AN ACT

RELATING TO THE IDAHO ADMINISTRATIVE PROCEDURE ACT; AMENDING SECTION 67-5201, IDAHO CODE, TO DEFINE TERMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-5206, IDAHO CODE, TO REVISE PROVISIONS REGARDING RULEMAKING; AMENDING SECTION 67-5240, IDAHO CODE, TO PROVIDE THAT ISSUANCE OF ORDERS BY CERTAIN ENTITIES SHALL NOT RESULT IN A CONTESTED CASE GOVERNED BY THE PROVISIONS OF SPECIFIED LAW; AMENDING SECTION 67-5252, IDAHO CODE, TO PROVIDE THAT IN CERTAIN CIRCUMSTANCES NO PARTY SHALL HAVE THE RIGHT TO A DISQUALIFICATION WITHOUT CAUSE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 52, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5280, IDAHO CODE, TO PROVIDE FOR THE OFFICE OF ADMINISTRATIVE HEARINGS AND TO PROVIDE FOR POWERS AND DUTIES; AMENDING CHAPTER 52, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5281, IDAHO CODE, TO PROVIDE FOR THE CHIEF ADMINISTRATIVE HEARING OFFICER; AMENDING CHAPTER 52, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5282, IDAHO CODE, TO PROVIDE FOR DUTIES AND PROHIBITED CONDUCT OF THE CHIEF ADMINISTRATIVE HEARING OFFICER; AMENDING CHAPTER 52, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5283, IDAHO CODE, TO PROVIDE FOR HEARING OFFICER QUALIFICATIONS AND TO PROVIDE FOR POWERS AND DUTIES; AMENDING CHAPTER 52, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5284, IDAHO CODE, TO PROVIDE FOR THE COOPERATION OF AGENCIES; AMENDING CHAPTER 52, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5285, IDAHO CODE, TO PROVIDE FOR THE OFFICE OF ADMINISTRATIVE HEARINGS, TO PROVIDE FOR COST ESTIMATES, AND TO PROVIDE FOR THE ASSESSMENT OF RECIPIENT AGENCIES; AMENDING CHAPTER 52, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5286, IDAHO CODE, TO PROVIDE FOR THE CONDUCT OF CONTESTED CASE PROCEEDINGS, TO PROVIDE FOR THE SUBMISSION OF CERTAIN MATERIAL BY THE DEPARTMENT OF HEALTH AND WELFARE TO THE CENTERS FOR MEDICARE AND MEDICAID SERVICES, TO AUTHORIZE CERTAIN OVERSIGHT, AND TO PROVIDE FOR EXTENSION OF COMMENCEMENT OF SPECIFIED CONTESTED CASE HEARINGS UNDER A CERTAIN CONDITION; AMENDING SECTION 58-122, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

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

67-5201. DEFINITIONS. As used in this act chapter:
(1) "Administrative code" means the Idaho administrative code established in this chapter.
(2) "Agency" means each state board, commission, department or officer authorized by law to make rules or to determine contested cases, but does not
include the legislative or judicial branches, executive officers listed in
section 1, article IV, of the constitution of the state of Idaho in the exer-
cise of powers derived directly and exclusively from the constitution, the
state militia or the state board of correction.
(3) "Agency action" means:
(a) The whole or part of a rule or order;
(b) The failure to issue a rule or order; or
(c) An agency's performance of, or failure to perform, any duty placed
on it by law.
(4) "Agency head" means an individual or body of individuals in whom the
ultimate legal authority of the agency is vested by any provision of law.
(5) "Bulletin" means the Idaho administrative bulletin established in
this chapter.
(6) "Chief administrative hearing officer" means the administrator of
the office of administrative hearings created pursuant to section 67-5280,
Idaho Code.
(7) "Contested case" means a proceeding which that results in the is-
suance of an order.
(28) "Coordinator" means the administrative rules coordinator pre-
scribed in section 67-5202, Idaho Code.
(49) "Document" means any executive order, notice, rule or statement of
policy of an agency.
(410) "Final rule" means a rule that has been adopted by an agency under
the regular rulemaking process and is in effect.
(11) "Hearing officer" means the chief administrative hearing offi-
cer and any hearing officers appointed by him pursuant to sections 67-5281
through 67-5283, Idaho Code, or a person appointed by an agency or board to
hear a contested case.
(102) "License" means the whole or part of any agency permit, certifi-
cate, approval, registration, charter, or similar form of authorization re-
quired by law, but does not include a license required solely for revenue
purposes.
(113) "Official text" means the text of a document issued, prescribed,
or promulgated by an agency in accordance with this chapter and is the only
legally enforceable text of such document. Judicial notice shall be taken
of all documents issued, prescribed, or promulgated in accordance with this
chapter.
(124) "Order" means an agency action of particular applicability that
determines the legal rights, duties, privileges, immunities, or other legal
interests of one (1) or more specific persons.
(135) "Party" means each person or agency named or admitted as a party
or properly seeking and entitled as of right to be admitted as a party.
(146) "Pending rule" means a rule that has been adopted by an agency un-
der the regular rulemaking process and remains subject to legislative re-
view.
(157) "Person" means any individual, partnership, corporation, associ-
ation, governmental subdivision or agency, or public or private organiza-
tion or entity of any character.
(148) "Proposed rule" means a rule published in the bulletin as provided
in section 67-5221, Idaho Code.
(129) "Provision of law" means the whole or a part of the state or federal constitution, or of any state or federal:
(a) Statute; or
(b) Rule or decision of court.
(1820) "Publish" means to bring before the public by publication in the bulletin or administrative code, by electronic means or as otherwise specifically provided by law.
(1921) "Rule" means the whole or a part of an agency statement of general applicability that has been promulgated in compliance with the provisions of this chapter and that implements, interprets, or prescribes:
(a) Law or policy; or
(b) The procedure or practice requirements of an agency. The term includes the amendment, repeal, or suspension of an existing rule, but does not include:
   (i) Statements concerning only the internal management or internal personnel policies of an agency and not affecting private rights of the public or procedures available to the public; or
   (ii) Declaratory rulings issued pursuant to section 67-5232, Idaho Code; or
   (iii) Intra-agency memoranda; or
   (iv) Any written statements given by an agency which that pertain to an interpretation of a rule or to the documentation of compliance with a rule.
(242) "Rulemaking" means the process for formulation, adoption, amendment or repeal of a rule.
(243) "Standard" means a manual, guideline, criterion, specification, requirement, measurement or other authoritative principle providing a model or pattern in comparison with which the correctness or appropriateness of specified actions, practices or procedures may be determined.
(224) "Submitted for review" means that a rule has been provided to the legislature for review at a regular or special legislative session as provided in section 67-5291, Idaho Code.
(235) "Temporary rule" means a rule authorized by the governor to become effective before it has been submitted to the legislature for review and which that expires by its own terms or by operation of law no later than the conclusion of the next succeeding regular legislative session unless extended or replaced by a final rule as provided in section 67-5226, Idaho Code.

SECTION 2. That Section 67-5206, Idaho Code, be, and the same is hereby amended to read as follows:

67-5206. PROMULGATION OF RULES IMPLEMENTING ADMINISTRATIVE PROCEDURE ACT. (1) In accordance with the rulemaking requirements of this chapter, the administrative rules coordinator shall promulgate rules implementing the provisions of sections 67-5203, 67-5204 and 67-5205, Idaho Code. The rules shall:
   (a) Establish a uniform numbering system applicable to rules adopted by all agencies;
   (b) Establish a uniform style and format applicable to rules adopted by all agencies;
(c) Establish a publication schedule for the bulletin and the administrative code, including deadlines for the submission of documents to be included within each publication;
(d) Establish a uniform indexing system for agency orders; and
(e) Include such other rules as the coordinator deems necessary to implement the provisions of sections 67-5203, 67-5204 and 67-5205, Idaho Code, and this section.

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

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

(a) The form and content for petitions requesting an opportunity for an oral presentation in a substantive rulemaking;
(b) Procedures for the creation of a record of comments received at any oral presentation;
(c) The standards by which exemptions from regular rulemaking requirements will be authorized to correct typographical errors, transcription errors, or clerical errors;
(d) The form and content for a petition for the adoption of rules and the procedure for its submission, consideration and disposition;
(e) Procedures to facilitate negotiated rulemaking;
(f) The form and content of a petition for a declaratory ruling on the applicability of statutes or regulations; and
(g) Such other provisions as may be necessary or useful.

(4) In accordance with the rulemaking requirements of this chapter, the attorney general shall promulgate rules implementing the provisions of sections 67-5240 through 67-5255, Idaho Code. The rules shall specify:

(a) Form and content to be employed in giving notice of a contested case;
(b) Procedures and standards required for intervention in a contested case;
(c) Procedures for prehearing conferences;
(d) Format for pleadings, briefs, and motions;
(e) The method by which service shall be made;
(f) Procedures for the issuance of subpoenas, discovery orders, and protective orders if authorized by other provisions of law;
(g) Qualifications for persons seeking to act as a hearing officer;
(h) Qualifications for persons seeking to act as a representative for parties to contested cases;
(i) Procedures to facilitate informal settlement of matters; and
(j) Such other provisions as may be necessary or useful.

(5) (a) After July 1, 1993, the rules promulgated by the attorney general under this section shall apply to all agencies that do not affirmatively promulgate alternative procedures after the promulgation of the rules by the attorney general. The rules promulgated by the attorney
general shall supersede the procedural rules of any agency in effect on
June 30, 1993, unless that agency promulgates its own procedures as pro-
vided in paragraph (b) of this subsection.
(b) After July 1, 1993, an agency that promulgates its own procedures
shall include in the rule adopting its own procedures a finding that
states the reasons why the relevant portion of the attorney general's
rules were inapplicable to the agency under the circumstances.
(6) With respect to contested cases and other proceedings conducted by
the office of administrative hearings as authorized by this chapter, rules
promulgated by the attorney general or any agency pursuant to subsection (4)
of this section shall remain in full force and effect, except with respect
to hearing officer qualifications, until such time as the office of admin-
istrative hearings promulgates replacement rules, and thereafter such rules
of the office of administrative hearings shall govern unless otherwise re-
quired by governing federal law.

SECTION 3. That Section 67-5240, Idaho Code, be, and the same is hereby
amended to read as follows:

67-5240. CONTESTED CASES. A proceeding by an agency other than the
public utilities commission, or the industrial commission, that the Idaho
personnel commission, and the Idaho transportation department's driver's
license suspension contested case hearings, which may result in the issuance
of an order, is a contested case and is governed by the provisions of this
chapter, except as provided by other provisions of law.

SECTION 4. That Section 67-5252, Idaho Code, be, and the same is hereby
amended to read as follows:

67-5252. PRESIDING OFFICER -- DISQUALIFICATION. (1) Except as pro-
vided in subsection (4) of this section, any party shall have the right to one
(1) disqualification without cause of any person serving or designated to
serve as presiding officer, and any party shall have a right to move to dis-
qualify for bias, prejudice, interest, substantial prior involvement in the
matter other than as a presiding officer, status as an employee of the agency
hearing the contested case, lack of professional knowledge in the subject
matter of the contested case, or any other cause provided in this chapter or
any cause for which a judge is or may be disqualified.
(2) Any party may petition for the disqualification of a person serving
or designated to serve as presiding officer:
(a) Within fourteen (14) days after receipt of notice indicating that
the person will preside at the contested case; or
(b) Promptly upon discovering facts establishing grounds for disqual-
ification, whichever is later.
Any party may assert a blanket disqualification for cause of all employees of
the agency hearing the contested case, other than the agency head, without
awaiting designation of a presiding officer.
(3) A person whose disqualification for cause is requested shall deter-
mine in writing whether to grant the petition, stating facts and reasons for
the determination.
(4) Where disqualification of the agency head or a member of the agency head would result in an inability to decide a contested case, the actions of the agency head shall be treated as a conflict of interest under the provisions of section 74-404, Idaho Code.

(5) Where a decision is required to be rendered within fourteen (14) weeks of the date of a request for a hearing by state or federal statutes or rules and regulations, or when the presiding officer is the chief administrative hearing officer or appointed by the chief administrative hearing officer as defined in section 67-5201, Idaho Code, no party shall have the right to a disqualification without cause.

SECTION 5. That Chapter 52, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-5280, Idaho Code, and to read as follows:

67-5280. CREATION OF OFFICE OF ADMINISTRATIVE HEARINGS -- POWERS AND DUTIES. (1) There is hereby created in the department of self-governing agencies the office of administrative hearings.

(2) For agencies not excluded in this section, the office of administrative hearings shall:

(a) Unless otherwise specified by law, conduct all contested case proceedings that arise from an appeal of an agency order;
(b) Conduct such adjudicatory hearings, mediations, and arbitrations not required by this chapter that are requested by agencies and agreed to by the office of administrative hearings at such monetary rates as established by the office of administrative hearings; and
(c) Promulgate rules consistent with state and federal law to implement provisions relating to its duties and actions authorized by this chapter.

(3) The office of administrative hearings shall not hear and shall not have authority over or oversight of any action by the department of water resources or the water resource board.

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

SECTION 6. That Chapter 52, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-5281, Idaho Code, and to read as follows:

67-5281. CHIEF ADMINISTRATIVE HEARING OFFICER -- APPOINTMENT -- QUALIFICATIONS -- REMOVAL -- SALARY. (1) A chief administrative hearing officer shall be appointed by the governor and confirmed by the senate to serve a four (4) year term. A person may be reappointed to serve additional terms. Provided, however, there is no right to reappointment.

(2) The chief administrative hearing officer must meet the following qualifications on the effective date of his appointment:

(a) Be at least thirty (30) years of age;
(b) Be a citizen of the United States;
(c) Have held a license to practice law or held a judicial office in one (1) or more jurisdictions of the United States for at least five (5) continuous years immediately preceding such appointment; and
(d) Be or become an active member of the Idaho state bar within one (1) year of appointment and remain an active member in good standing thereafter.

(3) If the chief administrative hearing officer resigns, dies, or is removed from office as provided in this section, the governor shall appoint a person who meets the qualifications established in this section, subject to confirmation by the senate, to fill the unexpired term.

(4) The chief administrative hearing officer may be removed from office by the governor for failing to retain those qualifications of his office established in subsection (2) of this section, for engaging in prohibited conduct established in section 67-5282(2), Idaho Code, or for good cause shown. Before such removal, the governor shall give the chief administrative hearing officer a written copy of the charges against him, provide him an opportunity to submit a response no fewer than fourteen (14) calendars days thereafter, and may provide him such other process as the governor deems appropriate. If the chief administrative hearing officer is removed, the governor shall provide the house of representatives and the senate written notice of the removal, the effective date of removal, and the reason or reasons therefor.

SECTION 7. That Chapter 52, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-5282, Idaho Code, and to read as follows:

67-5282. DUTIES AND PROHIBITED CONDUCT OF THE CHIEF ADMINISTRATIVE HEARING OFFICER. (1) The chief administrative hearing officer shall:

(a) Serve as the administrator of the office of administrative hearings;

(b) Conduct such contested case proceedings and such other proceedings as are conducted by the office of administrative hearings in accordance with section 67-5280(2) (a) and (b), Idaho Code;

(c) Devote full-time to the office of administrative hearings and his obligations as chief administrative hearing officer;

(d) Subject to applicable law and regulation, appoint, supervise, and remove hearing officers and staff as he deems appropriate to the proper functioning of the office of administrative hearings, determine the duties of such appointees as he deems appropriate, and, from among the hearing officers employed by the office of administrative hearings, designate a deputy chief administrative hearing officer to act in place of the chief administrative hearing officer when the chief administrative hearing officer is unable to perform his duties;

(e) Promulgate rules to implement the provisions of sections 67-5280 through 67-5286, Idaho Code;

(f) Establish a hearing officer code of conduct that shall, among other things, provide for independent and unbiased decision-making by hearing officers both as perceived and in fact and provide for a system to monitor compliance with, and sanction violations of, the hearing officer code of conduct;

(g) Protect and ensure the decisional independence of hearing officers;
(h) Implement a system for monitoring the quality of contested case proceedings and such other proceedings as are conducted by the office of administrative hearings in accordance with section 67-5280(2)(a) and (b), Idaho Code;

(i) At his discretion, unless otherwise prohibited by state or federal law, retain independent contractor hearing officers at reasonable and consistent rates of compensation; provided that an independent contractor hearing officer with specialized expertise may be compensated at a higher rate if such expertise is necessary to the proper adjudication of the case and such higher rate of compensation is necessary in order to obtain such expertise; and

(j) Contract with agencies to conduct such adjudicatory hearings, mediations, and arbitrations authorized by section 67-5280(2)(b), Idaho Code.

(2) The chief administrative hearing officer shall not:

(a) Engage in the practice of law outside of his role in the office of administrative hearings;
(b) Hold, or be a candidate for, any federal, state, county, municipal, district, or other elective office;
(c) Serve as the agent, representative, officer, political treasurer, or employee, whether for profit or otherwise, of any political party, political committee, or candidate, whether as defined in either chapter 1, title 34, or chapter 66, title 67, Idaho Code, or otherwise; and
(d) Hold any other public or private-sector position, whether for profit or otherwise, except for volunteer positions that are not inconsistent with his duties as chief administrative hearing officer.

SECTION 8. That Chapter 52, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a **NEW SECTION**, to be known and designated as Section 67-5283, Idaho Code, and to read as follows:

67-5283. HEARING OFFICER QUALIFICATIONS -- POWERS -- DUTIES. (1) The chief administrative hearing officer and hearing officers appointed by the chief administrative hearing officer shall:

(a) On the effective date of their appointments and throughout their tenure, meet and retain all of the qualifications specified in section 67-5281(2), Idaho Code;
(b) Take the oath of office as prescribed in chapter 4, title 59, Idaho Code;
(c) Comply with the hearing officer code of conduct;
(d) Not engage in the conduct prohibited in section 67-5282(2), Idaho Code. Provided, however, to the extent that it does not create a conflict of interest, the code of conduct may be waived for some or all of these prohibitions for contractor hearing officers; and
(e) Be deemed the presiding officers of contested case proceedings and other proceedings conducted by the office of administrative hearings and assigned to them and have the power to issue subpoenas, administer oaths, control the course of the proceedings, order the use of alternative dispute resolution with the parties' consent, enter such awards for costs and attorney's fees as authorized by law, and perform other
necessary and appropriate acts in the performance of their duties with respect to such cases.

(2)(a) Independent contractors may be hired as hearing officers without the limitation on outside work or outside practice of law, provided that:

(i) A disclosure is filed with the chief administrative hearing officer that states in what other outside work the independent contractor is engaged;

(ii) The independent contractor does not engage in outside work presenting a conflict of interest; and

(iii) The independent contractor discloses such other information as required by the code of conduct.

(b) If a failure to comply with the requirements of this subsection by an independent contractor is brought to the attention of the chief administrative hearing officer within thirty (30) days of the issuance of the independent contractor hearing officer's order, the chief administrative hearing officer shall declare such order void and of no effect within fourteen (14) days. The chief administrative hearing officer shall be permitted to issue a stay while he investigates the issue of failure to comply if the order involves a financial transaction.

(3) Those individuals serving as hearing officers in the office of the attorney general for department of health and welfare contested case hearings on December 31, 2023, shall have the option to be appointed hearing officers when the office of administrative hearings begins conducting such hearings on January 1, 2024, as provided by section 67-5286, Idaho Code, if they meet the hearing officer qualifications requirements set forth in this section and if such hearing officer positions are available in the office of administrative hearings on an employment or independent contractor basis.

SECTION 9. That Chapter 52, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-5284, Idaho Code, and to read as follows:

67-5284. COOPERATION OF AGENCIES. No agency or state officer, other than the chief administrative hearing officer, shall attempt to influence the selection of a hearing officer for a contested case proceeding or any other matter, except mediations, and the chief administrative hearing officer shall not permit any such influence; provided that agencies and state officers may inform the office of administrative hearings in writing of their views regarding:

(1) Expertise needed or desired with respect to types of potential contested cases;

(2) Proposed rules under consideration for adoption by the office of administrative hearings;

(3) Legislation or rules under consideration or being proposed by the office of administrative hearings;

(4) Legislation or rules under consideration or being proposed by such agencies or state officers; and

(5) Alleged violations of the code of conduct.
SECTION 10. That Chapter 52, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-5285, Idaho Code, and to read as follows:

67-5285. OFFICE OF ADMINISTRATIVE HEARINGS -- COST ESTIMATES -- ASSESSMENT OF RECIPIENT AGENCIES. (1) The office of administrative hearings shall prepare an estimate of costs for state budgeting purposes for services provided by the office of administrative hearings. The office of administrative hearings shall notify the division of financial management of such estimated costs by August 29 of each fiscal year. The division of financial management shall notify all state agencies of these cost estimates for the next fiscal year on or before October 1 of each fiscal year. The division of financial management and the legislative services office shall allow state agencies to modify their budget requests in response to such estimates.

(2) The office of administrative hearings shall assess each recipient agency the amounts allocated for services provided. Amounts so assessed shall be separately accounted for and can be expended only after legislative appropriation. Such amount shall be paid by each state entity in the succeeding fiscal year to the indirect cost recovery fund. Before June 30 of each fiscal year, the state controller shall transfer an amount equal to such deposits to the state general fund.

SECTION 11. That Chapter 52, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-5286, Idaho Code, and to read as follows:

67-5286. CONDUCT OF CONTESTED CASE PROCEEDINGS. (1) Notwithstanding any other provision of this chapter, the office of administrative hearings shall not conduct contested case proceedings until January 1, 2023. Contested case proceedings commenced prior to that date shall proceed under the law as it existed as of June 30, 2022, unless the hearing for such contested case did not commence prior to January 1, 2023. Provided, however, the office of administrative hearings shall not conduct department of health and welfare contested case hearings until January 1, 2024, and such hearings commenced prior to that date shall be completed by the department of health and welfare.

(2) The department of health and welfare shall expeditiously submit to the centers for medicare and medicaid services (CMS) all that may be required for CMS to approve the conduct of department of health and welfare contested case hearings by the office of administrative hearings commencing on January 1, 2024, as provided for in subsections (1) and (3) of this section, including but not limited to state plan amendments, waivers, and memorandums of agreement. The governor, by and through the director of the department of health and welfare, shall retain the authority to exercise appropriate oversight of hearings necessary to comply with requirements described in 42 U.S.C. 1396a and related regulations.

(3) The governor may, after notice to the chief administrative hearing officer, extend the date on which the office of administrative hearings is to commence conducting department of health and welfare contested case hearings as provided for in subsection (1) of this section until CMS has approved the conduct of hearings by the office of administrative hearings.
SECTION 12. That Section 58-122, Idaho Code, be, and the same is hereby amended to read as follows:

58-122. CONTESTED CASES -- PROCEDURE. It shall be the duty of the director of the department of lands in any or all contested cases, at the direction of the board, to appoint hearing officers, receive evidence, issue subpoenas and to hold contested case hearings in accordance with sections 67-5240 through 67-5271, Idaho Code, when hearings are necessary and witnesses may be required to be examined. Provided however, that when the state board of land commissioners is exercising its duties and authorities concerning the direction, control or disposition of the public lands of the state pursuant to sections 7 and 8, article IX, of the constitution of the state of Idaho, such actions shall not be considered to be contested cases as defined in subsection (6) of section 67-5201, Idaho Code, and section 67-5240, Idaho Code, unless the board, in its discretion, determines that a contested case hearing would be of assistance to the board in the exercise of its duties and authorities.

SECTION 13. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after July 1, 2022.