

HOUSE BILL

41

HOUSE BILL 41

Title: AN ACT to amend W.S. 9-4-114(c) introductory paragraph relating to judicial review of administrative rules and actions; providing administrative rules shall not be presumed valid; providing exceptions; and providing for an effective date.

Introduced by:

Russ J. Kelly
Grant L. Sander

Grant L. Sander

DATE	ACTION	DATE	ACTION
FEB 18 1980	Motion to Introduce PASSED 49 Yea 10 Nay 2 Absent	2/26/80	STANDING COMM. REPORT AMEND AND DO PASS
	READ FIRST TIME	2/25/80	CONSIDERED ON COM. OF WHOLE
	REFERRED TO COM. ON 10		STANDING COM. AMBT ADOPTED HB 41551-A
	DELETED TO COM. ON 10		DO PASS
FEB 18 1980	RETURNED	2/27/80	READ SECOND TIME
	RECOMMENDED DO PASS 90 Yea		AMENDED AS FOLLOWS HB 41583-A
FEB 18 1980	CONSIDERED IN COM. OF WHOLE	2/29/80	READ THIRD TIME Under Suspension of Rules
	RECOMMENDED DO PASS		PASSED
FEB 20 1980	READ SECOND TIME		AYES 21 NOES 7 EXCUSED 0 ABSENT 2
FEB 21 1980	READ THIRD TIME		SENT TO HOUSE
	ADOPTED		
	ADOPTED	FEB 29 1980	Received Amended
	PASSED 49 Yea 10 Nay 2 Absent		House did concur on Senate Amendments Am. 53 Yea 3 Nay 4 Absent 2
	Sent to Senate		RECEIVED FROM SENATE
2/21/80	RECEIVED FROM HOUSE		SENT TO LSO FOR ENROLLING
	SENT TO LSO FOR ENROLLING		RECEIVED FROM LSO ENROLLED
	RECEIVED FROM LSO ENROLLED		HEA NO. 15
2-21/80	ENGROSSED		SIGNED BY SPOKER 3-1-80
2-22-80	Sent to Senate		SIGNED BY PRESIDENT 3-3-80
2/22/80	Received from House		Vetoed REMOVED BY GOVERNOR 3/10/80
	Read		CHAPTER NO. SESSION LAWS OF WYOMING

Referenced to Com. No. 10
Delivered to Com. No. 10

CONTINUED ON BACK

14
 22A 3rd
 41 ✓
 49 *Suspension Rules* Date 2/29/80
 52 for 3rd reading
 72B **Roll Call of the Senate**
 81 of the FORTY-FIFTH LEGISLATURE
 of Wyoming

	Excused	Absent	Ayes	Noes
1 ARNEY			✓	
0 BOYLE			✓	
9 BUSSART			✓	
8 CHRISTENSEN			✓	
7 CUNDALL			✓	
6 DAILY			✓	
5 DOWNING			✓	
4 FRISBY			✓	
3 GEIS			✓	
2 MAJHANOVICH			✓	
1 MCDANIEL		✓		
0 MOORE			✓	
9 MURRAY			✓	
8 NICHOLAS			✓	
7 NICHOLS			✓	
6 NORRIS			✓	
5 NORTHRUP			✓	
4 NOVOTNY			✓	
3 PARKS			✓	
2 PECK			✓	
1 PROFFIT			✓	
0 RECTOR		✓		
9 SADLER			✓	
8 SEDAR			✓	
7 STAFFORD				
6 STROOCK			✓	
5 TAGGART			✓	
4 TRUE			✓	
3 TURNER			✓	
2 ZIMMER			✓	
1 MR. PRESIDENT			✓	

RESENT _____ AYES 28
 NOES 0
 EXCUSED 0
 ABSENT 2

507 Date 2/15/80

Roll Call of the Senate
of the FORTY-FIFTH LEGISLATURE
of Wyoming

	Excused	Absent	Ayes	Noes
31 ARNEY				☒
30 BOYLE			☒	
29 BUSSART			☒	
28 CHRISTENSEN			☒	
27 CUNDALL			☒	
26 DAILY			☒	☒
25 DOWNING			☒	
24 FRISBY			☒	
23 GEIS			☒	
22 MAJHANOVICH			☒	
21 MCDANIEL				
20 MOORE			☒	
19 MURRAY			☒	
18 NICHOLAS			☒	
17 NICHOLS			☒	
16 NORRIS			☒	
15 NORTHRUP			☒	
14 NOVOTNY				☒
13 PARKS			☒	
12 PECK			☒	
11 PROFFIT				☒
10 RECTOR				
9 SADLER				☒
8 SEDAR				☒
7 STAFFORD				
6 STROOCK				☒
5 TAGGART			☒	
4 TRUE			☒	
3 TURNER			☒	
2 ZIMMER			☒	
1 MR. PRESIDENT			☒	

PRESENT _____

AYES _____

NOES _____

EXCUSED _____

ABSENT _____

9/13 41 Donkey Nelson Concur Date 2/29/80

Roll Call of the House

of the FORTY-FIFTH LEGISLATURE

of Wyoming

	Ayes	Noes	Excused	Absent		Ayes	Noes	Excused	Absent
63 ARNOLD	✓				28 O'NEIL	✓			
62 ASAY	✓				27 ORRISON	✓		✓	
61 BRAGG	✓				26 PERRY	✓			
60 BRYANT	✓				25 PHELAN	✓			
59 BURNETT	✓				24 PROSSER	✓			
58 CHAMBERLAIN	✓				23 ROTH	✓			
57 CROSS	✓				22 SALISBURY	✓			
56 CROWLEY	✓				21 SANDERS	✓			
55 CURRY	✓				20 SCHWOPE	✓			
54 DONLEY	✓				19 C. SCOTT	✓			
53 DUSL	✓				18 D. SCOTT	✓			
52 EDWARDS	✓				17 SHREVE	✓		✓	
51 ESKENS <i>Hypoth</i>	✓	✓			16 SIDI	✓			
50 GARBER	✓				15 SIMONS	✓			
49 GETTER <i>Wallis</i>	✓				14 SMITH	✓			
48 GROPP	✓				13 SPICER	✓			
47 HANSEN	✓				12 STAUFFER	✓			
46 HEMMERT	✓				11 STRAND	✓			
45 HUNTER	✓				10 TARTER	✓			
44 HURSH	✓				9 THORSON	✓			
43 JENNINGS	✓				8 TROWBRIDGE	✓			
42 JENSEN	✓				7 TUGMAN	✓			
41 JONES	✓	✓			6 URBIGKIT	✓			
40 KINNISON	✓				5 VINICH	✓		✓	
39 LARSON	✓				4 WIEDERSPAHN	✓			
38 LUMMIS	✓				3 WILKINS	✓		✓	
37 MacMILLAN	✓				2 WINNINGER	✓			
36 MARTON	✓				1 MR. SPEAKER	✓			
35 McILVAIN	✓				PRESENT _____ AYES <u>55</u> NOES <u>3</u> EXCUSED <u>4</u> ABSENT _____ TOTAL <u>62</u> LESS <u>7</u>				
34 McMILLAN	✓								
33 MEENAN	✓	✓							
32 MICHELI	✓								
31 MICHIE	✓								
30 MORTON	✓								
29 MURPHY	✓								

#

Date

2/21/80

Roll Call of the House

of the FORTY-FIFTH LEGISLATURE

of Wyoming

	Ayes	Noes	Excused	Absent		Ayes	Noes	Excused	Absent
63 ARNOLD	✓				28 O'NEIL	✓			
62 ASAY	✓				27 ORRISON	✓			
61 BRAGG	✓				26 PERRY	✓			
60 BRYANT	✓				25 PHELAN	✓			
59 BURNETT	✓				24 PROSSER	✓			
58 CHAMBERLAIN	✓				23 ROTH	✓			
57 CROSS	✓				22 SALISBURY	✓			
56 CROWLEY	✓				21 SANDERS	✓			
55 CURRY	✓				20 SCHWOPE	✓			
54 DONLEY	✓				19 C. SCOTT	✓			
53 DUSL	✓				18 D. SCOTT	✓			
52 EDWARDS	✓				17 SHREVE	✓			
51 ESKENS Hyatt	✓				16 SIDI	✓			
50 GARBER	✓				15 SIMONS	✓			
49 GETTER Wallis	✓				14 SMITH	✓			
48 GROPP	✓				13 SPICER	✓			
47 HANSEN	✓				12 STAUFFER	✓			
46 HEMMERT	✓				11 STRAND	✓			
45 HUNTER	✓				10 TARTER	✓			
44 HURSH	✓				9 THORSON	✓			
43 JENNINGS	✓				8 TROWBRIDGE	✓			
42 JENSEN	✓				7 TUGMAN	✓			
41 JONES	✓				6 URBIGKIT	✓			
40 KINNISON	✓				5 VINICH	✓			
39 LARSON	✓				4 WIEDERSPAHN	✓			
38 LUMMIS	✓				3 WILKINS	✓			
37 MacMILLAN	✓				2 WINNINGER	✓			
36 MARTON	✓				1 MR. SPEAKER	✓			
35 McILVAIN	✓								
34 McMILLAN	✓								
33 MEENAN	✓								
32 MICHELI	✓								
31 MICHIE	✓								
30 MORTON	✓								
29 MURPHY	✓								

PRESENT

AYES 59

NOES 2

EXCUSED 1

ABSENT

TOTAL 62

LESS

#

98341

Honley Motion to Introduce

Date

8/1

Roll Call of the House

of the FORTY-FIFTH LEGISLATURE

of Wyoming

	Ayes	Noes	Excused	Absent		Ayes	Noes	Excused	Abs
63 ARNOLD	✓				28 O'NEIL	✓			
62 ASAY	✓				27 ORRISON	✓			
61 BRAGG	✓				26 PERRY	✓			
60 BRYANT	✓				25 PHELAN	✓			
59 BURNETT	✓				24 PROSSER	✓			
58 CHAMBERLAIN <i>Alon</i>				✓	23 ROTH		✓		
57 CROSS	✓				22 SALISBURY	✓			
56 CROWLEY	✓				21 SANDERS	✓			
55 CURRY	✓				20 SCHWOPE	✓			
54 DONLEY	✓				19 C. SCOTT	✓			
53 DUSL	✓				18 D. SCOTT				
52 EDWARDS	✓				17 SHREVE	✓			
51 ESKENS <i>Hyatt</i>	✓				16 SIDI	✓			
50 GARBER	✓				15 SIMONS	✓			
49 GETTER <i>Wallis</i>	✓				14 SMITH	✓			
48 GROPP			✓		13 SPICER	✓			
47 HANSEN	✓				12 STAUFFER	✓			
46 HEMMERT	✓				11 STRAND	✓			
45 HUNTER	✓				10 TARTER	✓			
44 HURSH		✓			9 THORSON	✓			
43 JENNINGS	✓				8 TROWBRIDGE				
42 JENSEN	✓				7 TUGMAN	✓			
41 JONES	✓				6 URBIGKIT				
40 KINNISON		✓			5 VINICH				
39 LARSON		✓			4 WIEDERSPAHN	✓			
38 LUMMIS	✓				3 WILKINS <i>OK</i>				✓
37 MacMILLAN		✓			2 WINNINGER	✓			
36 MARTON	✓				1 MR. SPEAKER	✓			
35 McILVAIN	✓								
34 McMILLAN	✓								
33 MEENAN	✓								
32 MICHELI	✓								
31 MICHIE	✓								
30 MORTON									
29 MURPHY	✓								

PRESENT

AYES

49

NOES

10

EXCUSED

2

ABSENT

1

TOTAL

62

LESS

13

49

2ND READING

Date 2/29/80 N/A

MR. PRESIDENT:

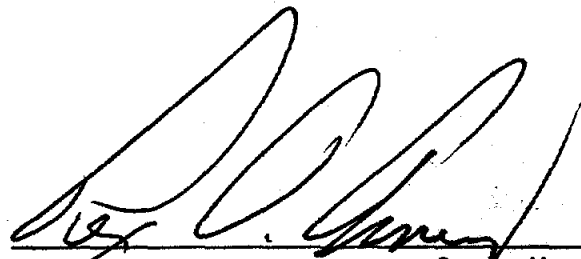
MR. CHAIRMAN:

I move that HB 41 be amended to read as follows:

HB 41522-A
Delete Senate Standing Committee
Amendment (HB41SS1/A).

Approved by Senate Attorney
into 2-29-80
TR

HB41522/a:0


Senate Member

1980

STATE OF WYOMING

80LSO-052/eng

HOUSE BILL NO. 41

Review of administrative decisions.

Sponsored by: Representatives DONLEY, SANDERS and JONES

A BILL

for

1 AN ACT to amend W.S. 9-4-114(c) introductory paragraph
2 relating to judicial review of administrative rules and
3 actions; providing administrative rules shall not be pre-
4 sumed valid; providing exceptions; and providing for an
5 effective date.

6 Be It Enacted by the Legislature of the State of Wyoming:

7 Section 1. W.S. 9-4-114(c) introductory paragraph is
8 amended to read:

9 9-4-114. Judicial review by district courts; rules
10 of supreme court to govern; scope of review.

1 (c) To the extent necessary to make a decision and
2 when presented, the reviewing court shall decide all rele-
3 vant questions of law, interpret constitutional and statu-
4 tory provisions, and determine the meaning or applicabil-
5 ity of the terms of an agency action. THERE SHALL BE NO
6 PRESUMPTION THAT ANY RULE OR REGULATION OF ANY AGENCY IS
7 VALID. IF THE VALIDITY OF ANY RULE OR REGULATION IS DRAWN
8 IN QUESTION IN ANY WYOMING COURT, THE COURT SHALL NOT
9 UPHOLD THE VALIDITY OF THE CHALLENGED RULE OR REGULATION
10 UNLESS THE VALIDITY IS SHOWN EXCEPT AS HEREAFTER PROVIDED.
11 IF ANY RULE OR REGULATION IS SET UP AS A DEFENSE TO ANY
12 CRIMINAL PROSECUTION OR ACTION FOR CIVIL PENALTY, THE RULE
13 OR REGULATION SHALL BE PRESUMED VALID UNTIL THE PARTY INI-
14 TIATING THE CRIMINAL PROSECUTION OR ACTION FOR CIVIL PEN-
15 ALTY SUSTAINS THE BURDEN OF PROOF NORMALLY APPLICABLE IN
16 SUCH ACTIONS. In making the following determinations, the
17 court shall review the whole record or those parts of it
18 cited by a party and due account shall be taken of the
19 rule of prejudicial error. The reviewing court shall:

20 Section 2. This act is effective June 2, 1980.

21 (END)

THE LEGISLATURE OF THE STATE OF WYOMING

Senate

Cheyenne, February 26, 1980

Mr. President:

Your Committee No. 10 on LABOR AND FEDERAL RELATIONS
 to whom was referred H. B. No. 41

respectfully reports same back to the Senate with the recommendation that

IT DO PASS AS AMENDED

HB 41551-A

To the Engrossed Copy

page 2, line 2 After "decide" insert "DE NOVO"

AYES: Moore, Downing, Zimmer, Rector
 NOES: Proffit

Chairman

Russell Zimmer

2-26-80

a.a

HB 41551/a:0

THE LEGISLATURE OF THE STATE OF WYOMING

Senate

Cheyenne, February 26, 1980

Mr. President:

Your Committee No. 10 on LABOR AND FEDERAL RELATIONS

to whom was referred H. B. No. 41

HB 41 SS-1

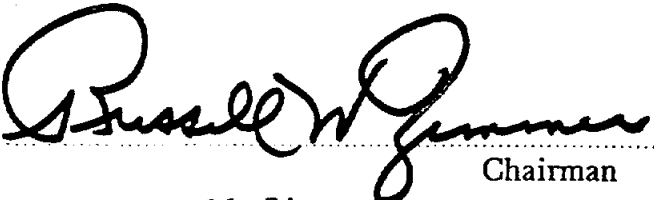
respectfully reports same back to the Senate with the recommendation that

IT DO PASS AS AMENDED

To the Engrossed Copy

page 2, line 2 After "decide" insert "DE NOVO"

AYES: Moore, Downing, Zimmer, Rector
 NOES: Proffit


 Russell Zimmer Chairman

Russell Zimmer

Chairman

HB 41 SS-1

HB 41

✓ HB41H32/A

✓ Page 2-line 2

Delete "DE NOVO".
-URBIGKIT

MS

ADOPTED

T.S. 2-20-80

✓ HB41H31/A

✓ Page 2-line 10

Delete "CLEARLY AND CONVINCINGLY"
-URBIGKIT

#

ADOPTED

H.B. 41

*deleted by
HB41522/A*
HB41SS1/A ✓

TO THE ENGROSSED COPY

Page 2-line 2 After "decide" insert "DE NOVO". -Zimmer

HB41S22/A ✓

✓ TO THE ENGROSSED BILL

Delete senate standing committee amendment (HB41SS1/A).
-ARNEY

House of Intro
To Com No. _____
Stand Report Do _____ Amd _____ Not _____
Com Whole Do _____ Amd _____ Not _____
2nd Reading Amd _____
3rd Reading Amd _____ Pass _____ Fail _____

Second House
To Com No. _____
Stand Report Do _____ Amd _____ Not _____
Com Whole Do _____ Amd _____ Not _____
2nd Reading Amd _____
3rd Reading Amd _____ Pass _____ Fail _____

1980

STATE OF WYOMING

80LSO-052.01

HOUSE BILL NO. 41

Review of administrative decisions.

INTRODUCED

Sponsored by: Representative DONLEY

Donley

Thomas F. Hogg
Secretary

A BILL

for

1 AN ACT to amend W.S. 9-4-114(c) introductory paragraph
2 relating to judicial review of administrative rules and
3 actions; providing administrative rules shall not be pre-
4 sumed valid; providing exceptions; and providing for an
5 effective date.

6 Be It Enacted by the Legislature of the State of Wyoming:

7 Section 1. W.S. 9-4-114(c) introductory paragraph is
8 amended to read:

9 9-4-114. Judicial review by district courts; rules
10 of supreme court to govern; scope of review.

1 (c) To the extent necessary to make a decision and
2 when presented, the reviewing court shall decide DE NOVO
3 all relevant questions of law, interpret constitutional
4 and statutory provisions, and determine the meaning or
5 applicability of the terms of an agency action. THERE
6 SHALL BE NO PRESUMPTION THAT ANY RULE OR REGULATION OF ANY
7 AGENCY IS VALID. IF THE VALIDITY OF ANY RULE OR REGULATION
8 IS DRAWN IN QUESTION IN ANY WYOMING COURT, THE COURT SHALL
9 NOT UPHOLD THE VALIDITY OF THE CHALLENGED RULE OR REGULA-
10 TION UNLESS THE VALIDITY IS CLEARLY AND CONVINCINGLY SHOWN
11 EXCEPT AS HEREAFTER PROVIDED. IF ANY RULE OR REGULATION
12 IS SET UP AS A DEFENSE TO ANY CRIMINAL PROSECUTION OR
13 ACTION FOR CIVIL PENALTY, THE RULE OR REGULATION SHALL BE
14 PRESUMED VALID UNTIL THE PARTY INITIATING THE CRIMINAL
15 PROSECUTION OR ACTION FOR CIVIL PENALTY SUSTAINS THE
16 BURDEN OF PROOF NORMALLY APPLICABLE IN SUCH ACTIONS. In
17 making the following determinations, the court shall
18 review the whole record or those parts of it cited by a
19 party and due account shall be taken of the rule of preju-
20 dicial error. The reviewing court shall:

1 Section 2. This act is effective June 2, 1980.

2 (END)

FISCAL NOTE

Anticipated <u>REVENUE</u> to:	Fiscal Year 19	
TOTAL ESTIMATED REVENUE		
Anticipated <u>COST</u> to:	Fiscal Year 19	
TOTAL ESTIMATED COST		

No apparent fiscal or personnel impact.

THE LEGISLATURE OF THE STATE OF WYOMING

House of Representatives

Cheyenne, February 16, 1980

Mr. Speaker:

Your Committee No. 10 on Labor, Health and Social Services

to whom was referred HB No. 41

respectfully reports same back to the House with the recommendation that it DO PASS.

AYES

Bryant
Garber
Marton
McMillan
Murphy
Hyatt
Phelan
Schwope
Sanders

Grant L. Sanders

Grant L. Sanders,

Chairman

Message No. 35



Mr. Speaker:

February 29, 1980

The House Bill listed below passed under suspension of rules on third reading in an amended form by the vote indicated.

H.B. No. 041 Review of administrative decisions.

HB41SS1/A

TO THE ENGROSSED COPY

Page 2-line 2 After "decide" insert "DE NOVO". -Zimmer

HB41S22/A

TO THE ENGROSSED BILL

Delete senate standing committee amendment (HB41SS1/A).
-ARNEY

Ayes 21 Noes 7 Excused 0 Absent 2

The Senate respectfully asks the House to concur by adopting the listed amendments.

Sincerely,

A handwritten signature in cursive script, reading "Nelson E. Wren, Jr.".

Signed: Nelson E. Wren, Jr.
Senate Chief Clerk

NEW:jh