

LSA Rules Analysis Report to ARRC on 2021 Iowa Acts: Outstanding Required Rulemaking

This attachment includes the LSA's analysis of each bill from the 2021 legislative session that was determined to require rulemaking by your agency for which all required rulemaking has not commenced or for which the ARRC has not received a response from your agency. Some bills may require multiple instances of rulemaking by one agency or rulemaking by other agencies as well.

Each bill section was analyzed. Bills sections that were determined not to involve rulemaking by your agency, or for which rulemaking is authorized but not required or for which the LSA was unable to clearly determine whether rulemaking might be required are omitted from the charts below. Bill sections for which rulemaking was found to be required, described as "rules required," are the subject of this inquiry. Please provide responses as described in the email from ARRC staff.

Note on limitations of LSA analysis

The LSA does not have the legal authority to make definitive determinations regarding rulemaking by executive branch agencies. It is the responsibility of an agency that is delegated rulemaking authority to determine whether and how to exercise that authority in order to comply with the requirements of an enacted bill. Furthermore, LSA staff who conducted these analyses may not have the level of expertise regarding the intricacies of each agency's rulemaking authority that agency personnel do. Agency personnel have not been given an opportunity before now to view or respond to the LSA's analysis on these bills. Therefore, the results of the LSA's analysis should not be viewed as binding upon executive branch agencies. Agency personnel may interpret the language of a bill differently than the LSA does.

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Iowa Code §17A.4(9)

9. a. If a provision of an Act of the general assembly expressly requires rulemaking by an agency, or if another statute that governs or is directly related to a provision of an Act of the general assembly expressly requires rulemaking by an agency, the agency shall make one of the following submissions regarding such rulemaking within one hundred eighty days of the date on which the provision becomes effective:

(1) Submit a notice of intended action to the administrative rules coordinator and the administrative code editor pursuant to subsection 1.

(2) Submit written notification to the administrative rules review committee that the agency has not submitted a notice of intended action to the administrative rules coordinator and the administrative code editor pursuant to subsection 1. The notification shall include the provision of the Act of the general assembly for which rulemaking is required, the subject matter of the provision, an explanation of the delay in the submission of a notice of intended action, and an estimated timeline for submission of a notice of intended action.

b. This subsection shall not be construed to prohibit an agency from conducting rulemaking relating to a provision of an Act of the general assembly for which a submission was not made pursuant to paragraph "a". This subsection shall not be construed to prohibit an agency from conducting additional rulemaking subsequent to completion of any rulemaking for which a submission was made pursuant to paragraph "a".

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HF 201

Act Section Relating to Rulemaking	Rules Analyses	Rulemaking Agency	Code Section Relating to Rulemaking in Act	Code Section Relating to Rulemaking Not in Act, if any	Current Agency Rules in IAC, if any	ARC# or other status
1	Rules required	Public Safety Department	692A.102.1.c.(033)		661.83.2	