

DEC 03 2009



**STATE
HISTORICAL
SOCIETY
OF NORTH DAKOTA**

John Hoeven
Governor of North Dakota

December 3, 2009

North Dakota
State Historical Board

TO: Senator Jerry Klein, Chairman, and Members of the Administrative Rules Committee

Chester E. Nelson, Jr.
Bismarck - President

FR: Merl Paaverud, Director, State Historical Society of North Dakota
Al Jaeger, Secretary of State, Member of the State Historical Board

Gereld Gertholz
Valley City - Vice President

RE: Request permission to repeal of Chapter 40-01-01 of the Administrative Code

Richard Kloubec
Fargo - Secretary

Albert I. Berger
Grand Forks

Calvin Grinnell
New Town

Diane K. Larson
Bismarck

A. Ruric Todd III
Jamestown

Sara Otte Coleman
Director
Tourism Division

Kelly Schmidt
State Treasurer

Alvin A. Jaeger
Secretary of State

Douglass Prchal
Director
Parks and Recreation Department

Francis Ziegler
Director
Department of Transportation

Merlan E. Paaverud, Jr.
Director

Accredited by the
American Association
of Museums

Under the provisions of N.D.C.C. § 28-32-18.1(2)(c), the State Historical Society and the State Historical Board requests the committee's approval to repeal Chapter 40-01-01 of the North Dakota Administrative Code. A motion authorizing this request was unanimously approved by the State Historical Board in its regular meeting held on December 2, 2009.

The chapter is titled, Organization of Board. It is obsolete; it is redundant because it includes the text of laws that already appear in the Century Code; it is no longer accurate; it does not pertain to the regulatory functions of the agency; and "no detriment would result to the substantive rights of the regulated community" from its repeal.

The chapter contains history, which is readily available from other sources. Several portions of the text do not accurately reflect changes made in state law since the chapter was last amended in 1994. It also uses terminology inaccurately reflecting the respective responsibilities provided for now in state law for the State Historical Board and the State Historical Society. It includes operating infrastructure that is no longer applicable and which constrains the Board and agency in making timely management adjustments enhancing the agency's efficiency and operations. Finally, it includes the names of board members and agency personnel, as they existed in 1994.

To keep this entire chapter current, which contains non-regulatory information about the agency, would require the reprinting of the chapter on an annual basis, which is an unnecessary expense.

Research reveals that requests made under N.D.C.C. § 28-32-18.1(2) to repeal similar non-regulatory chapters in the state's Administrative Code were approved by the Administrative Rules Committee in 1992 for the Department of Human Services (minutes of July 17, 2009) and for the Secretary of State (minutes of October 17, 2002).

In making this request, the agency is aware of the provisions of N.D.C.C. § 28-32-02(2). Nevertheless, the request is being made based on precedent and the fact that HB 1030 (2001 Session Laws, Chapter 293, section 12) creating N.D.C.C. § 28-32-02 was signed by the Governor on March 14, 2001, and HB 1451 (2001 Session Laws, Chapter 298) creating N.D.C.C. § 23-32-18.1, allowing for the agency to make this request, was signed by the Governor on April 24, 2001, which is a later date.