IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 206

BY STATE AFFAIRS COMMITTEE

AN ACT
RELATING TO ADMINISTRATIVE RULES; AMENDING SECTION 67-5201, IDAHO CODE, TO REVISE DEFINITIONS AND TO DEFINE TERMS; AMENDING SECTION 67-5222, IDAHO CODE, TO PROVIDE REQUIREMENTS REGARDING PUBLIC PARTICIPATION IN AGENCY RULEMAKING AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-5224, IDAHO CODE, TO REVISE PROVISIONS REGARDING ADMINISTRATIVE RULES AND TO REMOVE PROVISIONS REGARDING THE EFFECTIVE DATE OF ADMINISTRATIVE RULES; AMENDING SECTION 67-5226, IDAHO CODE, TO REVISE PROVISIONS REGARDING TEMPORARY RULES AND TO REMOVE A PROVISION REGARDING TEMPORARY RULES; REPEALING SECTION 67-5291, IDAHO CODE, RELATING TO LEGISLATIVE REVIEW OF RULES; AMENDING CHAPTER 52, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5291, IDAHO CODE, TO PROVIDE FOR LEGISLATIVE REVIEW OF RULES; AMENDING SECTION 67-5292, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE EXPIRATION OF ADMINISTRATIVE RULES; AMENDING SECTION 20-212, IDAHO CODE, TO REMOVE A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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 chapter:
(1) "Administrative code" means the Idaho administrative code established in this chapter.
(2) "Adopt" means that an agency has, under the regular rulemaking process, promulgated a temporary rule, a new rule chapter, or an amendment or repeal of a final rule that will be submitted for review by the legislature as either a temporary rule or a pending rule.
(3) "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 exercise of powers derived directly and exclusively from the constitution, the state militia or the state board of correction.
(4) "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.
(5) "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.
(6) "Bulletin" means the Idaho administrative bulletin established in this chapter.
(7) "Chief administrative hearing officer" means the administra-
tor of the office of administrative hearings created pursuant to section
67-5280, Idaho Code.
(8) "Contested case" means a proceeding that results in the is-
suance of an order.
(9) "Coordinator" means the administrative rules coordinator pre-
scribed in section 67-5202, Idaho Code.
(10) "Document" means any executive order, notice, rule or state-
ment of policy of an agency.
(11) "Final rule" means a rule that has been adopted by an agency
under the regular rulemaking process and is in effect. rule that has been ap-
proved by the legislature and is in effect.
(12) "Hearing officer" means the chief administrative hearing off-
icer 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.
(13) "License" means the whole or part of any agency permit, cert-
tificate, approval, registration, charter, or similar form of authorization
required by law, but does not include a license required solely for revenue
purposes.
(14) "Official text" means the text of a document issued, pre-
scribed, 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.
(15) "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.
(16) "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.
(17) "Pending fee rule" means any pending rule all or a portion of which
imposes or increases a fee or charge.
(18) "Pending non-fee rule" means any pending rule that is not a pending
fee rule.
(19) "Pending rule" means a rule that has been adopted by an agency
under the regular rulemaking process and remains subject to legislative re-
view. proposed rule that an agency has adopted under the regular rulemaking
process but remains subject to legislative review, is not a final rule, and
is not in effect.
(20) "Person" means any individual, partnership, corporation, as-
sociation, governmental subdivision or agency, or public or private organi-
zation or entity of any character.
(21) "Proposed rule" means a rule published in the bulletin as pro-
vided in section 67-5221, Idaho Code an agency proposal that has been adopted
and remains subject to review by the legislature.
(22) "Provision of law" means the whole all or a part of the state or
federal constitution, or of any state or federal:
(a) Statute; or
(b) Rule or decision of court.
(23) "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.

(24) "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, enforces, 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 that pertain to an interpretation of a rule or to the documentation of compliance with a rule.

(25) "Rule chapter" means the numeric designation of a grouping of related agency rules by the coordinator.

(26) "Rulemaking" means the process for formulation and adoption, amendment or repeal of a rule.

(27) "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.

(28) "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.

(29) "Temporary rule" means a rule authorized by the governor to become effective before it has been submitted to the legislature for review and 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 67-5222, Idaho Code, be, and the same is hereby amended to read as follows:

67-5222. PUBLIC PARTICIPATION. (1) Prior to the adoption, amendment, or repeal of a rule, the agency shall afford all interested persons reasonable opportunity to submit data, views and arguments, orally or in writing. The agency shall receive comments for not less than twenty-one (21) days after the date of publication of the notice of proposed rulemaking in the bulletin.

(2) When promulgating substantive rules, the agency shall provide an opportunity for oral presentation if requested by twenty-five (25) persons, a political subdivision, or an agency. The request must be made in writing and be within fourteen (14) days of the date of publication of the notice of proposed rulemaking in the bulletin, or within fourteen (14) days prior to
the end of the comment period, whichever is later. An opportunity for oral presentation need not be provided when the agency has no discretion as to the substantive content of a proposed rule because the proposed rule is intended solely to comply:

(a) with a controlling judicial decision or court order; or
(b) with the provisions of a statute or federal rule that has been amended since the adoption of the agency rule.

(3) Every agency must allow oral presentation through video conference or telephone. Beginning July 1, 2026, all agencies must post a video or audio recording of any oral presentation and public hearing on a rule within fifteen (15) days after the meeting and retain such recording and post the recording on the agency's website, if any, for not less than three (3) years.

SECTION 3. That Section 67-5224, Idaho Code, be, and the same is hereby amended to read as follows:

67-5224. PENDING RULE -- FINAL RULE -- EFFECTIVE DATE. (1) Prior to the adoption, amendment, or repeal of a rule, the agency shall consider fully all written and oral submissions respecting the proposed rule.

(2) Subject to the provisions of subsection (3) of this section, the agency shall publish the text of a pending rule and a notice of adoption of the pending rule in the bulletin. The notice of adoption of the pending rule shall consist of a concise explanatory statement containing:

(a) Reasons for adopting the rule;
(b) A statement of any change Any changes between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for any changes;
(c) The date on which the pending rule will become final and effective, as provided in subsection 67-5291(5) of this section, Idaho Code, and a statement that the pending rule may be rejected must be approved by concurrent resolution of the legislature;
(d) An identification of any portion of the pending fee rule imposing or increasing a fee or charge and a statement that this portion of the pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the legislature;
(e) The specific statutory authority for the rulemaking including a citation to the specific section of the Idaho Code that has occasioned the rulemaking, or the federal statute or regulation if that is the basis of authority or requirement for the rulemaking; and

(f) Except as otherwise required in paragraph (g) of this subsection, a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year when the pending rule will become effective; provided however, that notwithstanding section 67-5231, Idaho Code, the absence or accuracy of a fiscal impact statement provided pursuant to this paragraph shall not affect the validity or the enforceability of the rule; or

(g) If a notice of proposed rulemaking of the Idaho state tax commission, a specific description of any negative or positive fiscal impact greater than ten thousand dollars ($10,000) during the fiscal year when the pending rule will become effective; provided however, notwith-
standing section 67-5231, Idaho Code, the absence or accuracy of a fiscal impact statement provided pursuant to this paragraph shall not affect the validity or the enforceability of the rule.

(3) With the permission of the coordinator, the agency need not publish in full the text of the pending rule if no significant changes have been made from the text of the proposed rule as published in the bulletin, but the notice of adoption of the pending rule must cite the volume of the bulletin where the text is available and note all changes that have been made.

(4) An agency shall not publish a pending rule until at least seven (7) days after the close of all public comment.

(5) (a) Except as set forth in sections 67-5226 and 67-5228, Idaho Code, a pending rule shall become final and effective upon the conclusion of the legislative session at which the rule was submitted to the legislature for review, or as provided in the rule, but no pending rule adopted by an agency shall become final and effective before the conclusion of the regular or special legislative session at which the rule was submitted for review. A rule which is final and effective may be applied retroactively, as provided in the rule.

(b) When the legislature approves a pending rule pursuant to section 67-5291, Idaho Code, the rule shall become final and effective upon adoption of the concurrent resolution or such other date specified in the concurrent resolution.

(c) Except as set forth in sections 67-5226 and 67-5228, Idaho Code, no pending rule or portion thereof imposing a fee or charge of any kind shall become final and effective until it has been approved by concurrent resolution.

(6) (5) Each agency shall provide the administrative rules coordinator with a description of any pending fee rule or portion thereof imposing a new fee or charge or increasing an existing fee or charge, along with a citation of the specific statute authorizing the imposition or increase of the fee or charge. The administrative rules coordinator shall provide the legislature with a compilation of the descriptions provided by the agencies.

(7) (6) At the conclusion of the legislative session upon adjournment sine die of the legislature or as soon thereafter as is practicable, the coordinator shall publish the date upon which the legislature adjourned sine die of adjournment and the date rules became effective and a list of final rules becoming effective on a different date, as provided in section 67-5224(5) 67-5291, Idaho Code, and temporary rules remaining in effect as provided in section 67-5226(2) 67-5291, Idaho Code.

SECTION 4. That Section 67-5226, Idaho Code, be, and the same is hereby amended to read as follows:

67-5226. TEMPORARY RULES. (1) If the governor finds that:
(a) Protection of the public health, safety, or welfare; or
(b) Compliance with deadlines in amendments to governing law or federal programs; or
(c) Conferring a benefit;
requires a rule to become effective before it has been submitted to the legislature for review, the agency may proceed with such notice as is practicable and adopt a temporary rule, except as otherwise provided in section
67-5229(1)(d), Idaho Code. The agency may make the temporary rule immediately effective. The agency shall incorporate the required finding and a concise statement of its supporting reasons in each rule adopted in reliance upon the provisions of this subsection.

(2) A pending fee rule adopted pursuant to subsection (1) of this section which imposes a fee or charge may become effective under this section before it has been approved by concurrent resolution only if the governor finds that the fee or charge is necessary to avoid immediate danger which justifies the imposition of the fee or charge.

(3) In no case shall a rule adopted pursuant to this section remain in effect beyond the conclusion of the next succeeding regular session of the legislature unless the rule is approved by concurrent resolution, in which case the rule may remain in effect until the time specified in the resolution or until the rule has been replaced by a final rule which has become effective as provided in section 67-5224(5), Idaho Code.

(4) Temporary rules shall be published in the first available issue of the bulletin.

(5) Temporary rules are not subject to the requirements of section 67-5223, Idaho Code, provided that the administrative rules coordinator sends a copy of the temporary rules to the director of the legislative services office.

(6) Concurrently with the promulgation of a rule under this section, or as soon as reasonably possible thereafter, an agency shall commence the promulgation of a proposed rule in accordance with the rulemaking requirements of this chapter, unless the temporary rule adopted by the agency will expire by its own terms or by operation of law before the proposed rule could become final.

SECTION 5. That Section 67-5291, Idaho Code, be, and the same is hereby repealed.

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 67-5291, Idaho Code, and to read as follows:

67-5291. LEGISLATIVE REVIEW OF RULES. (1) A standing committee of the legislature may review any temporary, pending, or final rule that is germane to its committee and has been published in the bulletin or in the administrative code to determine if the rule is consistent with the legislative intent of the statute that the rule was written to interpret, prescribe, implement, or enforce. If a reviewed rule is approved, the standing committee that approves the rule shall report its findings and recommendations to the body. If ordered by the presiding officer, the committee's report shall be printed in the journal.

(2) (a) All temporary, pending, and final rules of any nature may be approved or rejected by a concurrent resolution of the legislature. The concurrent resolution shall state the effective date of the approval or rejection.

(b) The legislature may reject a rule, in whole or in part, where the legislature determines that the rule, or part of the rule, is not consistent with the legislative intent of the statute that the rule was
written to interpret, prescribe, implement, or enforce. For purposes of this section, "part of the rule" means a provision in a rule that is designated either numerically or alphabetically or the entirety of any new or amended language contained therein. The rejection of a rule in whole or in part shall terminate the rule, in whole or in part, as of the effective date of the rejection. An agency shall not, subsequent to the rejection, issue a proposed rule that is substantially similar to the rejected rule unless it is consistent with the legislative intent of the statute as expressed in the concurrent resolution.

(c) The secretary of state shall immediately notify the affected agency of the filing and effective date of any concurrent resolution enacted to approve or reject, in whole or in part, an agency rule. When an agency rule has been partially rejected, the secretary of state shall transmit a copy of the concurrent resolution to the director of the agency for promulgation of the rule as amended.

(d) The agency shall be responsible for implementing legislative intent as expressed in the concurrent resolution, including, as appropriate, the reinstatement of the prior rule in whole or in part, if any, in the case of a resolution rejecting a rule in whole or in part. The agency shall publish notice of rejection of a rule in whole or in part in the bulletin.

(3) A temporary rule that is not approved by a concurrent resolution shall expire by its own terms or at adjournment sine die of the next succeeding regular session of the legislature, whichever date is earlier.

(4) Except as set forth in sections 67-5226 and 67-5228, Idaho Code, a pending fee rule that is not approved by a concurrent resolution shall expire upon adjournment sine die of the legislative session during which the agency submits the pending fee rule to the legislature for review.

(5) Except as set forth in sections 67-5226 and 67-5228, Idaho Code, a pending non-fee rule that is not approved by a concurrent resolution shall expire upon adjournment sine die of the legislative session during which the agency submits the pending rule to the legislature for review.

SECTION 7. That Section 67-5292, Idaho Code, be, and the same is hereby amended to read as follows:

67-5292. EXPIRATION OF ADMINISTRATIVE RULES. (1) Notwithstanding any other provision of this chapter to the contrary, every rule adopted and becoming effective after June 30, 1990, shall automatically expire on July 1 of the following year unless the rule is extended by statute. Extended rules shall then continue to expire annually on July 1 of each succeeding year unless extended by statute in each such succeeding year.

(2) All rules adopted prior to June 30, 1990, shall expire on July 1, 1991, unless extended by statute. Thereafter, any rules which are extended shall then continue to expire annually on July 1 of each succeeding year unless extended by statute in each succeeding year.

(3) This section is a critical and integral part of this chapter. If any portion of this section or the application thereof to any person or circumstance is held invalid, the invalidity shall be deemed to affect all rules adopted subsequent to the effective date of this act and such rules shall be deemed null, void and of no further force and effect.
(1) Each rule chapter that is in effect on July 1, 2026, shall expire on a sunset date established by the coordinator. The sunset schedule shall be staggered proportionally between July 1, 2026, and June 30, 2034, and the sunset date shall be posted on each rule.

(2) Each new rule that becomes effective after July 1, 2026, shall be assigned a sunset date by the coordinator that is eight (8) years from the rule's effective date.

SECTION 8. That Section 20-212, Idaho Code, be, and the same is hereby amended to read as follows:

20-212. RULES -- AUTHORITY OF BOARD. (1) The state board of correction shall make all necessary rules to carry out the provisions of this chapter not inconsistent with express statutes or the state constitution and to carry out those duties assigned to the department of correction pursuant to the provisions of chapter 8, title 20, Idaho Code. The board shall fix the time and place of meetings, the order of business, the form of records to be kept, the reports to be made, and all other rules necessary to the efficient management and control of the state penitentiary and all properties used in connection therewith. All rules of the board shall be subject to review of the legislature pursuant to sections 67-454 and 67-5291 and 67-5292, Idaho Code, but no other provisions of chapter 52, title 67, Idaho Code, shall apply to the board, except as otherwise specifically provided by statute. When making rules required by this section, the board or the department shall submit the rules to the office of the state administrative rules coordinator in a format suitable to the office of the state administrative rules coordinator as provided in section 67-5202, Idaho Code, and the board or department shall pay all the fees provided in section 67-5205, Idaho Code. The office of the state administrative rules coordinator is authorized and shall publish the board or department's rules in the administrative bulletin. Additionally, whenever the board or department desires to amend, modify or repeal any of its rules, it shall follow the procedure provided in this section. All rules or the amendment or repeal of rules shall be effective thirty (30) days after the date of publication by the office of the administrative rules coordinator. If the board determines that the rules need to be effective at a sooner date, they shall issue a proclamation indicating that the public health, safety and welfare is in jeopardy and, if the governor agrees, the rules shall be effective upon the governor signing the proclamation.

(2) "Rule" as used in this section means the whole or a part of the board of correction or department of correction's statement of general applicability that has been promulgated in compliance with the provisions of this section and that implements, interprets or prescribes:

(a) Law or policy; or

(b) The procedure or practice requirements of the board or department. 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 statute or the board's rules; or
(iii) Intra-department memoranda; or
(iv) Any written statements given by the department or board which
that pertain to an interpretation of a rule or to the documentation
of compliance with a rule.

(3) At the same time that the proclamation of rulemaking is filed with
the coordinator, the board or department shall provide the same notice,
accompanied by the full text of the rule under consideration in legislative
format, as well as and a statement of the substance of the intended action, to
the director of legislative services. If the rulemaking is based upon on a
requirement of federal law or regulation, a copy of that specific federal law
or regulation shall accompany the submission to the director of legislative
services. The director of legislative services shall analyze and refer the
material under consideration to the germane joint subcommittee created in
section 67-454, Idaho Code.

(4) The board or department shall prepare and deliver to the germane
joint subcommittee a statement of economic impact with respect to a rule if
the germane joint subcommittee files a written request with the board or de-
partment for such a statement. The statement shall contain an evaluation of
the costs and benefits of the rule, including any health, safety, or welfare
costs and benefits. The adequacy of the contents of the statement of eco-
nomic impact is not subject to judicial review.

SECTION 9. An emergency existing therefor, which emergency is hereby
declared to exist, this act shall be in full force and effect on and after its
passage and approval.