

**TESTIMONY BEFORE THE  
SENATE POLITICAL SUBDIVISIONS COMMITTEE  
REGARDING HOUSE BILL 1468  
MARCH 11, 2005**

**Chairman Cook and members of the Committee, my name is Melissa Hauer. I am an attorney for the Department of Human Services. I am here today to testify on behalf of the Department in opposition to House Bill 1468.**

**The bill would give the Administrative Rules Committee the power to void any existing administrative rule regardless of how long the rule has been in existence. Chapter 28-32 of the North Dakota Century Code contains stringent requirements for how administrative rules are developed. It currently requires agencies to: publish notice in all official County newspapers; in certain circumstances, prepare a regulatory analysis, small entity regulatory analysis, small entity economic impact statement, and takings analysis to determine the impact of the rules on the regulated public; consider all oral and written comments from interested parties; secure an analysis of legality by the Attorney General; and file the rules with Legislative Council for publication. The agency is also required to appear before the Administrative Rules Committee to report on the substance of the rules. This process gives the public an opportunity for input into the rulemaking process – something that this bill would remove if any rule can be voided at any time.**

**The Department understands that the Legislature is concerned with the impact that administrative rules can have on people and businesses. That is the reason for the stringent process already in place to ensure that agencies consider the input of the public and that they have the authority to adopt the rules that they do. In addition, the Legislature itself has the authority to change any administrative rule it chooses by enacting a law.**

**Any person interested in a rule also has the right under current law to petition an agency for reconsideration or amendment of a rule. Further, the Administrative Rules Committee already has the authority to void all or part of a rule within ninety days of the rule being published. To extend that authority beyond the initial ninety days to allow the Committee to strike down a rule at any time it chooses would mean a lose of stability and certainty on the part of the people, entities, or agencies that rely on the rules without any of the statutory requirements that currently afford input into the process.**

**The Legislature as a whole delegates authority to administrative agencies to deal with the sometimes massive and complex issues that arise when a law is executed. This bill would give that authority to one legislative committee and allow it to substitute its own judgment for the judgment of the whole Legislature and that of the agency to which such authority has been delegated. The power to delay, void or negotiate changes to administrative rules is the power to make law. As a result, one committee is given the power to make law and to govern how the executive branch does its business.**

**For these reasons, the Department requests that this committee consider a do not pass recommendation for HB 1468. I would be happy to try to answer any questions the committee members may have. Thank you.**