

**2013 HOUSE POLITICAL SUBDIVISIONS**

**HB 1024**

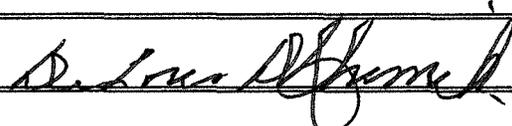
# 2013 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee  
Prairie Room, State Capitol

HB 1024  
January 10, 2013  
17061

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to the depth of newspaper publication of notice of administrative rulemaking.

## Minutes:

Testimony #1 & 2

**Chairman N. Johnson:** Opened the hearing on HB 1024.

**Rep. Koppelman:** I am representing the Administrative Rules Committee today. This committee is a committee that when bills are passed often times administrative rules are made to implement legislation. The important thing about rules and this is mainly for new legislators. In North Dakota and on the federal level the technical name for that are administrative rules and for years the legislations were made by agencies of government and they carry and force and effect of law. So they are just as enforceable as what we pass here during the legislative session. An agency would make a rule sometimes and there is a lot of rulemaking authority spread around like here in the tower in Bismarck; sometimes it is occupational groups like the group that might supervise the doctors might make administrative rules regulating that profession etc. The problem with that is that we are constitutional elected to make law and sometimes a legislator would bring a bill in and pass it and six months later rules would be made to implement it and you would start heading from a constituent that asked you to put the bill in saying this is awful because this turns the entire intent of the bill on its head. So the Legislative Rules Committee has said that we don't like this and the agency would say thank you for your opinion and you all go home and the rule would be in place and you come back the next legislative session and introduce a bill to get rid of that bad rule. Well we fixed that several years ago and now the legislative committee has the authority to void regulations if they don't meet a certain list of perimeter including if they conflict with legislative intent. We have to record each

compromise with the agency and agree to a change to a regulation. It is a good check and balance in state government in North Dakota. This bill is from the Administrative Rules Committee and so I will let Mr. Wahlstad explain this to you. It deals with the size of ads in newspapers and I also then would like to submit an amendment that I handed to the clerk that deals with another issue that came up. (See attachment #1).

**John Walstad, Attorney with Legislative Counsel:** I prepared the amendment after the December committee meeting. The bill dealt with a relatively simple change. A few years ago a provision was made for two different kinds of rules of notice making to be prepared. 1. A full blown notice containing more information; that notice is required to be filed with our office and put those on our web site so the public can find out what is going on with administrative rule making and then a shorter that goes into the newspaper. The North Dakota Newspaper Association helps agencies get those notices published in all the county newspapers. The committee during the interim was looking into the costs of newspaper publications of the notices and got some testimony from them on that topic and they explained how the pricing is done. During that discussion it was pointed out that current law required that newspaper publication of rulemaking notice to be from three to four inches long in a column and it was pointed out the agencies were having trouble fitting within that four inch limit. The committee's take on it is if the agency wants to provide more information to the public about rulemaking why should this rule stand in the way? So the committee approved and recommended to the Legislative Management Committee the bill that you see which gets rid of that four inch maximum on publications. In December another issue came up and I prepared a draft for the committee but by December it was too late to amend that bill because Legislative Management had already excepted it and it was introduced so in December the issue that came up was how to give notice to members of the rules committee that pending rules are somehow intended to implement legislation from the most recent session. There is a requirement in current law that the agency has to provide direct notice to any body was a sponsor or co-sponsor on that legislation being implemented, but the rules committee members felt they should get that same kind of notice. I talked to the chairman about it and he recognized that requiring agencies to notify all the committee members would be a substantial burden for agencies so the suggestion was the full blown notice on rulemaking that comes to our office should contain a notice that legislation is being implemented and what the bill number might have been and then our office would

look at those noticed and if there is a notice that there is a bill being implemented I would provide notice to the rules committee members. What I had to do with this amendment was a hog house amendment because this additional change is in the same section as the four inch column change so I had to redo the whole section and that is what the amendment does; but I made a mistake and it is not right. Down toward the bottom of page one it says a minimum depth of from three inches. Obviously there should be a from to and a two and there is no two. The original bill changed the word from to approximately so that change should be made in this amendment and I will redo it and get a correct copy to the clerk.

**Rep. Klemin:** That change in subsection 1a about the statement of the bill number and general subject matter; what if the rulemaking is in response to a bill that was passed in a previous legislative session, which was not the most recent legislative session?

**John Walstad:** By law rules to implement legislation have to be adopted within nine months of the effective date of the bill. That is as far as the law requires some kind of notice that we are working on a bill that was enacted. If we look back further than that every rule is supposed to be implementing legislation passed at some point in the past or they shouldn't be doing it. We could require a longer look back, but we would end up getting a notice on everything I think if we open it up back to the beginning of time.

**Rep. Klemin:** Looking at this change is that the agency maybe adopting a rule or an amendment to a rule in response to something other than legislation. When we have this new language the agency must include a statement of bill number adopted. That may not apply in every case. Would it be appropriate to say if applicable?

**John Walstad:** I think it says that. They have to notify us of any legislation enacted in the most recent session that being implement and if there is none I think they just don't say anything. Do you have a suggested change?

**Rep. Klemin:** I am just trying to make it clear so there isn't any question in the future that they have to put this statement in every notice when there is going to be a lot of notices that don't have it.

**John Walstad:** From experience it is about half and half. Half were not legislation last session and half were.

**Rep. Koppelman:** What is a hog house amendment? Explain this to all the new members.

**John Walstad:** Explained what a hog house amendment was. It is a bill that strips the bill and then the amendment becomes the bill. It means what is in the bill doesn't matter anymore. It would be what is in the amendment that matters.

**Rep. Klemin:** Maybe you should also mention the constitutional limitation on hog house bills and that they can't change the subject matter of the original bill.

**John Walstad:** This committee is fortunate to have members who are well versed in constitutional matters and legislative matters. A bill can't be amended to change its subject. Frankly it is a rule that gets pretty beat up. If you don't like where an amendment is going it is an argument you can raise.

Support:

**Roger Bailey, Executive Director of the ND Newspaper Association:** Represents the 90 daily and weekly newspapers in ND. (See Testimony #2)

**Rep. Koppelman:** Just a question about the change over time. There was a time when we only required publications in the legal for these kinds of notices and some years ago we made the change to allow display ads and that sort of things and I think they are more noticeable and people tend to read them. Do you have an opinion on that?

**Roger Bailey:** We think it was a prudent decision because we know that those ads are read and from conversations from the agencies placing them we think they have become more visible. We think the rates are very economical.

Opposition: None

Hearing closed.

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee  
Prairie Room, State Capitol

HB 1024  
January 11, 2013  
Job # 17094

Conference Committee

Committee Clerk Signature



**Chairman N. Johnson:** Reopened the hearing on HB 1024. The new amendments are .02003.

**Rep. Koppelman:** This was the bill on administrative rules that we heard yesterday having to do with the newspapers etc. and at the bottom of page one of the amendment numbered .02003. It was just that change from to approximately. Rep. Klein moved the amendment; seconded by Rep. Koppelman. Voice vote. Carried.

**Motion made to do pass as amended by Rep. Maragos; seconded by Rep. Meier.**

**Vote: 15 Yes 0 No 0 Absent. Carrier: Rep. Koppelman**

**Hearing closed.**

JOW  
1/11/13  
10/62

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1024

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 28-32-10 of the North Dakota Century Code, relating to notice of administrative rulemaking implementing recent legislation and the depth of newspaper publication of notice of administrative rulemaking; and to provide an effective date.

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

**28-32-10. Notice of rulemaking - Hearing date.**

1. An agency shall prepare a full notice and an abbreviated notice of rulemaking.
  - a. The agency's full notice of the proposed adoption, amendment, or repeal of a rule must include a short, specific explanation of the proposed rule and the purpose of the proposed rule, identify the emergency status and declared effective date of any emergency rules, include a determination of whether the proposed rulemaking is expected to have an impact on the regulated community in excess of fifty thousand dollars, identify at least one location where interested persons may review the text of the proposed rule, provide the address to which written comments concerning the proposed rule may be sent, provide the deadline for submission of written comments, provide a telephone number and post-office or electronic mail address at which a copy of the rules and regulatory analysis may be requested, and, in the case of a substantive rule, provide the time and place set for each oral hearing. The agency's full notice must include a statement of the bill number and general subject matter of any legislation, enacted during the most recent session of the legislative assembly, which is being implemented by the proposed rule. The agency's full notice must be filed with the legislative council, ~~and the agency shall request publication of an abbreviated newspaper publication notice at least once in each official county newspaper published in this state. The notice filed with the legislative council must be accompanied by a copy of the proposed rules.~~
  - b. The agency shall request publication of an abbreviated newspaper publication notice at least once in each official county newspaper published in this state. The abbreviated newspaper publication of notice must be in a display-type format with a minimum width of one column of approximately two inches [5.08 centimeters] and a minimum depth of from approximately three inches [7.62 centimeters] to four inches [10.16 centimeters] and with a headline describing the general topic of the proposed rules. The notice must also include the telephone number or address to use to obtain a copy of the proposed rules, identification of the emergency status and declared effective date of any emergency rules, the address to use and the deadline to

2/8/2

submit written comments, and the location, date, and time of the public hearing on the rules.

2. The agency shall mail or deliver by electronic mail a copy of the agency's full notice and proposed rule to each member of the legislative assembly whose name appeared as a sponsor or cosponsor of legislation, enacted during the most recent session of the legislative assembly, which is being implemented by the proposed rule and to each person who has made a timely request to the agency for a copy of the notice and proposed rule. The agency may mail or otherwise provide a copy of the agency's full notice to any person who is likely to be an interested person. ~~The agency shall mail or deliver a copy of the rules to each member of the legislative assembly whose name appeared as a sponsor or cosponsor of legislation enacted during the most recent session of the legislative assembly which is being implemented by the proposed rule and to any person requesting a copy.~~ The agency may charge persons who are not members of the legislative assembly fees for copies of the proposed rule as allowed under section 44-04-18.
3. In addition to the other notice requirements of this subsection, the superintendent of public instruction shall provide notice of any proposed rulemaking by the superintendent of public instruction to each association with statewide membership whose primary focus is elementary and secondary education issues which has requested to receive notice from the superintendent under this subsection and to the superintendent of each public school district in this state, or the president of the school board for school districts that have no superintendent, at least twenty days before the date of the hearing described in the notice. Notice provided by the superintendent of public instruction under this section must be by first-class mail. However, upon request of a group or person entitled to notice under this section, the superintendent of public instruction shall provide the group or person notice by electronic mail.
4. The legislative council shall establish standard procedures for all agencies to follow in complying with the provisions of this section and a procedure to allow any person to request and receive mailed copies of all filings made by agencies pursuant to this section. The legislative council may charge an annual fee as established by the administrative rules committee for providing copies of the filings.
5. At least twenty days must elapse between the date of the publication of the notice and the date of the hearing. Within fifteen business days after receipt of a notice under this section, a copy of the notice must be mailed by the legislative council to any person who has paid the annual fee established under subsection 4.

**SECTION 2. EFFECTIVE DATE.** This Act is effective for administrative rulemaking notices filed with the legislative council after July 31, 2013."

Renumber accordingly

Date: 1-16-13  
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1004

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Klein Seconded By Rep. Koppelman

| Representatives                 | Yes | No | Representatives   | Yes | No |
|---------------------------------|-----|----|-------------------|-----|----|
| Chairman Nancy Johnson          |     |    | Rep. Ben Hanson   |     |    |
| Vice Chairman Patrick Hatlestad |     |    | Rep. Kathy Hogan  |     |    |
| Rep. Thomas Beadle              |     |    | Rep. Jerry Kelsh  |     |    |
| Rep. Matthew Klein              |     |    | Rep. Naomi Muscha |     |    |
| Rep. Lawrence Klemin            |     |    |                   |     |    |
| Rep. Kim Koppelman              |     |    |                   |     |    |
| Rep. William Kretschmar         |     |    |                   |     |    |
| Rep. Alex Loosten               |     |    |                   |     |    |
| Rep. Andrew Maragos             |     |    |                   |     |    |
| Rep. Lisa Meier                 |     |    |                   |     |    |
| Rep. Nathan Toman               |     |    |                   |     |    |
|                                 |     |    |                   |     |    |
|                                 |     |    |                   |     |    |
|                                 |     |    |                   |     |    |

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Vote  
Vote  
Carried

Date: 1-11-13  
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1024

House Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Maragos Seconded By Rep. Meier

| Representatives                 | Yes | No | Representatives   | Yes | No |
|---------------------------------|-----|----|-------------------|-----|----|
| Chairman Nancy Johnson          | ✓   |    | Rep. Ben Hanson   | ✓   |    |
| Vice Chairman Patrick Hatlestad | ✓   |    | Rep. Kathy Hogan  | ✓   |    |
| Rep. Thomas Beadle              | ✓   |    | Rep. Jerry Kelsh  | ✓   |    |
| Rep. Matthew Klein              | ✓   |    | Rep. Naomi Muscha | ✓   |    |
| Rep. Lawrence Klemin            | ✓   |    |                   |     |    |
| Rep. Kim Koppelman              | ✓   |    |                   |     |    |
| Rep. William Kretschmar         | ✓   |    |                   |     |    |
| Rep. Alex Loosten               | ✓   |    |                   |     |    |
| Rep. Andrew Maragos             | ✓   |    |                   |     |    |
| Rep. Lisa Meier                 | ✓   |    |                   |     |    |
| Rep. Nathan Toman               | ✓   |    |                   |     |    |
|                                 |     |    |                   |     |    |
|                                 |     |    |                   |     |    |
|                                 |     |    |                   |     |    |

Total (Yes) 15 No 0

Absent 0

Floor Assignment Rep. Koppelman

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1024: Political Subdivisions Committee (Rep. N. Johnson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1024 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 28-32-10 of the North Dakota Century Code, relating to notice of administrative rulemaking implementing recent legislation and the depth of newspaper publication of notice of administrative rulemaking; and to provide an effective date.

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

**28-32-10. Notice of rulemaking - Hearing date.**

1. An agency shall prepare a full notice and an abbreviated notice of rulemaking.
  - a. The agency's full notice of the proposed adoption, amendment, or repeal of a rule must include a short, specific explanation of the proposed rule and the purpose of the proposed rule, identify the emergency status and declared effective date of any emergency rules, include a determination of whether the proposed rulemaking is expected to have an impact on the regulated community in excess of fifty thousand dollars, identify at least one location where interested persons may review the text of the proposed rule, provide the address to which written comments concerning the proposed rule may be sent, provide the deadline for submission of written comments, provide a telephone number and post-office or electronic mail address at which a copy of the rules and regulatory analysis may be requested, and, in the case of a substantive rule, provide the time and place set for each oral hearing. The agency's full notice must include a statement of the bill number and general subject matter of any legislation, enacted during the most recent session of the legislative assembly, which is being implemented by the proposed rule. The agency's full notice must be filed with the legislative council, ~~and the agency shall request publication of an abbreviated newspaper publication notice at least once in each official county newspaper published in this state. The notice filed with the legislative council must be accompanied by a copy of the proposed rules.~~
  - b. The agency shall request publication of an abbreviated newspaper publication notice at least once in each official county newspaper published in this state. The abbreviated newspaper publication of notice must be in a display-type format with a minimum width of one column of approximately two inches [5.08 centimeters] and a minimum depth of from approximately three inches [7.62 centimeters] to four inches [10.16 centimeters] ~~and~~ with a headline describing the general topic of the proposed rules. The notice must also include the telephone number or address to use to obtain a copy of the proposed rules, identification of the emergency status and declared effective date of any emergency rules, the address to use and the deadline to submit written comments, and the location, date, and time of the public hearing on the rules.
2. The agency shall mail or deliver by electronic mail a copy of the agency's full notice and proposed rule to each member of the legislative assembly whose name appeared as a sponsor or cosponsor of legislation, enacted during the most recent session of the legislative assembly, which is being

implemented by the proposed rule and to each person who has made a timely request to the agency for a copy of the notice and proposed rule. The agency may mail or otherwise provide a copy of the agency's full notice to any person who is likely to be an interested person. ~~The agency shall mail or deliver a copy of the rules to each member of the legislative assembly whose name appeared as a sponsor or cosponsor of legislation enacted during the most recent session of the legislative assembly which is being implemented by the proposed rule and to any person requesting a copy.~~ The agency may charge persons who are not members of the legislative assembly fees for copies of the proposed rule as allowed under section 44-04-18.

3. In addition to the other notice requirements of this subsection, the superintendent of public instruction shall provide notice of any proposed rulemaking by the superintendent of public instruction to each association with statewide membership whose primary focus is elementary and secondary education issues which has requested to receive notice from the superintendent under this subsection and to the superintendent of each public school district in this state, or the president of the school board for school districts that have no superintendent, at least twenty days before the date of the hearing described in the notice. Notice provided by the superintendent of public instruction under this section must be by first-class mail. However, upon request of a group or person entitled to notice under this section, the superintendent of public instruction shall provide the group or person notice by electronic mail.
4. The legislative council shall establish standard procedures for all agencies to follow in complying with the provisions of this section and a procedure to allow any person to request and receive mailed copies of all filings made by agencies pursuant to this section. The legislative council may charge an annual fee as established by the administrative rules committee for providing copies of the filings.
5. At least twenty days must elapse between the date of the publication of the notice and the date of the hearing. Within fifteen business days after receipt of a notice under this section, a copy of the notice must be mailed by the legislative council to any person who has paid the annual fee established under subsection 4.

**SECTION 2. EFFECTIVE DATE.** This Act is effective for administrative rulemaking notices filed with the legislative council after July 31, 2013."

Renumber accordingly

**2013 SENATE GOVERNMENT AND VETERANS AFFAIRS**

**HB 1024**

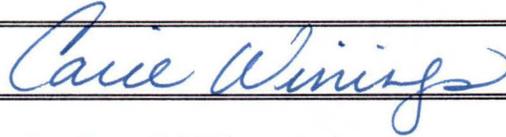
# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee  
Missouri River Room, State Capitol

HB 1024  
03/15/2013  
Job Number 19998

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

BILL for an Act relating to notice of administrative rulemaking implementing recent legislation and the depth of newspaper publication of notice of administrative rulemaking; and to provide an effective date.

## Minutes:

**Chairman Dever:** Opened the hearing on HB 1024.

**John Walstad, Legislative Council:** Testified in a neutral capacity to explain the bill.

**(5:05)Chairman Dever:** Is the point of the effective date so that notices filed prior to an upcoming meeting are not necessary to apply?

**John Walstad:** The reason for the effective date provision is that any notices that agencies might file with us before this becomes effective, don't have to be redone. This will apply only for notices that get filed in our office after the end of July, which would be when this statutory change becomes effective. I promise that I will notify agencies if this bill passes that starting August 1<sup>st</sup> there will be a little change in this process.

**Senator Nelson:** Is this really a problem or is it micromanaging?

**John Walstad:** The part about giving notice to our administrative rule committee - it is already there on our website if they want to know. As far as the 4 inch rule - there is no reason to have a maximum size.

**Senator Nelson:** That was very diplomatic.

**Chairman Dever:** Closed the hearing on HB 1024.

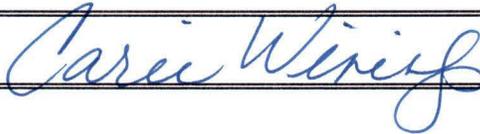
# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee  
Missouri River Room, State Capitol

HB 1024  
03/29/2013  
Job Number 20677

Conference Committee

Committee Clerk Signature



## Minutes:

**Chairman Dever:** Opened HB 1024 for committee discussion.

**Senator Cook:** Moved a Do Pass.

**Senator Nelson:** Seconded.

**A Roll Call Vote Was Taken:** 7 yeas, 0 nays, 0 absent.

**Senator Cook:** Carrier.

Date: 3/29

Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES

BILL/RESOLUTION NO. 1024

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Senator Cook Seconded By Senator Nelson

| Senators                    | Yes | No | Senator                    | Yes | No |
|-----------------------------|-----|----|----------------------------|-----|----|
| Chariman Dick Dever         | ✓   |    | Senator Carolyn Nelson     | ✓   |    |
| Vice Chairman Spencer Berry | ✓   |    | Senator Richard Marcellais | ✓   |    |
| Senator Dwight Cook         | ✓   |    |                            |     |    |
| Senator Donald Schaible     | ✓   |    |                            |     |    |
| Senator Nicole Poolman      | ✓   |    |                            |     |    |
|                             |     |    |                            |     |    |
|                             |     |    |                            |     |    |
|                             |     |    |                            |     |    |
|                             |     |    |                            |     |    |
|                             |     |    |                            |     |    |
|                             |     |    |                            |     |    |
|                             |     |    |                            |     |    |
|                             |     |    |                            |     |    |

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Cook

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1024, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).** Engrossed HB 1024 was placed on the Fourteenth order on the calendar.

**2013 TESTIMONY**

**HB 1024**

471

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1024

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 28-32-10 of the North Dakota Century Code, relating to notice of administrative rulemaking implementing recent legislation and the depth of newspaper publication of notice of administrative rulemaking; and to provide an effective date.

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

**28-32-10. Notice of rulemaking - Hearing date.**

1. An agency shall prepare a full notice and an abbreviated notice of rulemaking.
  - a. The agency's full notice of the proposed adoption, amendment, or repeal of a rule must include a short, specific explanation of the proposed rule and the purpose of the proposed rule, identify the emergency status and declared effective date of any emergency rules, include a determination of whether the proposed rulemaking is expected to have an impact on the regulated community in excess of fifty thousand dollars, identify at least one location where interested persons may review the text of the proposed rule, provide the address to which written comments concerning the proposed rule may be sent, provide the deadline for submission of written comments, provide a telephone number and post-office or electronic mail address at which a copy of the rules and regulatory analysis may be requested, and, in the case of a substantive rule, provide the time and place set for each oral hearing. ~~The agency's full notice must include a statement of the bill number and general subject matter of any legislation enacted during the most recent session of the legislative assembly, which is being implemented by the proposed rule.~~ The agency's full notice must be filed with the legislative council, and the agency shall request publication of an abbreviated newspaper publication notice at least once in each official county newspaper published in this state. The notice filed with the legislative council must be accompanied by a copy of the proposed rules.
  - b. The agency shall request publication of an abbreviated newspaper publication notice at least once in each official county newspaper published in this state. The abbreviated newspaper publication of notice must be in a display-type format with a minimum width of one column of approximately two inches [5.08 centimeters] and a minimum depth of from ~~three~~ <sup>two</sup> inches [7.62 centimeters] ~~to four inches [10.16 centimeters]~~ and with a headline describing the general topic of the proposed rules. The notice must also include the telephone number or address to use to obtain a copy of the proposed rules, identification of the emergency status and declared effective date of any emergency rules, the address to use and the deadline to submit

written comments, and the location, date, and time of the public hearing on the rules.

2. The agency shall mail or deliver by electronic mail a copy of the agency's full notice and proposed rule to each member of the legislative assembly whose name appeared as a sponsor or cosponsor of legislation, enacted during the most recent session of the legislative assembly, which is being implemented by the proposed rule and to each person who has made a timely request to the agency for a copy of the notice and proposed rule. The agency may mail or otherwise provide a copy of the agency's full notice to any person who is likely to be an interested person. ~~The agency shall mail or deliver a copy of the rules to each member of the legislative assembly whose name appeared as a sponsor or cosponsor of legislation enacted during the most recent session of the legislative assembly which is being implemented by the proposed rule and to any person requesting a copy.~~ The agency may charge persons who are not members of the legislative assembly fees for copies of the proposed rule as allowed under section 44-04-18.
3. In addition to the other notice requirements of this subsection, the superintendent of public instruction shall provide notice of any proposed rulemaking by the superintendent of public instruction to each association with statewide membership whose primary focus is elementary and secondary education issues which has requested to receive notice from the superintendent under this subsection and to the superintendent of each public school district in this state, or the president of the school board for school districts that have no superintendent, at least twenty days before the date of the hearing described in the notice. Notice provided by the superintendent of public instruction under this section must be by first-class mail. However, upon request of a group or person entitled to notice under this section, the superintendent of public instruction shall provide the group or person notice by electronic mail.
4. The legislative council shall establish standard procedures for all agencies to follow in complying with the provisions of this section and a procedure to allow any person to request and receive mailed copies of all filings made by agencies pursuant to this section. The legislative council may charge an annual fee as established by the administrative rules committee for providing copies of the filings.
5. At least twenty days must elapse between the date of the publication of the notice and the date of the hearing. Within fifteen business days after receipt of a notice under this section, a copy of the notice must be mailed by the legislative council to any person who has paid the annual fee established under subsection 4.

**SECTION 2. EFFECTIVE DATE.** This Act is effective for administrative rulemaking notices filed with the legislative council after July 31, 2013."

Renumber accordingly

#2

January 9, 2013

**HOUSE POLITICAL SUBDIVISIONS COMMITTEE  
HB 1024**

Representative Johnson and members of the committee:

I'm Roger Bailey, executive director of the North Dakota Newspaper Association. The members of NDNA are the 90 newspapers of North Dakota.

The following information was presented and approved by the Administrative Rules Committee a few weeks ago and I now present the information to the House Political Subdivision Committee on the process of handling the administrative rules notices in North Dakota's official county newspapers.

The public notice rates for North Dakota newspapers are established periodically by the Office of Management and Budget (OMB) "to reflect changes in economic conditions within the newspaper industry and the general economy...in consultation with representatives of the newspaper industry and with representatives of state and local units of government." (NDCC 46-05-03).

The following chart indicates a modest increase in public notice display rates granted by OMB effective July 1, 2011 and July 1, 2012:

1 col. x 4" notice before July 1, 2012 in all 52 official county newspapers: \$1,319.12

1 col. x 4" notice after July 1, 2012 in all 52 official county newspapers: \$1,349.68

1 col. x 5" notice before July 1, 2012 in all 52 official county newspapers: \$1,648.90

1 col. x 5" notice after July 1, 2012 in all 52 official county newspapers: \$1,687.10

1 col. x 6" notice before July 1, 2012 in all 52 official county newspapers: \$1,978.74

1 col. x 6" notice after July 1, 2012 in all 52 official county newspapers: \$2,024.52

NDNA has attempted to conform to NDCC 28-32-10 which suggests notices of 1 col. x 3" or 1 col. x 4". However, additional language since the law was enacted has resulted in some of the notices becoming somewhat longer. The notices are systematically sent to the state agency placing the notice for approval before being sent to the official newspapers.

The North Dakota Newspaper Association respectfully requests your approval of HB 1024 in an effort to conform to the new parameters of publication. This action would not change the rates – it would only allow the newspapers to handle the publications within the express consent of the law.

Thank you for the opportunity to present this information. I will offer to answer questions.