

FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1368

Introduced by

Representatives Koppelman, Kasper, Louser

Senators Clemens, Cory, Lemm, Magrum, Myrdal, Paulson

1 A BILL for an Act to amend and reenact section 28-32-18 of the North Dakota Century Code,
2 relating to voiding and amending administrative rules by the administrative rules committee.

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

4 **SECTION 1. AMENDMENT.** Section 28-32-18 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **28-32-18. Administrative rules committee may void rule - Grounds - Amendment by**
7 **agreement of agency and committee.**

8 1. The legislative management's administrative rules committee may find that all or any
9 portion of a rule is void if that rule is initially considered by the committee not later than
10 the fifteenth day of the month before the date of the administrative code supplement in
11 which the rule change is scheduled to appear. The administrative rules committee may
12 find a rule or portion of a rule void if the committee makes the specific finding that, with
13 regard to that rule or portion of a rule, there is:

14 a. An absence of statutory authority.

15 b. An emergency relating to public health, safety, or welfare.

16 c. A failure to comply with express legislative intent or to substantially meet the
17 procedural requirements of this chapter for adoption of the rule.

18 d. A conflict with state law.

19 e. Arbitrariness ~~and~~ capriciousness.

20 f. A failure to make a written record of its consideration of written and oral
21 submissions respecting the rule under section 28-32-11.

22 g. An absence of necessity.

- 1 h. An absence of reasonableness.
- 2 2. The administrative rules committee may find a rule void at the meeting at which the
3 rule is initially considered by the committee or may hold consideration of that a rule for
4 one subsequent meeting.
- 5 3. If no representative of the agency appears before the administrative rules committee
6 when:
- 7 a. When rules are scheduled for committee consideration, ~~these~~the rules are held
8 over for consideration at the next subsequent committee meeting. Rules are not
9 considered initially considered by the committee under this subsection until a
10 representative of the agency appears before the administrative rules committee
11 when the rules are scheduled for committee consideration. If no representative of
12 the agency appears before the administrative rules committee meeting
- 13 b. Meeting to which rules are held over for consideration, the:
- 14 (1) The rules are void if the rules were adopted as emergency rules and for
15 rules not adopted as emergency rules the; or
- 16 (2) The administrative rules committee may void the rules, allow the rules to
17 become effective, or hold over consideration of the rules to the next
18 subsequent committee meeting.
- 19 4. Within three business days after the administrative rules committee finds that a rule is
20 void, the legislative council shall provide written notice of that finding and the
21 committee's specific finding under ~~subdivisions a through f~~subdivision b of
22 subsection 1 to the adopting agency and to the chairman of the legislative
23 management.
- 24 5. Within fourteen days after receipt of the notice, the adopting agency may file a petition
25 with the chairman of the legislative management for review by the legislative
26 management of the decision of the administrative rules committee. If the adopting
27 agency does not file a petition for review, the rule becomes void on the fifteenth day
28 after the notice from the legislative council to the adopting agency. If within sixty days
29 after receipt of the petition from the adopting agency the legislative management has
30 not disapproved by motion the finding of the administrative rules committee, the rule is
31 void.

- 1 ~~3.6.~~ The committee may amend or repeal a rule or create a related rule if, after
2 consideration of rules by the administrative rules committee, the representative from
3 the agency and committee agree that the rule amendment, repeal, or creation is
4 ~~necessary to address any of the considerations under subsection 1~~ reasonable.
- 5 7. A rule amended, repealed, or created under ~~this subsection is~~ subsection 6:
- 6 a. Is not subject to the other requirements of this chapter relating to adoption of
7 administrative rules ~~and may~~.
- 8 b. May be published by the legislative council as amended, repealed, or created. ~~If~~
9 ~~requested by the agency or any interested party, a rule amended, repealed, or~~
10 ~~created under this subsection must~~
- 11 c. Must be reconsidered by the administrative rules committee at a subsequent
12 meeting at which public comment on the agreed rule change must be allowed, if
13 requested by the agency or an interested party.