

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 policies, standards, and guidelines of the information
3 technology department from compliance with the Administrative Agencies Practice Act.

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

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

- 7 11. "Rule" means the whole or a part of an agency statement of general applicability
8 which implements or prescribes law or policy or the organization, procedure, or
9 practice requirements of the agency. The term includes the adoption of new rules
10 and the amendment, repeal, or suspension of an existing rule. The term does not
11 include:
- 12 a. A rule concerning only the internal management of an agency which does not
13 directly or substantially affect the substantive or procedural rights or duties of
14 any segment of the public.
 - 15 b. A rule that sets forth criteria or guidelines to be used by the staff of an agency
16 in the performance of audits, investigations, inspections, and settling
17 commercial disputes or negotiating commercial arrangements, or in the
18 defense, prosecution, or settlement of cases, if the disclosure of the statement
19 would:
 - 20 (1) Enable law violators to avoid detection;
 - 21 (2) Facilitate disregard of requirements imposed by law; or
 - 22 (3) Give a clearly improper advantage to persons who are in an adverse
23 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. A policy, standard, and guideline adopted by the information technology
21 department under chapter 54-59, including any product and service standard
22 and best practice standard, primarily intended to affect state agencies, and
23 with respect to access to or use of wide area network services, institutions
24 under the control of the state board of higher education, counties, cities, and
25 school districts if the policy, standard, or guideline has been reviewed by the
26 state information technology advisory committee.