

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 614

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ADMINISTRATIVE RULES; AMENDING SECTION 67-5229, IDAHO CODE,  
2 TO REVISE PROCEDURES FOR INCORPORATION BY REFERENCE IN RULEMAKING AND  
3 TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 67-5223, IDAHO  
4 CODE, TO PROVIDE FOR STATEMENTS OF ECONOMIC IMPACT AND COST/BENEFIT  
5 ANALYSIS TO BE FILED WITH THE DIRECTOR OF LEGISLATIVE SERVICES IN  
6 CERTAIN INSTANCES.  
7

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

9 SECTION 1. That Section 67-5229, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 67-5229. INCORPORATION BY REFERENCE. (1) If the incorporation of its  
12 text in the agency rules would be unduly cumbersome, expensive, or otherwise  
13 inexpedient, an agency may incorporate by reference in its rules if it finds  
14 that the incorporated material is in the public interest and shall include  
15 in the notice of proposed rulemaking a brief written synopsis of why the  
16 incorporation is needed, and without republication of the incorporated  
17 material in full, all or any part of:

- 18 (a) A code, standard or rule adopted by an agency of the United States;  
19 (b) A code, standard or rule adopted by any nationally recognized  
20 organization or association;  
21 (c) A code or standard adopted by Idaho statute or authorized by Idaho  
22 statute for adoption by rule; or  
23 (d) A final rule of a state agency; provided however, that a state  
24 agency shall not adopt a temporary rule incorporating by reference a  
25 rule of that agency that is being or has been repealed unless the rule  
26 providing for the incorporation has been reviewed and approved by the  
27 legislature.

28 (2) The agency shall, as part of the rulemaking:

- 29 (a) Note where copies of the incorporated material may be obtained or  
30 electronically accessed and shall state and provide where an electronic  
31 copy can be acquired or where a link to the incorporated materials  
32 resides which at a minimum will be the agency's website and the website  
33 of the office of the rules coordinator; and  
34 (b) If otherwise unavailable, provide one (1) copy of the incorporated  
35 material and electronic copy or link to the Idaho supreme court law  
36 library.

37 (3) The incorporated material shall be identified with specificity  
38 and shall include the date when the code, standard or rule was published,  
39 approved or became effective. If the agency subsequently wishes to adopt  
40 amendments to previously incorporated material, it shall comply with the  
41 rulemaking procedures of this chapter.

1 (4) Unless prohibited by other provisions of law, the incorporated  
2 material is subject to legislative review in accordance with the provisions  
3 of section 67-5291, Idaho Code, and shall have the same force and effect as  
4 a rule.

5 SECTION 2. That Section 67-5223, Idaho Code, be, and the same is hereby  
6 amended to read as follows:

7 67-5223. INTERIM LEGISLATIVE REVIEW -- STATEMENT OF ECONOMIC  
8 IMPACT. (1) After notice of proposed rulemaking is filed with the  
9 coordinator, the coordinator, after making technical corrections as  
10 authorized in section 67-5202, Idaho Code, shall provide the notice,  
11 accompanied by the full text of the rule under consideration in legislative  
12 format, as well as a statement of the substance of the intended action, to the  
13 director of legislative services. If the proposed rulemaking is based upon a  
14 requirement of federal law or regulation, a copy of that specific federal law  
15 or regulation shall accompany the submission to the director of legislative  
16 services. The director of legislative services shall analyze and refer the  
17 material under consideration to the germane joint subcommittee created in  
18 section 67-454, Idaho Code.

19 (2) An agency shall prepare and deliver to the germane joint  
20 subcommittee a statement of economic impact with respect to a proposed  
21 rule if the germane joint subcommittee files a written request with the  
22 agency for such a statement. The statement shall contain an evaluation of  
23 the costs and benefits of the rule, including any health, safety, or welfare  
24 costs and benefits.

25 (3) An agency shall prepare and deliver to the director of legislative  
26 services for inclusion with the proposed rule change a statement of economic  
27 impact on all proposed rules in which a fee or charge is imposed or increased.  
28 The cost/benefit analysis shall include reasonably estimated costs to the  
29 agency to implement the rule and the reasonably estimated costs borne by  
30 citizens and/or the private sector to implement the value of the benefit  
31 received. The adequacy of the contents of the statement of economic impact  
32 in subsections (2) and (3) is not subject to judicial review.