

Introduced by

Senators Paulson, Larsen, Weston

Representatives Christensen, Satrom, Vetter

1 A BILL for an Act to create and enact ~~two~~<sup>a</sup> new ~~sections~~<sup>section</sup> to chapter 28-32 of the North  
2 Dakota Century Code, relating to ~~agency adjudications and~~<sup>limiting</sup> judicial deference ~~in-~~  
3 ~~administrative hearings to governmental entities; and to provide for a legislative management~~  
4 ~~study.~~

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

6 ~~SECTION 1. A new section to chapter 28-32 of the North Dakota Century Code is created~~  
7 ~~and enacted as follows:~~

8 ~~Administrative hearings -- Agency adjudications.~~

9 ~~Notwithstanding any other provision of law:~~

10 ~~1. The administrative agency initiating a case may not supervise the administrative law~~  
11 ~~judge's proceedings.~~

12 ~~2. Except by proper evidence and legal argument, an administrative agency may not~~  
13 ~~attempt to influence the findings of fact or the administrative law judge's application of~~  
14 ~~the law in a contested matter.~~

15 ~~3. Every decision made by an administrative law judge must contain findings of fact,~~  
16 ~~conclusions of law, and a disposition of the case.~~

17 ~~4. Unless a party files an appeal under section 28-32-42, every decision made by an~~  
18 ~~administrative law judge is final.~~

19 **SECTION 1.** A new section to chapter 28-32 of the North Dakota Century Code is created  
20 and enacted as follows:

21 **Judicial deference.**

22 ~~Notwithstanding any other provision of law:~~

23 ~~1. When, in interpreting or applying a statute, regulation, or regulatory document, an~~  
24 ~~administrative law rule, a judge may not defer to an administrative agency's a~~

1 governmental entity's interpretation of athe statute, regulation, or other regulatory  
2 document to determine the meaning.  
3 ~~2. In an action involving an administrative agency, the administrative law judge shall~~  
4 ~~exercise doubt in favor of a reasonable interpretation that limits agency power and~~  
5 ~~maximizes individual liberty~~rule. After applying all customary rules of interpretation, the  
6 court shall resolve any remaining ambiguity against increased agency authority.

## SECTION 2. LEGISLATIVE MANAGEMENT STUDY - AUTHORITY OF HEARING

8 **OFFICERS.** During the 2023-24 interim, the legislative management shall consider studying the  
9 impact of granting statutory authority under chapter 28-32 to a hearing officer, who may not be  
10 the agency head, to make findings of fact and conclusions of law, and issue orders. The study  
11 must include a review of chapter 28-32 and input from governmental entities and other  
12 interested parties. The legislative management shall report its findings and recommendations,  
13 together with any legislation necessary to implement the recommendations, to the sixty-ninth  
14 legislative assembly.