

Sixty-second
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1162

Introduced by

Representative Keiser

Senator Klein

1 A BILL for an Act to create and enact section 28-32-08.2 of the North Dakota Century Code,
2 relating to fiscal notes for agency rules; to amend and reenact subsection 5 of section 28-32-03,
3 subsection 1 of section 28-32-10, and subsection 2 of section 28-32-18 of the North Dakota
4 Century Code, relating to notice of emergency rulemaking and the administrative rules
5 committee carrying over consideration of administrative rules; and to provide an effective date.

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

7 **SECTION 1. AMENDMENT.** Subsection 5 of section 28-32-03 of the North Dakota Century
8 Code is amended and reenacted as follows:

9 5. The agency shall take appropriate measures to make interim final rules known to
10 every person who may be affected by them, including compliance with the notice
11 requirements of section 28-32-10 which relate to emergency rules and providing notice
12 to the chairman of the administrative rules committee of the emergency status,
13 declared effective date, and grounds for emergency status of the rules under
14 subsection 2.

15 **SECTION 2.** Section 28-32-08.2 of the North Dakota Century Code is created and enacted
16 as follows:

17 **Fiscal notes for administrative rules.**

18 When an agency presents rules for administrative rules committee consideration, the
19 agency shall provide a fiscal note or a statement in its testimony that the rules have no fiscal
20 effect. A fiscal note must reflect the effect of the rules changes on state revenues and
21 expenditures, including any effect on funds controlled by the agency.

22 **SECTION 3. AMENDMENT.** Subsection 1 of section 28-32-10 of the North Dakota Century
23 Code is amended and reenacted as follows:

24 1. An agency shall prepare a full notice and an abbreviated notice of rulemaking.

- 1 a. The agency's full notice of the proposed adoption, amendment, or repeal of a rule
2 must include a short, specific explanation of the proposed rule and the purpose of
3 the proposed rule, identify the emergency status and declared effective date of
4 any emergency rules, include a determination of whether the proposed
5 rulemaking is expected to have an impact on the regulated community in excess
6 of fifty thousand dollars, identify at least one location where interested persons
7 may review the text of the proposed rule, provide the address to which written
8 comments concerning the proposed rule may be sent, provide the deadline for
9 submission of written comments, provide a telephone number and post-office or
10 electronic mail address at which a copy of the rules and regulatory analysis may
11 be requested, and, in the case of a substantive rule, provide the time and place
12 set for each oral hearing. The agency's full notice must be filed with the
13 legislative council, and the agency shall request publication of an abbreviated
14 newspaper publication notice at least once in each official county newspaper
15 published in this state. The notice filed with the legislative council must be
16 accompanied by a copy of the proposed rules.
- 17 b. The abbreviated newspaper publication of notice must be in a display-type format
18 with a minimum width of one column of approximately two inches
19 [5.08 centimeters] and a depth of from three inches [7.62 centimeters] to four
20 inches [10.16 centimeters] with a headline describing the general topic of the
21 proposed rules. The notice must also include the telephone number or address to
22 use to obtain a copy of the proposed rules, identification of the emergency status
23 and declared effective date of any emergency rules, the address to use and the
24 deadline to submit written comments, and the location, date, and time of the
25 public hearing on the rules.

26 **SECTION 4. AMENDMENT.** Subsection 2 of section 28-32-18 of the North Dakota Century
27 Code is amended and reenacted as follows:

- 28 2. The administrative rules committee may find a rule void at the meeting at which the
29 rule is initially considered by the committee or may hold consideration of that rule for
30 one subsequent meeting. If no representative of the agency appears before the
31 administrative rules committee when rules are scheduled for committee consideration,

1 those rules are held over for consideration at the next subsequent committee meeting.

2 Within three business days after the administrative rules committee finds that a rule is
3 void, the legislative council shall provide written notice of that finding and the
4 committee's specific finding under subdivisions a through f of subsection 1 to the
5 adopting agency and to the chairman of the legislative management. Within fourteen
6 days after receipt of the notice, the adopting agency may file a petition with the
7 chairman of the legislative management for review by the legislative management of
8 the decision of the administrative rules committee. If the adopting agency does not file
9 a petition for review, the rule becomes void on the fifteenth day after the notice from
10 the legislative council to the adopting agency. If within sixty days after receipt of the
11 petition from the adopting agency the legislative management has not disapproved by
12 motion the finding of the administrative rules committee, the rule is void.

13 **SECTION 5. EFFECTIVE DATE.** Sections 1 and 3 of this Act are effective for rules for
14 which the notice of rulemaking is filed with the legislative council after July 31, 2011. Sections 2
15 and 4 of this Act are effective for rules scheduled for administrative rules committee review after
16 July 31, 2011.