HB 1344
Rep. Ben Koppelman- Testimony

Mr. Chairman and Members of the Committee,

Thank You for the opportunity to introduce HB1344 to you today.

I introduced this bill to protect the administrative rules process by ensuring that rules follow legislative intent both in the affirmative and the unfavorable as well as hold rulemaking to a standard of reasonable and necessary. This is safeguarded by allowing the Administrative Rules Committee the tools necessary to void a rule or portion of a rule if it is determined to be too burdensome.

In North Dakota, we have delegated a narrow portion of our policy making authority to various agencies, boards, and commissions within the executive branch. However, with that delegation comes oversite by the legislative branch, as it should, through the Administrative Rules Committee. Since administrative rules have the "weight of law" once they are adopted, it is imperative that we can stand as a gatekeeper of the policy that we pass, rather than to have it undermined by de facto law through the rule-making process.

The Administrative rules committee is a standing statutory committee made up of legislators which meets quarterly or as often as is necessary.
Currently the Administrative Rules Committee can void rules if there is:
1) An absence of statutory authority
2) An emergency relating to public health, safety, and welfare
3) A failure to comply with express legislative intent or to substantially meet the procedural requirements of this chapter for the adoption of the rule
4) A conflict with state law
5) Arbitrariness and Capriciousness
6) A failure to make a written record of its consideration of written and oral submissions respecting the rule under section 28-32-11.

Traditionally, I had always thought that Arbitrariness and Capriciousness was the "catch-all" for objections by the committee due to overregulation. However, there has been some disagreement as to whether those terms would truly be able to be used to overturn such regulation overreach. Here are the definitions that I could find for those terms.