

Fifty-seventh  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1028

Introduced by

Legislative Council

(Administrative Rules Committee)

1 A BILL for an Act to amend and reenact subsection 6 of section 28-32-02 of the North Dakota  
2 Century Code or in the alternative to amend and reenact section 28-32-03 of the North Dakota  
3 Century Code, relating to authorization by the administrative rules committee before  
4 administrative rules may be effective on an emergency basis; and to provide an effective date.

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

6 **SECTION 1. AMENDMENT.** If House Bill No. 1030 does not become effective,  
7 subsection 6 of section 28-32-02 of the 1999 Supplement to the North Dakota Century Code is  
8 amended and reenacted as follows:

9 6. a. If the agency finds that emergency rulemaking is necessary ~~because of~~  
10 ~~imminent peril to the public health, safety, or welfare, because a delay in~~  
11 ~~rulemaking is likely to cause a loss of revenues appropriated to support a duty~~  
12 ~~imposed by law upon the agency, or because reasonably necessary to avoid~~  
13 ~~a delay in implementing an appropriations measure,~~ the agency may declare  
14 the proposed rule to be an interim final rule effective on a date no earlier than  
15 the date of filing with the legislative council of the notice required by  
16 subsection 4. Within one hundred twenty days after the declared effective  
17 date of the proposed rule, the agency shall obtain approval from the  
18 administrative rules committee that any of the grounds in subdivision b exists  
19 for giving the rule effect on an emergency basis. If the administrative rules  
20 committee does not approve that any ground exists for emergency  
21 effectiveness of the rule, the agency may proceed with adoption of the rule  
22 and it will become effective at the time provided in subsection 2 of section  
23 28-32-03.

b. A proposed rule may be given effect on an emergency basis under this subsection if any of the following grounds exists regarding that rule:

(1) Imminent peril threatens public health, safety, or welfare, which would be abated by emergency effectiveness;

(2) A delay in the effective date of the rule is likely to cause a loss of funds appropriated to support a duty imposed by law upon the agency;

(3) Emergency effectiveness is reasonably necessary to avoid a delay in implementing an appropriations measure; or

(4) Emergency effectiveness is necessary to meet a mandate of federal law.

c. A final rule adopted after consideration of all written and oral submissions respecting the interim final rule, which is substantially similar to the interim final rule, is effective as of the declared effective date of the interim final rule.

d. The agency's finding, and a brief statement of the reasons therefor, must be filed with the office of the legislative council, along with any final rule adopted.

e. The agency shall take appropriate measures to make interim final rules known to every person who may be affected by them.

f. An interim final rule is ineffective one hundred eighty days after its declared effective date unless first adopted as a final rule.

**SECTION 2. AMENDMENT.** Section 28-32-03 of the North Dakota Century Code as created by House Bill No. 1030, as approved by the Fifty-seventh Legislative Assembly, is amended and reenacted as follows:

**28-32-03. Emergency rules.**

1. If the agency finds that emergency rulemaking is necessary ~~because of imminent peril to the public health, safety, or welfare because a delay in rulemaking is likely to cause loss of revenues appropriated to support a duty imposed by law upon the agency or because reasonably necessary to avoid a delay in implementing an appropriations measure,~~ the agency may declare the proposed rule to be an interim final rule effective on a date no earlier than the date of filing with the legislative council of the notice required by section 28-32-10. Within one hundred twenty days after the declared effective date of the proposed rule, the agency shall

1           obtain approval from the administrative rules committee that any of the grounds in  
2           subsection 2 exists for giving the rule effect on an emergency basis. If the  
3           administrative rules committee does not approve that any ground exists for  
4           emergency effectiveness of the rule, the agency may proceed with adoption of the  
5           rule and it will become effective at the time provided in subsection 2 of section  
6           28-32-15.

7           2. A proposed rule may be given effect on an emergency basis under this section if  
8           any of the following grounds exists regarding that rule:

9           a. Imminent peril threatens public health, safety, or welfare, which would be  
10           abated by emergency effectiveness;

11           b. A delay in the effective date of the rule is likely to cause a loss of funds  
12           appropriated to support a duty imposed by law upon the agency;

13           c. Emergency effectiveness is reasonably necessary to avoid a delay in  
14           implementing an appropriations measure; or

15           d. Emergency effectiveness is necessary to meet a mandate of federal law.

16           3. A final rule adopted after consideration of all written and oral submissions  
17           respecting the interim final rule, which is substantially similar to the interim final  
18           rule, is effective as of the declared effective date of the interim final rule.

19           4. The agency's finding, and a brief statement of the reasons for the finding, must be  
20           filed with the office of the legislative council, with the final adopted rule.

21           5. The agency shall take appropriate measures to make interim final rules known to  
22           every person who may be affected by them.

23           6. An interim final rule is ineffective one hundred eighty days after its declared  
24           effective date unless first adopted as a final rule.

25           **SECTION 3. EFFECTIVE DATE.** This Act is effective for administrative rules for which

26           the notice of rulemaking is filed with the office of the Legislative Council after July 31, 2001.