

Introduced by

Representative DeKrey

1 A BILL for an Act to amend and reenact section 28-32-46 of the North Dakota Century Code,  
2 relating to finality of decisions of administrative law judges in adjudication proceedings of  
3 administrative agencies.

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

5 **SECTION 1. AMENDMENT.** Section 28-32-46 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **28-32-46. Scope of and procedure on appeal from determination of administrative**  
8 **agency.** A notice of appeal may include a request for de novo review by the district court. If  
9 there is no request for de novo review, a judge of the district court must review an appeal from  
10 the determination of an administrative agency based only on the record filed with the court.  
11 After a hearing, the filing of briefs, or other disposition of the matter as the judge may  
12 reasonably require, the court must affirm the order of the agency unless it finds that any of the  
13 following are present:

- 14 1. The order is not in accordance with the law.
- 15 2. The order is in violation of the constitutional rights of the appellant.
- 16 3. The provisions of this chapter have not been complied with in the proceedings  
17 before the agency.
- 18 4. The rules or procedure of the agency have not afforded the appellant a fair  
19 hearing.
- 20 5. The findings of fact made by the agency are not supported by a preponderance of  
21 the evidence.
- 22 6. The conclusions of law and order of the agency are not supported by its findings of  
23 fact.

- 1           7.    The findings of fact made by the agency do not sufficiently address the evidence
- 2               presented to the agency by the appellant.
- 3           8.    The conclusions of law and order of the agency do not sufficiently explain the
- 4               agency's rationale for not adopting any contrary recommendations by a hearing
- 5               officer or an administrative law judge.
- 6    If the order of the agency is not affirmed by the court, it must be modified or reversed, and the
- 7    case shall be remanded to the agency for disposition in accordance with the order of the court.