

Reprinted

SENATE FILE 1288

By COMMITTEE ON STATE GOVERNMENT

Passed Senate, Date 4-20-76 (1358) Passed House, Date \_\_\_\_\_  
Vote: Ayes 42 Nays 3 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the economic impact of an administrative  
2 rule.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
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S-5534

1 Amend Senate File 1288, page 1, line 12, by  
2 striking the word "action" and inserting in lieu  
3 thereof the following: "adoption, amendment or  
4 repeal of the rule. In the case of a rule issued  
5 under subsection two (2), or made effective under  
6 the provisions of seventeen A point five (17A.5),  
7 subsection two (2), paragraph "b", an estimate, or  
8 the reasons for the impossibility of formulating an  
9 estimate, shall be published within thirty days of  
10 the request."

S-5534 FILED & ADOPTED (1358)  
APRIL 20, 1976

BY BERL E. PRIEBE  
MINNETTE DODERER

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S-5532

1 Amend Senate File 1288, page 1, line 12, by  
2 striking the word "action" and inserting in lieu  
3 thereof the following: "adoption, amendment or  
4 repeal of the rule. In the case of a rule issued  
5 under subsection two (2), or made effective under  
6 the provisions of seventeen A point five (17A.5),  
7 subsection two (2), paragraph "b", an estimate  
8 shall be published within thirty days of the request."

S-5532 FILED & WITHDRAWN (1357)  
APRIL 20, 1976

BY BERL E. PRIEBE  
MINNETTE DODERER  
E. KEVIN KELLY

1 Section 1. Section seventeen A point four (17A.4), subsec-  
2 tion one (1), Code 1975, is amended by adding the following  
3 new paragraph:

4 NEW PARAGRAPH. Upon the request of at least two members  
5 of the administrative rules review committee, publish in the  
6 "Iowa Administrative Code" an estimate of the economic impact  
7 of the proposed rule adoption, amendment, or repeal upon all  
8 persons affected by it and upon the agency itself. If the  
9 agency determines that such an estimate cannot be formulated,  
10 the reasons for impossibility of formulation shall be pub-  
11 lished instead of the estimate. An estimate shall be pub-  
12 lished at least fifteen days in advance of the action.

13 EXPLANATION

14 This bill gives the administrative rules review committee  
15 the power, on a two-member request, to require that an economic  
16 impact statement be prepared for a proposed rule.

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H-6423

1 Amend Senate File 1288 by striking everything  
2 after the enacting clause and inserting in lieu  
3 thereof the following:

4 Sec. \_\_. Section seventeen A point four (17A.4),  
5 subsections one (1) and two (2), Code 1975, are  
6 amended to read as follows:

7 1. Prior to the adoption, amendment, or repeal  
8 of any rule an agency shall:

9 a. Give notice of its intended action by  
10 ~~causing a notice~~ submitting two copies of the notice  
11 to the Code editor to be published in the "Iowa  
12 Administrative Code" created pursuant to section  
13 seventeen A point six (17A.6) of the Code. Any  
14 notice of intended action shall be published at  
15 least thirty-five days in advance of the action.  
16 The notice shall include a statement of either the  
17 terms or substance of the intended action or a  
18 description of the subjects and issues involved,  
19 and the time when, the place where, and the manner  
20 in which interested persons may present their views  
21 thereon.

22 b. Afford all interested persons reasonable  
23 opportunity not less than twenty days to submit data,  
24 views or arguments in writing. If timely requested  
25 in writing by twenty-five interested persons, by a  
26 governmental subdivision, by the administrative rules  
27 review committee, by an agency, or by an association  
28 having not less than twenty-five members, the agency  
29 must give interested persons an opportunity to make  
30 oral presentation according to agency rules which  
31 give the public adequate not less than twenty days  
32 notice of the time when and the place where oral  
33 presentation may be made, and which provide for the  
34 presentation prior to agency action on the rule which  
35 is the subject of the proceeding. The agency shall  
36 consider fully all written and oral submissions  
37 respecting the proposed rule. Within one hundred  
38 eighty days following either the notice published  
39 according to the provisions of subsection 1, paragraph  
40 "a" or within one hundred eighty days after the last  
41 date of the oral presentations on the proposed rule,  
42 whichever is later, the agency shall adopt a rule  
43 pursuant to the rule-making proceeding or shall  
44 terminate the proceeding by publishing notice of  
45 termination in the Iowa administrative code. If  
46 requested to do so by an interested person, either  
47 prior to adoption or within thirty days thereafter,  
48 the agency shall issue a concise statement of the  
49 principal reasons for and against the rule it  
50 adopted, incorporating therein the reasons for

1 overruling considerations urged against the rule.

1 supplements shall contain, in such a form that they  
2 may be filed in the appropriate places in the com-  
3 pilation, all rules and notice of proposed rules filed  
4 for publication in the prior two weeks. The Code  
5 editor shall devise a uniform numbering system for  
6 rules and may renumber rules before publication to  
7 conform with the system.

8 3. This publication, which shall be known as the  
9 "Iowa Administrative Code", shall be made available  
10 upon request to all persons who subscribe thereto  
11 to it through the state printing division. Copies  
12 of this Code so made available shall be kept current  
13 by the division.

14 Sec. 4. Section seventeen A point eight (17A.8),  
15 Code 1975, is amended by adding the following new  
16 subsection:

17 NEW SUBSECTION. Notwithstanding section thirteen  
18 point seven (13.7) of the Code, the committee may  
19 employ necessary legal and technical staff.

20 Sec. 5. Section eighteen point ninety-seven  
21 (18.97), Code 1975, as amended by the Acts of the  
22 Sixty-sixth General Assembly, 1975 Session, Chapter  
23 72, is amended by striking unnumbered paragraph 1  
24 and inserting in lieu thereof the following:

25 The superintendent of printing shall make free  
26 distribution of the Code, rules of civil procedure,  
27 supreme court rules, the Acts of each general  
28 assembly, and, upon request, the Iowa administrative  
29 code as follows:"

30 2. By amending the title by inserting after the  
31 word "rule" the following: "modifying provisions  
32 of the Iowa Administrative Procedure Act, limiting  
33 the duration of an emergency rule, relating to the  
34 duties of the Code editor in publishing the Iowa  
35 Administrative Code, relating to the duties of  
36 the superintencent of printing in distributing the  
37 Iowa Administrative Code, and providing staff for  
38 the administrative rules review committee".

H-6423 FILED - *Adopted and* BY HARVEY of Scott  
APRIL 27, 1976 *amended by* MONROE of Des Moines  
*6437 6450 and*  
*6458 4/30 (23+2)*

S-5709

1 Amend Senate File 1288 by striking everything  
2 after the enacting clause and inserting in lieu  
3 thereof the following:

4 Section 1. Section seventeen A point four (17A.4),  
5 subsections one (1) and two (2), Code 1975, are  
6 amended to read as follows:

7 1. Prior to the adoption, amendment, or repeal  
8 of any rule an agency shall:

9 a. Give notice of its intended action by  
10 ~~causing a notice~~ submitting two copies of the notice  
11 to the Code editor to be published in the "Iowa  
12 Administrative Code" created pursuant to section  
13 seventeen A point six (17A.6) of the Code. Any  
14 notice of intended action shall be published at  
15 least thirty-five days in advance of the action.  
16 The notice shall include a statement of either the  
17 terms or substance of the intended action or a  
18 description of the subjects and issues involved,  
19 and the time when, the place where, and the manner  
20 in which interested persons may present their views  
21 thereon.

22 b. Afford all interested persons reasonable  
23 opportunity not less than twenty days to submit data,  
24 views or arguments in writing. If timely requested  
25 in writing by twenty-five interested persons, by a  
26 governmental subdivision, by the administrative rules  
27 review committee, by an agency, or by an association  
28 having not less than twenty-five members, the agency  
29 must give interested persons an opportunity to make  
30 oral presentation according to agency rules which  
31 give the public adequate not less than twenty days  
32 notice of the time when and the place where oral  
33 presentation may be made, and which provide for the  
34 presentation prior to agency action on the rule which  
35 is the subject of the proceeding. The agency shall  
36 consider fully all written and oral submissions  
37 respecting the proposed rule. Within one hundred  
38 eighty days following either the notice published  
39 according to the provisions of subsection 1, paragraph  
40 "a" or within one hundred eighty days after the last  
41 date of the oral presentations on the proposed rule,  
42 whichever is later, the agency shall adopt a rule  
43 pursuant to the rule-making proceeding or shall  
44 terminate the proceeding by publishing notice of  
45 termination in the Iowa administrative code. If  
46 requested to do so by an interested person, either  
47 prior to adoption or within thirty days thereafter,  
48 the agency shall issue a concise statement of the  
49 principal reasons for and against the rule it  
50 adopted, incorporating therein the reasons for

overruling considerations urged against the rule.

1           c. Upon the request of at least two members of  
2 the administrative rules review committee. publish  
3 in the "Iowa Administrative Code" an estimate of the  
4 economic impact of the proposed rule adoption,  
5 amendment, or repeal upon all persons affected by  
6 it and upon the agency itself. If the agency  
7 determines that such an estimate cannot be formulated,  
8 the reasons for impossibility of formulation shall  
9 be published instead of the estimate. An estimate  
10 shall be published at least fifteen days in advance  
11 of the adoption, amendment or repeal of the rule. In  
12 the case of a rule issued under subsection two (2)  
13 or made effective under the provisions of section  
14 seventeen A point five (17A.5), subsection two (2),  
15 paragraph b of the Code, an estimate, or the reasons  
16 for the impossibility of formulating an estimate  
17 shall be published within thirty days of the request.

18           2. When an agency for good cause finds that  
19 notice and public participation would be impracticable,  
20 unnecessary, or contrary to the public interest, the  
21 provisions of subsection 1 shall be inapplicable if  
22 the rule which is so adopted provides by its own terms  
23 that it shall be effective for only one hundred eighty  
24 specified days. If an agency for good cause finds  
25 that notice and public participation would be un-  
26 necessary, subsection 1 shall be inapplicable  
27 if a majority of the members of the Administrative Rules  
28 Review Committee approve the inapplicability. The  
29 agency shall incorporate in each rule issued in  
30 reliance upon this provision either the finding and a  
31 brief statement of the reasons therefor, or a statement  
32 that the rule is within a very narrowly tailored  
33 category of rules whose issuance has previously been  
34 exempted from subsection 1 by a special rule relying  
35 on this provision and including such a finding and  
36 statement of reasons for the entire category. In any  
37 action contesting a rule adopted pursuant to this sub-  
38 section, the burden of proof shall be on the agency  
39 to show that the procedures of subsection 1 were im-  
40 practicable, unnecessary, or contrary to the public  
41 interest and that, if a category of rules was involved,  
42 the category was very narrowly tailored.

43           Sec. 2.       Section seventeen A point four  
44                       (17A.4) subsection four (4), Code 1975, is amend-  
45                       ed by striking the subsection and inserting in  
46                       lieu thereof the following:  
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48           4. a. Upon the vote of two-thirds of its  
49           members finding that a proposed rule is arbitrary,  
50           capricious, unreasonable, or beyond the scope of

1 authority delegated to the promulgating agency,  
2 the administrative rules committee may delay the  
3 effective date of the adoption, amendment, or  
4 repeal of a rule for which a notice of intended  
5 action has been published, until thirty-five  
6 days after the convening of  
7 the legislature. Notice of the delay of the ef-  
8 fective date of the rule shall be published in  
9 the next supplement of the Iowa administrative  
10 code.

11 b. Any rule, the effective date of which  
12 has been delayed under paragraph a of this sub-  
13 section and the notice of intended action to  
14 which it was related shall be forwarded to the  
15 speaker of the house and the president of the  
16 senate. The speaker and the president shall re-  
17 fer this rule and notice to the appropriate  
18 standing committee. If a majority of the mem-  
19 bership of both houses by resolution reject the  
20 proposed rule, the effective date of which has  
21 been delayed by the administrative rules commit-  
22 tee, within thirty five calendar days after the  
23 convening of the legislature the rule shall not  
24 go into effect and be returned to the promul-  
25 gating agency. If the legislature does not pass  
26 such a resolution within thirty five calendar  
27 days the rule shall be in effect.

28 Sec. 3. Section seventeen A point five (17A.5),  
29 Code 1975, is amended to read as follows:

30 17A.5 FILING AND TAKING EFFECT OF RULES.

31 1. Each agency shall file in the office of the  
32 secretary of state a three certified copy copies of  
33 each rule adopted by it, ~~including all rules as~~  
34 ~~defined in this chapter existing on July 1, 1975.~~  
35 Each adopted rule shall, before filing, be submitted  
36 for endorsement by the Code editor that it is in  
37 proper form and style. The Code editor shall not  
38 hold a rule for endorsement for longer than a week.  
39 Lack of endorsement shall not preclude publication  
40 of a rule. Two copies of it shall be forwarded to  
41 the Code editor. The secretary of state shall keep  
42 a permanent register of the rules open to public  
43 inspection. Rules presently on file in the office  
44 of the secretary of state need not be refiled.

45 2. Each rule hereafter adopted is effective  
46 thirty-five days after filing, as required in this  
47 section, and indexing and publication as required  
48 by section 17A.6, except that:

49 a. If a later date is required by statute or  
50 specified in the rule, the later date is the

effective date.

b. Subject to applicable constitutional or statutory provisions, a rule becomes effective immediately upon filing with the secretary of state, or at a subsequent stated date prior to indexing and publication, or at a stated date less than thirty-five days after filing, indexing and publication, if the rule provides by its own terms that it is effective for a period not to exceed one hundred eighty days, as specified, and if the agency finds:

(1) That a statute so provides;

(2) That the rule confers a benefit or removes a restriction on the public or some segment thereof; or

(3) That this effective date is necessary because of imminent peril to the public health, safety or welfare. In any subsequent action contesting the effective date of a rule promulgated under this paragraph, the burden of proof shall be on the agency to justify its finding. The agency's finding and a brief statement of the reasons therefor shall be filed with and made a part of the rule. Prior to indexing and publication, the agency shall make reasonable efforts to make known to the persons who may be affected by it a rule made effective under the terms of this paragraph.

Sec. 4. Section seventeen A point six (17A.6), subsections one (1) and three (3), Code 1975, are amended to read as follows:

1. The Code editor shall cause to be compiled, indexed and published in loose leaf form all rules adopted by each agency and notice of all proposed rule-making by each agency. The Code editor further shall cause to be ~~distributed~~ published supplements to this publication at least every other week which supplements shall contain, in such a form that they may be filed in the appropriate places in the compilation, all rules and notice of proposed rules filed for publication in the prior two weeks. The Code editor shall devise a uniform numbering system for rules and may renumber rules before publication to conform with the system.

3. This publication, which shall be known as the "Iowa Administrative Code", shall be made available upon request to all persons who subscribe thereto to it through the state printing division. Copies of this Code so made available shall be kept current by the division.

Sec. 5. Section seventeen A point eight (17A.8), Code 1975, is amended by adding the following new

subsection:

1        NEW SUBSECTION. Notwithstanding section thirteen  
2 point seven (13.7) of the Code, the committee may  
3 employ necessary legal and technical staff.

4        Sec. 6. Section eighteen point ninety-seven  
5 (18.97), Code 1975, as amended by the Acts of the  
6 Sixty-sixth General Assembly, 1975 Session, Chapter  
7 72, is amended by striking unnumbered paragraph 1  
8 and inserting in lieu thereof the following:

9        The superintendent of printing shall make free  
10 distribution of the Code, rules of civil procedure,  
11 supreme court rules, the Acts of each general  
12 assembly, and, upon request, the Iowa administrative  
13 code as follows:"

14        Sec. 7. Chapter one hundred forty-seven (147),  
15 Code 1975, is amended by adding the following new  
16 section:

17        NEW SECTION. The examining boards for the various  
18 professions shall promulgate all necessary and  
19 proper rules to implement and interpret the  
20 provisions of this chapter and chapters one hundred  
21 forty-eight (148), one hundred forty-eight A (148A),  
22 one hundred forty-eight B (148B), one hundred  
23 forty-nine (149), one hundred fifty (150), one  
24 hundred fifty A (150A), one hundred fifty-one (151),  
25 one hundred fifty-two (152), one hundred fifty-three  
26 (153), one hundred fifty-four (154), one hundred  
27 fifty-four A (154A), one hundred fifty-four B (154B),  
28 one hundred fifty-five (155), and one hundred fifty-six  
29 (156) of the Code.

30        2. By amending the title by inserting after the  
31 word "rule" the following: "modifying provisions  
32 of the Iowa Administrative Procedure Act, limiting  
33 the duration of an emergency rule, relating to the  
34 duties of the Code editor in publishing the Iowa  
35 Administrative Code, relating to the duties of  
36 the superintendent of printing in distributing the  
37 Iowa Administrative Code, and providing staff for  
38 the administrative rules review committee".  
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S-5709 FILED  
MAY 7, 1976

RECEIVED FROM THE HOUSE  
*Senate amended and concurred 5/26 (23/0)*

S-5750

1 Amend the House amendment, S-5709, to Senate  
2 File 1288 as amended, passed and reprinted by the  
3 Senate as follows:

4 1. Page 2, lines 28 and 29, by striking the  
5 words, "if a majority of the members of the Admin-  
6 istrative Rules Review Committee approve the  
7 innapplicability".

8 2. Page 2, by striking line 44 through page  
9 3, line 27.

10 3. Page 3, by striking lines 35 through 40 and  
11 inserting in lieu thereof the words, "Two copies of  
12 each rule shall be forwarded to".

13 4. Page 4, lines 8 through 10, by striking the  
14 words, "the rule provides by its own terms that it  
15 is effective for a period not to exceed one hundred  
16 eighty days, as specified, and if".

17 5. By renumbering the sections as necessary.

S-5750 FILED - *Adopted as amended by 5938*  
MAY 11, 1976 *5/26 (2316)*

BY MINNETTE DODERER  
EUGENE HILL  
ELIZABETH SHAW

S-5938

1 Amend the Doderer et al. amendment, S-5750 to  
2 the House amendment, S-5709, to Senate File 1288 as  
3 amended, passed and reprinted by the Senate as fol-  
4 lows:

5 1. Page 1, by striking line 9 and inserting  
6 in lieu thereof the following:

7 "3, line 27 and inserting in lieu thereof the  
8 following:

9 "Sec. \_\_\_\_ . Section seventeen A point four  
10 (17A.4), Code 1975, is amended by adding the  
11 following new subsection:

12 5. Upon the vote of two-thirds of its mem-  
13 bers the administrative rules review committee may  
14 delay the effective date of a rule seventy days be-  
15 yond that permitted in section seventeen A point  
16 five (17A.5), unless the rule was promulgated under  
17 section seventeen A point five (17A.5), subsection  
18 two (2), paragraph "b". This provision shall be  
19 utilized by the committee only if further time is  
20 necessary to study and examine the rule. Notice of  
21 an effective date that was delayed under this pro-  
22 vision shall be published in the Iowa Administrative  
23 Code."

S-5938 FILED - *Adopted 5/26 (2310)*  
MAY 26, 1976

BY E. KEVIN KELLY  
BERL E. PRIEBE

1 Amend the Doderer, et al, amendment, S-5750,  
 2 to House amendment, S-5709, to Senate File 1288 as  
 3 amended, passed and reprinted by the Senate as  
 4 follows:

5 1. Page 1, by striking lines 10 through 12  
 6 and inserting in lieu thereof the following:

7 "3. Page 3, by striking lines 31 through 44  
 8 and inserting in lieu thereof the following:

9 "1. Each agency shall ~~file in the office of the~~  
 10 ~~secretary of state a certified copy of each rule~~  
 11 ~~adopted by it, including all rules as defined in~~  
 12 ~~this chapter existing on July 1, 1975. The secretary~~  
 13 ~~of state shall keep a permanent register of the~~  
 14 ~~rules open to public inspection. Rules presently~~  
 15 ~~on file in the office of the secretary of state need~~  
 16 ~~not be refiled.~~ prepare four certified copies of each  
 17 rule adopted by it for filing in the office of the  
 18 secretary of state. Before filing with the secretary  
 19 the copies of the rule shall be submitted to the  
 20 code editor for verification of form and style.  
 21 Within one week the code editor shall indicate tech-  
 22 nical approval to the agency or notify it of any  
 23 insufficiency. The secretary of state shall keep a  
 24 permanent register which shall be open to the public  
 25 of all rules filed in the secretary's office."

S-5766 FILED - *Lost 5/26 (2309)*  
 MAY 12, 1976

BY ELIZABETH SHAW

H-6437

1 Amend amendment H-6423 to Senate File 1288 as follows:

2 1. Page 3, line 23, by striking the word "not".

3 2. Page 4, by inserting after line 29 the following:

4 "Sec. \_\_\_\_ Chapter one hundred forty-seven (147),  
 5 Code 1975, is amended by adding the following new  
 6 section:

7 NEW SECTION. The examining boards for the various  
 8 professions shall promulgate all necessary and proper  
 9 rules to implement and interpret the provisions of this  
 10 chapter and chapters one hundred forty-eight (148),  
 11 one hundred forty-eight A (148A), one hundred forty-  
 12 eight B (148B), one hundred forty-nine (149), one  
 13 hundred fifty (150), one hundred fifty A (150A), one  
 14 hundred fifty-one (151), one hundred fifty-two (152),  
 15 one hundred fifty-three (153), one hundred fifty-four  
 16 (154), one hundred fifty-four A (154A), one hundred  
 17 fifty-four B (154B), one hundred fifty-five (155),  
 18 and one hundred fifty-six (156) of the Code."

H-6437 FILED - *Adopted 4/30* BY MONROE of Des Moines  
 APRIL 27, 1976 *(2343)*

SENATE FILE 1288

H-6489

- 1 Amend amendment H-6455, to amendment H-6423
- 2 to Senate File 1288, as follows:
- 3 1. Page 1, line 16, by striking the words
- 4 "the next session of".

H-6489 FILED, ADOPTED BY BY JUNKER Of Woodbury  
UNANIMOUS CONSENT (2342)  
APRIL 30, 1976

SENATE AMENDMENT TO HOUSE AMENDMENT TO  
SENATE FILE 1288

H-6893

- 1 Amend the House amendment S-5709 to Senate
- 2 File 1288 as amended, passed and reprinted by the
- 3 Senate as follows:
- 4 1. Page 2, lines 28 and 29, by striking the
- 5 words "if a majority of the members of the Admin-
- 6 istrative Rules Review Committee approve the
- 7 inapplicability".
- 8 2. Page 2, by striking lines 44 through page
- 9 3, line 27 and inserting in lieu thereof the
- 10 following:
- 11 "Sec. \_\_\_\_ . Section seventeen A point four
- 12 (17A.4), Code 1975, is amended by adding the
- 13 following new subsection:
- 14 5. Upon the vote of two-thirds of its mem-
- 15 bers the administrative rules review committee may
- 16 delay the effective date of a rule seventy days be-
- 17 yond that permitted in section seventeen A point
- 18 five (17A.5), unless the rule was promulgated under
- 19 section seventeen A point five (17A.5), subsection
- 20 two (2), paragraph "b". This provision shall be
- 21 utilized by the committee only if further time is
- 22 necessary to study and examine the rule. Notice of
- 23 an effective date that was delayed under this pro-
- 24 vision shall be published in the Iowa Administrative
- 25 Code."
- 26 3. Page 3, by striking lines 35 through 40 and
- 27 inserting in lieu thereof the words "Two copies of
- 28 each rule shall be forwarded to".
- 29 4. Page 4, lines 8 through 10, by striking the
- 30 words "the rule provides by its own terms that it
- 31 is effective for a period not to exceed one hundred
- 32 eighty days, as specified, and if".
- 33 5. By renumbering the sections as necessary.

H-6893 FILED  
RECEIVED FROM SENATE  
MAY 26, 1976

*Have concurred 5/27/76 (p. 2266)*

SENATE FILE 1288

By COMMITTEE ON STATE GOVERNMENT

*Substituted for H. J. 1510 4/30*

(As Amended and Passed by the Senate April 20, 1976)

Passed Senate, Date <sup>*as amended by House 5-26-76*</sup> 5-26-76 Passed House, Date 4-30-76 (*p. 3343*)

Vote: Ayes 95 Nays 10 Vote: Ayes 75 Nays 13

Approved 6-23-76  
*Repassed House for Senate amendment 5-27-76 (p. 3267)*  
93-0

# A BILL FOR

1 An Act relating to the economic impact of an administrative  
2 rule.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
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\_\_\_\_\_ = New Language  
by the Senate

1 Section 1. Section seventeen A point four (17A.4), subsec-  
2 tion one (1), Code 1975, is amended by adding the following  
3 new paragraph:

4 NEW PARAGRAPH. Upon the request of at least two members  
5 of the administrative rules review committee, publish in the  
6 "Iowa Administrative Code" an estimate of the economic impact  
7 of the proposed rule adoption, amendment, or repeal upon all  
8 persons affected by it and upon the agency itself. If the  
9 agency determines that such an estimate cannot be formulated,  
10 the reasons for impossibility of formulation shall be pub-  
11 lished instead of the estimate. An estimate shall be pub-  
12 lished at least fifteen days in advance of the adoption,  
13 amendment or repeal of the rule. In the case of a rule issued  
14 under subsection two (2), or made effective under the provisions  
15 of seventeen A point five (17A.5), subsection two (2),  
16 paragraph "b", an estimate, or the reasons for the  
17 impossibility of formulating an estimate, shall be published  
18 within thirty days of the request.

19 EXPLANATION

20 This bill gives the administrative rules review committee  
21 the power, on a two-member request, to require that an economic  
22 impact statement be prepared for a proposed rule.

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SENATE FILE 1288

H-6455

1 Amend H-6423 to Senate File 1288 as follows:

2 1. Page 2 by adding after line 42 the  
3 following new section:

4 "Sec. . . . Section seventeen A point four  
5 (17A.4) subsection four (4), Code 1975, is amend-  
6 ed by striking the subsection and inserting in  
7 lieu thereof the following:

8 4. a. Upon the vote of two-thirds of its  
9 members finding that a proposed rule is arbitrary,  
10 capricious, unreasonable, or beyond the scope of  
11 authority delegated to the promulgating agency,  
12 the administrative rules committee may delay the  
13 effective date of the adoption, amendment, or  
14 repeal of a rule for which a notice of intended  
15 action has been published, until thirty-five  
16 days after the convening of the next session of  
17 the legislature. Notice of the delay of the ef-  
18 fective date of the rule shall be published in  
19 the next supplement of the Iowa administrative  
20 code.

21 b. Any rule, the effective date of which  
22 has been delayed under paragraph a of this sub-  
23 section and the notice of intended action to  
24 which it was related shall be forwarded to the  
25 speaker of the house and the president of the  
26 senate. The speaker and the president shall re-  
27 fer this rule and notice to the appropriate  
28 standing committee. If a majority of the mem-  
29 bership of both houses by resolution reject the  
30 proposed rule, the effective date of which has  
31 been delayed by the administrative rules commit-  
32 tee, within thirty five calendar days after the  
33 convening of the legislature the rule shall not  
34 go into effect and be returned to the promul-  
35 gating agency. If the legislature does not pass  
36 such a resolution within thirty five calendar  
37 days the rule shall be in effect.

H-6455 FILED - *Adopted as* BY WELDEN of Hardin  
APRIL 28, 1976 *amended by* MILLEN of Van Buren  
*6489 4/30 (2342)* KREAMER of Polk

1 Amend amendment H-6423 to Senate File 1288, as  
2 amended, passed and reprinted by the Senate, page 2,  
3 by striking all of lines 2 through 17 and inserting  
4 in lieu thereof the following:  
5 c. Upon the request of at least two members of  
6 the administrative rules review committee. publish  
7 in the "Iowa Administrative Code" an estimate of the  
8 economic impact of the proposed rule adoption,  
9 amendment. or repeal upon all persons affected by  
10 it and upon the agency itself. If the agency  
11 determines that such an estimate cannot be formulated,  
12 the reasons for impossibility of formulation shall  
13 be published instead of the estimate. An estimate  
14 shall be published at least fifteen days in advance  
15 of the adoption, amendment or repeal of the rule. In  
16 the case of a rule issued under subsection two (2)  
17 or made effective under the provisions of section  
18 seventeen A point five (17A.5), subsection two (2),  
19 paragraph b of the Code, an estimate, or the reasons  
20 for the impossibility of formulating an estimate  
21 shall be published within thirty days of the request.

H-6450 FILED - *adopted 4/30* BY HARVEY of Scott  
APRIL 28, 1976 *(2341)*

## SENATE FILE 1288

## AN ACT

RELATING TO THE ECONOMIC IMPACT OF AN ADMINISTRATIVE RULE MODIFYING PROVISIONS OF THE IOWA ADMINISTRATIVE PROCEDURE ACT, LIMITING THE DURATION OF AN EMERGENCY RULE, RELATING TO THE DUTIES OF THE CODE EDITOR IN PUBLISHING THE IOWA ADMINISTRATIVE CODE, RELATING TO THE DUTIES OF THE SUPERINTENDENT OF PRINTING IN DISTRIBUTING THE IOWA ADMINISTRATIVE CODE, AND PROVIDING STAFF FOR THE ADMINISTRATIVE RULES REVIEW COMMITTEE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section seventeen A point four (17A.4), subsections one (1) and two (2), Code 1975, are amended to read as follows:

1. Prior to the adoption, amendment, or repeal of any rule an agency shall:

a. Give notice of its intended action by ~~causing a notice~~ submitting two copies of the notice to the Code editor to be published in the "Iowa Administrative Code" created pursuant to section seventeen A point six (17A.6) of the Code. Any notice of intended action shall be published at least thirty-five days in advance of the action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may present their views thereon.

b. Afford all interested persons ~~reasonable opportunity~~ not less than twenty days to submit data, views or arguments in writing. If timely requested in writing by twenty-five interested persons, by a governmental subdivision, by the administrative rules review committee, by an agency, or by an association having not less than twenty-five members, the agency must give interested persons an opportunity to make oral presentation according to agency rules which give the public ~~adequate~~ not less than twenty days notice of the time

when and the place where oral presentation may be made, and which provide for the presentation prior to agency action on the rule which is the subject of the proceeding. The agency shall consider fully all written and oral submissions respecting the proposed rule. Within one hundred eighty days following either the notice published according to the provisions of subsection 1, paragraph "a" or within one hundred eighty days after the last date of the oral presentations on the proposed rule, whichever is later, the agency shall adopt a rule pursuant to the rule-making proceeding or shall terminate the proceeding by publishing notice of termination in the Iowa Administrative Code. If requested to do so by an interested person, either prior to adoption or within thirty days thereafter, the agency shall issue a concise statement of the principal reasons for and against the rule it adopted, incorporating therein the reasons for overruling considerations urged against the rule.

c. Upon the request of at least two members of the administrative rules review committee publish in the "Iowa Administrative Code" an estimate of the economic impact of the proposed rule adoption, amendment, or repeal upon all persons affected by it and upon the agency itself. If the agency determines that such an estimate cannot be formulated the reasons for impossibility of formulation shall be published instead of the estimate. An estimate shall be published at least fifteen days in advance of the adoption, amendment or repeal of the rule. In the case of a rule issued under subsection two (2) or made effective under the provisions of section seventeen A point five (17A.5), subsection two (2), paragraph b of the Code, an estimate, or the reasons for the impossibility of formulating an estimate shall be published within thirty days of the request.

2. When an agency for good cause finds that notice and public participation would be impracticable, ~~unnecessary,~~ or contrary to the public interest, the provisions of subsection 1 shall be inapplicable if the rule which is so adopted provides by its own terms that it shall be effective

for only one hundred eighty specified days. If an agency for good cause finds that notice and public participation would be unnecessary, subsection one (1) shall be inapplicable. The agency shall incorporate in each rule issued in reliance upon this provision either the finding and a brief statement of the reasons therefor, or a statement that the rule is within a very narrowly tailored category of rules whose issuance has previously been exempted from subsection 1 by a special rule relying on this provision and including such a finding and statement of reasons for the entire category. In any action contesting a rule adopted pursuant to this subsection, the burden of proof shall be on the agency to show that the procedures of subsection 1 were impracticable, unnecessary, or contrary to the public interest and that, if a category of rules was involved, the category was very narrowly tailored.

Sec. 2. Section seventeen A point four (17A.4), Code 1975, is amended by adding the following new subsection:

5. Upon the vote of two-thirds of its members the administrative rules review committee may delay the effective date of a rule seventy days beyond that permitted in section seventeen A point five (17A.5), unless the rule was promulgated under section seventeen A point five (17A.5), subsection two (2), paragraph "b". This provision shall be utilized by the committee only if further time is necessary to study and examine the rule. Notice of an effective date that was delayed under this provision shall be published in the Iowa Administrative Code.

Sec. 3. Section seventeen A point five (17A.5), Code 1975, is amended to read as follows:

17A.5 FILING AND TAKING EFFECT OF RULES.

1. Each agency shall file in the office of the secretary of state a three certified copy copies of each rule adopted by it, ~~including all rules as defined in this chapter existing on July 17, 1975.~~ Two copies of each rule shall be forwarded to the Code editor. The secretary of state shall keep a permanent register of the rules open to public inspection.

~~Rules presently on file in the office of the secretary of state need not be refiled:~~

2. Each rule hereafter adopted is effective thirty-five days after filing, as required in this section, and indexing and publication as required by section 17A.6, except that:

- a. If a later date is required by statute or specified in the rule, the later date is the effective date.
- b. Subject to applicable constitutional or statutory provisions, a rule becomes effective immediately upon filing with the secretary of state, or at a subsequent stated date prior to indexing and publication, or at a stated date less than thirty-five days after filing, indexing and publication, if the agency finds:

- (1) That a statute so provides;
- (2) That the rule confers a benefit or removes a restriction on the public or some segment thereof; or
- (3) That this effective date is necessary because of imminent peril to the public health, safety or welfare. In any subsequent action contesting the effective date of a rule promulgated under this paragraph, the burden of proof shall be on the agency to justify its finding. The agency's finding and a brief statement of the reasons therefor shall be filed with and made a part of the rule. Prior to indexing and publication, the agency shall make reasonable efforts to make known to the persons who may be affected by it a rule made effective under the terms of this paragraph.

Sec. 4. Section seventeen A point six (17A.6), subsections one (1) and three (3), Code 1975, are amended to read as follows:

1. The Code editor shall cause to be compiled, indexed and published in loose leaf form all rules adopted by each agency and notice of all proposed rule-making by each agency. The Code editor further shall cause to be ~~distributed~~ published supplements to this publication at least every other week which supplements shall contain, in such a form that they may be filed in the appropriate places in the compilation, all rules and notice of proposed rules filed for publication

in the prior two weeks. The Code editor shall devise a uniform numbering system for rules and may renumber rules before publication to conform with the system.

3. This publication, which shall be known as the "Iowa Administrative Code", shall be made available upon request to all persons who subscribe thereto to it through the state printing division. Copies of this Code so made available shall be kept current by the division.

Sec. 5. Section seventeen A point eight (17A.8), Code 1975, is amended by adding the following new subsection:

NEW SUBSECTION. Notwithstanding section thirteen point seven (13.7) of the Code, the committee may employ necessary legal and technical staff.

Sec. 6. Section eighteen point ninety-seven (18.97), Code 1975, as amended by Acts of the Sixty-sixth General Assembly, 1975 Session, chapter seventy-two (72), is amended by striking unnumbered paragraph one (1), and inserting in lieu thereof the following:

The superintendent of printing shall make free distribution of the Code, rules of civil procedure, supreme court rules, the Acts of each general assembly, and upon request, the Iowa Administrative Code as follows:

Sec. 7. Chapter one hundred forty-seven (147), Code 1975, is amended by adding the following new section:

NEW SECTION. The examining boards for the various professions shall promulgate all necessary and proper rules to implement and interpret the provisions of this chapter and chapters one hundred forty-eight (148), one hundred forty-eight A (148A), one hundred forty-eight B (148B), one hundred forty-nine (149), one hundred fifty (150), one hundred fifty A (150A), one hundred fifty-one (151), one hundred fifty-two (152), one hundred fifty-three (153), one hundred fifty-four (154), one hundred fifty-four A (154A), one hundred fifty-

four B (154B), one hundred fifty-five (155), and one hundred fifty-six (156) of the Code.

\_\_\_\_\_  
ARTHUR A. NEU  
President of the Senate

\_\_\_\_\_  
DALE M. COCHRAN  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 1288, Sixty-sixth General Assembly.

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STEVEN C. CROSS  
Secretary of the Senate

Approved June 23, 1976

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ROBERT D. RAY  
Governor