

Introduced by

1 A BILL for an Act to amend and reenact subsection 11 of section 28-32-01 of the North Dakota  
2 Century Code, relating to exclusion of certain policies, standards, and guidelines of the  
3 information technology department from compliance with the Administrative Agencies Practice  
4 Act.

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

6 **SECTION 1. AMENDMENT.** Subsection 11 of section 28-32-01 of the North Dakota  
7 Century Code is amended and reenacted as follows:

8 11. "Rule" means the whole or a part of an agency statement of general applicability  
9 which implements or prescribes law or policy or the organization, procedure, or  
10 practice requirements of the agency. The term includes the adoption of new rules  
11 and the amendment, repeal, or suspension of an existing rule. The term does not  
12 include:

- 13 a. A rule concerning only the internal management of an agency which does not  
14 directly or substantially affect the substantive or procedural rights or duties of  
15 any segment of the public.
- 16 b. A rule that sets forth criteria or guidelines to be used by the staff of an agency  
17 in the performance of audits, investigations, inspections, and settling  
18 commercial disputes or negotiating commercial arrangements, or in the  
19 defense, prosecution, or settlement of cases, if the disclosure of the statement  
20 would:
- 21 (1) Enable law violators to avoid detection;
- 22 (2) Facilitate disregard of requirements imposed by law; or
- 23 (3) Give a clearly improper advantage to persons who are in an adverse  
24 position to the state.

- 1 c. A rule establishing specific prices to be charged for particular goods or
- 2 services sold by an agency.
- 3 d. A rule concerning only the physical servicing, maintenance, or care of
- 4 agency-owned or agency-operated facilities or property.
- 5 e. A rule relating only to the use of a particular facility or property owned,
- 6 operated, or maintained by the state or any of its subdivisions, if the
- 7 substance of the rule is adequately indicated by means of signs or signals to
- 8 persons who use the facility or property.
- 9 f. A rule concerning only inmates of a correctional or detention facility, students
- 10 enrolled in an educational institution, or patients admitted to a hospital, if
- 11 adopted by that facility, institution, or hospital.
- 12 g. A form whose contents or substantive requirements are prescribed by rule or
- 13 statute or are instructions for the execution or use of the form.
- 14 h. An agency budget.
- 15 i. An opinion of the attorney general.
- 16 j. A rule adopted by an agency selection committee under section 54-44.7-03.
- 17 k. Any material, including a guideline, interpretive statement, statement of
- 18 general policy, manual, brochure, or pamphlet, which is explanatory and not
- 19 intended to have the force and effect of law.
- 20 l. Policies, standards, and guidelines adopted by the information technology
- 21 department under chapter 54-59, including product and service standards and
- 22 best practice standards, primarily intended to affect boards, bureaus,
- 23 commissions, departments, or other administrative units of the executive
- 24 branch of state government if those policies, standards, or guidelines have
- 25 been approved by the enterprise architect review board, state information
- 26 technology advisory committee, and the advisory committee established
- 27 under section 54-59-02.1.