

Fifty-sixth  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO.

Introduced by

Representative Skarphol

1 A BILL for an Act to create and enact section 28-32-03.4 of the North Dakota Century Code,  
2 relating to authority of the administrative rules committee to call up existing administrative rules  
3 for review; to amend and reenact subsection 1 of section 28-32-03.3 of the North Dakota  
4 Century Code, relating to authority of the administrative rules committee to void or object to  
5 administrative rules; and to provide an effective date.

### 6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Subsection 1 of section 28-32-03.3 of the 1997  
8 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 9 1. The legislative council's committee on administrative rules may find that all or any  
10 portion of a rule is void if that finding is made within ninety days after the rule is  
11 called up for review under section 28-32-03.4, that rule is initially considered by the  
12 committee within ninety days after the date of the administrative code supplement  
13 in which the rule change appears, or, for rule changes appearing in the  
14 administrative code supplement from November first immediately preceding a  
15 regular session of the legislative assembly through the following May first, if that  
16 rule is initially considered by the committee at the first meeting of the administrative  
17 rules committee following the regular session of the legislative assembly. The  
18 committee on administrative rules may find a rule or portion of a rule void if the  
19 committee makes the specific finding that, with regard to that rule or portion of a  
20 rule, there is:
- 21 a. An absence of statutory authority.
  - 22 b. An emergency relating to public health, safety, or welfare.
  - 23 c. A failure to comply with express legislative intent or to substantially meet the  
24 procedural requirements of this chapter for adoption of the rule.

- d. A conflict with state law.
- e. Arbitrariness and capriciousness.
- f. A failure to make a written record of its consideration of written and oral submissions respecting the rule under subsection 3 of section 28-32-02.

**SECTION 2. AMENDMENT.** Subsection 1 of section 28-32-03.3 of the North Dakota Century Code as amended by section 4 of chapter 310 of the 1995 Session Laws as amended by section 2 of chapter 279 of the 1997 Session Laws is amended and reenacted as follows:

1. The legislative council's committee on administrative rules may find, for any reason under this subsection, that all or any portion of a rule should be reviewed by the legislative assembly, and the committee may suspend the rule or portion of a rule under this subsection if the suspension is made within ninety days after the rule is called up for review under section 28-32-03.4, the rule is initially considered by the committee within ninety days after the date of the administrative code supplement in which the rule change appears or, for rule changes appearing in the administrative code supplement from November first immediately preceding a regular session of the legislative assembly through the following May first, if that rule is initially considered by the committee at the first meeting of the administrative rules committee following the regular session of the legislative assembly. A rule or a portion of a rule suspended under this subsection becomes permanently ineffective unless it is ratified by both houses of the legislative assembly during the next session of the legislative assembly, in which case it is effective as of the date of ratification by the second house of the legislative assembly. An agency seeking ratification of its rule shall introduce a bill for that purpose. The committee on administrative rules may suspend a rule or portion of a rule if the committee specifically finds that, with regard to the rule, there is:
  - a. An absence of statutory authority.
  - b. An emergency relating to public health, safety, or welfare.
  - c. A failure to comply with express legislative intent or to substantially meet the procedural requirements of this chapter for adoption of the rule.
  - d. A conflict with state law.
  - e. Arbitrariness and capriciousness.

f. A failure to make a written record of its consideration of written and oral submissions respecting the rule under subsection 3 of section 28-32-02.

**SECTION 3.** Section 28-32-03.4 of the North Dakota Century Code is created and enacted as follows:

**28-32-03.4. Administrative rules called up for review.** The administrative rules committee may call an administrative rule up for review upon at least thirty days' prior notice to the adopting agency of the time the committee will consider the rule. The committee shall notify the adopting agency of the reason the rule is called up for review and the adopting agency shall provide a written response to the committee's expressed concerns. A rule called up for review under this section is subject to the authority of the administrative rules committee under section 28-32-03.3.

**SECTION 4. EFFECTIVE DATE.** Sections 1 and 3 of this Act are effective for administrative rules called up for review by the administrative rules committee after July 31, 1999. Section 2 of this Act is suspended from operation, but becomes effective retroactive to August 1, 1997, upon a ruling by the North Dakota supreme court that any portion of subsection 1 of section 28-32-03.3 as created by section 3 of chapter 310 of the 1995 Session Laws, and as it is subsequently amended, is unconstitutional.