

**RE-OPEN IOWA FOR BUSINESS
RULES & REGULATIONS TOUR**

**RECOMMENDATIONS
FOR
RULES & REGULATIONS
PROCESS REFORM**

Iowa Senate Republicans, in a collaborative effort with the House Republicans and the Branstad – Reynolds Administration, launched the “Re-Open Iowa for Business Rules & Regulations Tour” to collect specific input from Iowans across the state about the onerous state rule and regulatory climate that is hurting job creation and preventing employers from locating or expanding in Iowa. Iowa must have reasonable and responsible levels of rules and regulations that protect the public interest without placing an undue burden on our job creators, cities and taxpayers.

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OVERVIEW

Across the state, employers both small and large, entrepreneurs, farmers, city administrators and others have increasingly become subjected to overly burdensome rules and regulations that have been promulgated by unelected bureaucrats in state government agencies.

As a result, in February we announced our 11 city “Re-Open Iowa for Business” Rules and Regulations Tour to hear directly from Iowans about how we can again begin to open our state up for consistent private-sector job creation.

Along the tour, nearly 1,000 Iowans attended events, over 175 gave public testimony, and over 300 public comment forms were collected.

Many of these rules and regulations have significantly raised the cost of doing business in Iowa, and have caused employers to leave the state or choose to expand elsewhere as a result.

Now, what we have begun in Iowa is spreading throughout the country. From the presidential campaign to Congress and now even the White House is beginning to talk about the serious impact rules and regulations have on small businesses, entrepreneurs and job creators.

Fundamentally, Republicans believe government should not be punishing the very people needed to grow this state and create jobs.

Thus as a result of the Rules & Regulations Tour, we are offering the following changes in procedure to only begin to inject some badly needed common sense in what has become an increasingly onerous rule and regulatory climate.

As we continue to hear from Iowans, we are confident our list of recommendations will only continue to grow.

We look forward to continuing our discussions with Iowans, learning more about how we can empower them to succeed and pressing forward on these important recommendations during the upcoming legislative session.

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RECOMMENDATIONS FOR PROCESS CHANGE

It is our recommendation that all state departments and agencies have a uniform, searchable and user-friendly rules database on their websites.

- Must be easy to use, navigable, and uniform throughout departments and agencies
- Must include a statement explaining how rules are promulgated
- Include a process form for filing comments or complaints or petition for new rule making.
- Include explanation of process for filing a waiver of the rules

It is our recommendation that we amend Iowa Code to require a five year rolling review of all administrative rules.

- Senate File 366, which was introduced this year, would require state agencies review all administrative rules on a five year cycle.

It is our recommendation that we institute negotiated rule-making in Iowa.

- Senate File 439, which was introduced this year, provides for negotiated rulemaking and is based on provisions found in the Federal Administrative Procedures Act. The bill requires an ad hoc group to be created to review draft rule proposals prior to commencing a rulemaking proceeding – if required to do so by statute; or allows the agency to create such a group.
- The members of the group must adequately represent a fair balance of the interests affected by the draft rule.

It is our recommendation that public hearings for rules and regulations be held at locations and times that are convenient for those impacted by the rules.

- These public meetings need to be done for the convenience of the private sector rather than the public sector.
- Senate File 358, also introduced this year, requires administrative agencies to hold rulemaking hearings around the state, requires every adopted rule to include a statement of purpose, and provides that any grant of rulemaking authority shall be construed narrowly.

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It is our recommendation that we require regulatory analysis of all administrative rules for their impact on the private sector and job creation.

- Though Governor Branstad has instituted this important jobs impact analysis policy through Executive Order, we believe it should be added to the Code of Iowa to ensure it is carried out regardless of who is the governor.
- This analysis is would consist of a cost/benefit study identifying the impact of a rule on the affected public and, in the case of a rule that would have a substantial impact on small business; the regulatory analysis must contain a discussion of whether it would be feasible and practicable to reduce the impact of the rule on small business.
- This recommendation would include an analysis on new rules which have an adverse impact on small business and require that analysis to be published in the Iowa administrative bulletin along with the new rule. If an agency determines that it would not be legal and feasible to reduce the adverse impact on small business, a small business would have judicial standing to challenge that determination in district court.
- The recommendation also requires a periodic review of all rules to minimize the economic impact of the rules on small businesses. The initial review must be completed by July 1, 2013, and will be repeated every five years.

It is our recommendation that we require state agencies to accept public comments on proposed rulemaking in an electronic format.

- As more Iowans gain greater access to the Internet, we believe Iowans should have expanded opportunities to interact and petition their government.
- State agencies should put in place a portal on their websites as well as through the searchable rules and regulations database that would allow Iowans to submit public comments on proposed rules and regulations.

It is our recommendation that we require that no state agency or Iowa rule making authority may create rules and regulations that exceed rules and regulations promulgated by a federal agency unless specifically authorized by the Iowa General Assembly.

- In order to keep Iowa competitive with other states in job creation, we need to have a reasonable level of taxation and common sense rules and regulations.
- If rules and regulations in Iowa are beyond the scope of the federal government or any other state near us, we are putting our state at a competitive disadvantage when it comes to jobs.

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It is our recommendation that a full-time effort be consistently applied toward Iowa's rule and regulatory climate to make it more hospitable.

- Iowa's Administrative Code continues to grow substantially month after month and it is difficult for everyday Iowans to keep up on all of the new rules and regulations.
- There needs to be a full-time effort in place to coordinate with stake holders, rule promulgators, affected parties, the public and lawmakers to determine if rules are consistent with the state's economic development goals, the best industry practices, our competitiveness with other states, and ensure rules are not stricter than the federal rules.

It is our recommendation that an extensive study be commissioned by the Iowa Legislature detailing what the projected financial effects of current and proposed EPA and DNR rules and regulations on Iowa cities over a ten year period.

- Our proposed study would gather analysis on the projected financial costs of rules and regulations promulgated by the DNR and EPA on a hypothetical small Iowa community, a medium sized Iowa community and a larger Iowa community.
- Though we have already heard from specific community leaders about how these DNR and EPA rules and regulations are specifically affecting their communities, citizens and businesses; a study on the projected costs that could occur in the next decade if current rules are maintained would be helpful to all communities and citizens.
- We recommend this study be concluded by June 30, 2013 and the results be reported to the Iowa General Assembly and Office of the Governor.

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WHAT HAS ALREADY BEEN ACCOMPLISHED

- Governor Branstad signed an Executive Order rescinding the onerous and expensive RICE rules this spring; however the federal RICE rules are still in effect and need to be dealt with.
- Governor Branstad has signed an Executive Order requiring cost-benefit analysis and jobs-impact statement accompany all new rules and regulations promulgated by the agencies of state government.
- Goat Dairy and Creamery
 - A small dairy in southwest Iowa that made cheese out of goat milk was required to capture the liquid-waste by product of the cheese making process – water and curd – and dispose of it as industrial waste. The dairy, which had just 20 goats, was held to the same regulatory standards as a large company such as Maytag and was required to purchase a \$20,000 piece of equipment to comply with industrial waste disposal requirements.
 - The burden was on the dairy to disprove they fell under the requirement and the subjective interpretation was applied without regard to economic consequences.
 - SF 321 corrected this issue and was signed by Governor Branstad at this dairy's location.
- Exempt from sales tax clay pigeons sold at target ranges
 - Shooting ranges were paying sales tax on the targets when they purchased them, but were also required to charge the customer sales tax. This was double-taxing a product and resulting in economic loss to the range.
 - House & Senate Republicans worked with the Department of Revenue to look at how the rules were being interpreted. The findings concluded that the past interpretation was incorrect, and that the ranges should not pay tax on the clay targets but the end consumer of them should.