

ONE HUNDRED SECOND LEGISLATURE - FIRST SESSION - 2011
COMMITTEE STATEMENT
LB617

Hearing Date: Thursday February 10, 2011
Committee On: Executive Board
Introducer: Mello
One Liner: Create the Administrative Rules Review Committee of the Legislature

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	6	Senators Christensen, Flood, Lathrop, Nelson, Pahls, Wightman
Nay:		
Absent:	3	Senators Fischer, Karpisek, Langemeier
Present Not Voting:		

Proponents:
Senator Heath Mello
Richard Lombardi

James Goddard

Representing:
Introducer
Nebraska Association of Behavioral Health
Organizations and Nebraska Health Care Alliance
Nebraska Appleseed

Opponents:
Colleen Byelick
Brad Gianakos

Representing:
Nebraska Secretary of State
Nebraska Department of Health and Human Services

Neutral:
James Douglas

Representing:
Nebraska Game and Parks Commission

Summary of purpose and/or changes:

Section 1.

Adds a definition for "committee" in the Administrative Procedure Act. (The Administrative Rules Review Committee.)

Section 2.

Creates the Administrative Rules Review Committee of the Legislature. The committee would consist of the chairpersons of all the standing committees of the Legislature. The committee would meet as necessary to review and approve or disapprove rules, regulations and amendments proposed by an agency pursuant to the Administrative Procedures Act. The chairperson and vice-chairperson of the committee would be elected by members of the committee. The Clerk of the Legislature would serve as an ex officio member of the committee. Committee legal counsels and the Clerk would provide staff support.

Section 3.

Requires each proposed agency rule, regulation or amendment to be submitted to the committee for consideration as to statutory authority and for the committee's approval or disapproval, prior to filing with the Secretary of State.

In addition to a copy of the rule, regulation or amendment the agency must provide the committee with:

- (a) Comments and materials received by the agency regarding the proposed rule;
- (b) Transcripts and memoranda prepared by the hearing officer; and
- (c) A description of the fiscal impact on state agencies, political subdivisions and regulated persons.

Section 4.

The committee is required to communicate in writing its approval or disapproval (and objections if disapproved) to the agency. A rule is considered approved if no action is taken within 30 days after receipt from the agency.

Section 5.

Clean up language regarding the Attorney General's duties when approving or disapproving a rule, regulation or amendment.

Section 6.

Harmonizing language.

Section 7.

Provides that a rule, regulation or amendment may be adopted, amended, or repealed between adjournment sine die and November 30 of the same calendar year. However, an agency may begin the process to adopt, amend, or repeal prior to adjournment sine die. If public notice is waived, the legislative committee must review the rule or regulation within ten days.

Sections 8 -11

Harmonizing provisions.

Section 12

Repeals original sections.

Section 13

Outright repeals two sections which set forth the current process of referring rules, regulations and amendments.

Explanation of amendments:

The committee amendment replaces the original bill with the following requirements:

1. A public hearing must be held on a rule or regulation that is being adopted, amended or repealed pursuant to a bill, within 12 months after the effective or operative date of the bill. The Governor may extend the 12-month period for up to an additional six months upon a written showing of good cause.
2. The regulation process must then be completed within one year after the public hearing. If the agency does not adopt and promulgate such rules and regulations within one year of the public hearing, it must submit a written explanation to the Executive Board and the standing committee with subject matter jurisdiction over the issue. The statement much

include reasons as to why the rules have not been adopted, the date they expect to complete the rules and any suggested statutory changes that may enable the agency to adopt the rules.

3. Public hearing notices must identify the specific legislative bill or authorizing statute.

4. On or before July 1 of each year, each agency must provide to the Performance Audit Committee a status report on all rules and regulations pending before the agency and, if an appropriation was made with respect to legislation for which rules and regulations are pending to provide funding for or additional staff to implement a program, the status report must include what the funding has been used for and what functions the staff have been performing while such rules and regulations are pending.

5. The emergency clause is added.

John Wightman, Chairperson