitate negotiated rulemaking;

1 (f) the form and content of a petition for a declaratory ruling on the  
2 applicability of statutes or regulations; and

3 (g) such other provisions as may be necessary or useful.

4 (4) In accordance with the rule making requirements of this chapter,  
5 the attorney general shall promulgate rules implementing the provisions of  
6 sections 67-5240~~1~~ through 67-5255~~9~~, Idaho Code. The rules shall specify:

7 (a) form and content to be employed in giving notice of a contested  
8 case;

9 (b) procedures and standards required for intervention in a contested  
10 case;

11 (c) procedures for prehearing conferences;

12 (d) format for pleadings, briefs, and motions;

13 (e) the method by which service shall be made;

14 (f) procedures for the issuance of subpoenas, discovery orders, and  
15 protective orders if authorized by other provisions of law;

16 (g) qualifications for persons seeking to act as a hearing officer;

17 (h) qualifications for persons seeking to act as a representative for  
18 parties to contested cases;

19 (i) procedures to facilitate informal settlement of matters;

20 (j) procedures for placing ex parte contacts on the record; and

21 (k) such other provisions as may be necessary or useful.

22 (5) (a) After July 1, 1993, the rules promulgated by the attorney gen-  
23 eral under this section shall apply to all agencies that do not affirma-  
24 tively promulgate alternative procedures after the promulgation of the  
25 rules by the attorney general. The rules promulgated by the attorney  
26 general shall supersede the procedural rules of any agency in effect on  
27 June 30, 1993, unless that agency promulgates its own procedures as pro-  
28 vided in paragraph (b) of this subsection.

29 (b) After July 1, 1993, an agency that promulgates its own procedures  
30 shall include in the rule adopting its own procedures a finding that  
31 states the reasons why the relevant portion of the attorney general's  
32 rules were inapplicable to the agency under the circumstances.

33 SECTION 55. Sections 32 through 38 of this act shall be in full force  
34 and effect on and after July 1, 2018. Sections 1 through 31 and sections 39  
35 through 53 shall be in full force and effect on and after July 1, 2019.

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- 1 IDAHO ADMINISTRATIVE PROCEDURES ACT - Repeals, amends and adds to existing
- 2 law to revise procedures for contested cases and hearing officers.