

2011 SENATE POLITICAL SUBDIVISIONS

SB 2185

2011 SENATE STANDING COMMITTEE MINUTES

Senate Political Subdivisions Committee
Red River Room, State Capitol

SB 2185
January 21, 2011
13213

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution: Relating to regulation of sign language interpreters

Relating to regulation of sign language interpreters

Minutes:

See attached testimony

Senator Andrist opened SB 2185, relating to regulation of sign language interpreters with a fiscal note.

Representative Cory Mock, District 42 introduced SB 2185 and spoke in favor of this bill. See written testimony.

Senator Judy Lee: I support the concept. Can you tell me how many people currently are licensed or are working as translators in an official capacity in the state? **Representative Mock:** There are none that are licensed, because we don't have a licensure. **Senator Judy Lee:** Or nationally certified? **Rep. Mock:** national certified I know there is an estimate but because there is no real provision, nothing that oversees, maybe a representative from the department of health or School for the Deaf would have a more finite answer. I believe the answers around 40. **Senator Judy Lee:** I am asking because having gone through this with several other professions, and the practices of expertise, at \$100 a pop, if there are 40, you don't have enough money in there to support the activities of a board. How are you going to pay for this?

Representative Mock: Some members and supporters of the bill have discussed that is something that they are willing to work with so in the committee we addressed that problem. We put these in as caps. One other provision that was mentioned in here is each VRI service would also have to pay for facility licenses. If it's more than 11 individual employees, they would have to pay a \$500 license or fee. **Senator Judy Lee:** I appreciate your willingness to collaborate on this and we certainly want to move something forward from a practical point of view. Are the people who are interpreters willing to pay what it's going to cost to support the board that they want? It could take them easily \$20,000 to support a board. **Representative Mock:** I can't speak on their behalf. If there is amendments that need to be made to help, whether it's for fire up costs or if there is a department that is willing to put this under their wing to help give it that capital to make it work; especially in the beginning we would like to make it work.

Senator Oehlke: As prime sponsor of this bill, I support SB 2185. I served on a committee during the Interim that was appointed to study the North Dakota School for the Deaf and also Hard of Hearing problems in the State of North Dakota. How are we going to address them at an academic and physical level? Examples shared in oral presentation. We need the language for an official interpreter that is our goal and that's the key ingredient here.

Senator Andrist: Why wouldn't a certification process really do just as well or perhaps better by involving more people in the process of interpreting correctly and properly? Why do we need a licensure law? Why not work from the angle of certifying people who have it down? **Senator Oehlke:** I think that is the effort. That is what all deaf education facilities attempt to do. My one concern with this bill is that it didn't force everyone to become a certified interpreter in order to work with the hard of hearing. **Senator Andrist:** Where are interpreters generally required to work, in what kind of settings? **Senator Oehlke:** Examples given relative to this committee hearing. **Senator Andrist:** So is our interpreter here today provided by the state or did the folks who wanted the bill bring her? **Carmen Grove Suminski:** Superintendent of the North Dakota School for the Deaf (NDSB). Renee is a certified interpreter, she is based in Bismarck, and the School for the Deaf is providing that service to this committee today.

Senator Dotzenrod: As sponsor of the bill Senator Oehlke, how do you envision what this bill is all about? Do you see this as trying to solve problems that have come up anecdotally that you've heard from situations that this bill will get at if we do this? If we adopt this, how are we going prevent those problems from occurring? Does this bill solve some problems that are out there in the field? Do you look at more as this is something that if we put it in place, we can prevent some anticipated problems that could occur in the future? **Senator Oehlke:** Yes, to all areas. There were specifics that were brought up and in particular it was from people who are deaf and hard of hearing that requested this bill for the need and importance of having someone in front of them communicating who really is a good communicator, so the little things aren't inaccurate. Examples cited.

Senator Judy Lee: The Feds actually require certified translators for every other language, so I would assume it would be sign language as well. Is there not a comparable federal requirement to certified translators of sign language? **Senator Oehlke:** I don't know that particular answer to that question, but someone here does, so save that one please?

Eileen M. Gray, Certified Sign Language interpreter and Coordinator of the American Sign Language and Interpreting Studies program at Lake Region State College in Devils Lake. I support SB 2185. See attached testimony. In referencing Senator Judy Lees' question, the court system yes requires certified interpreters. Not every court setting in the state of North Dakota, is completely aware of that, so sometimes we will still have people interpreting in court that are not certified. We require certification in North Dakota if you want to work; however, the problem is the current law has no teeth to it because it doesn't have any sort of way to regulate that. Personal examples cited.

Senator Judy Lee: Ms. Gray, I support the concept so please do not think I don't recognize the importance of it. Personal examples cited. Sometimes, especially in rural North Dakota, access to a certified interpreter instantaneously is a challenge. What does Wishek or

Mountain do if somebody comes in and it's only a certified interpreter that is available? Do they decide that the delay is better in trying to find somebody or is it better to have someone who may not be certified who at least initiates the discussion and says we have to, wait in order to do this? I am trying to get into the nuts and bolts of how this will work, considering the rural nature of our state.

Eileen Gray: We do have that built into the bill; so if there is an emergency setting there are exceptions for emergencies and for that exact thing that you just mentioned. Plus, there is also the ability of a family member that is also put in as an exception to the rules.

The law is already in place, and so we already have that and we do have those same expectations. We kept most of those, for that very reason so that we could make sure. What we're looking at with the idea of the licensure is that once people have to be licensed in order to work, then it encourages them to work toward their certification. There are some people who are already working who have no incentive to work toward certification. We offer workshops and conferences and things all over so that people can improve their skills, but people don't work to improve their skills or learn about ethics or any of those things because they don't need too. We would like to make sure the law gets enforced that we already have place and this was the way that we thought would be a good way. The way other states are going to look at enforcing the law we already have.

Senator Andrist: If you have national standards, why not just require people who do this to meet national standards instead of having a licensing law. I guess my concern is in the absence of licensing, somebody who might be able to help somebody could fall into the gotcha trap, of doing something he didn't like to do. If it was just the certification standard he could at least say I am not certified, I can do the best to help you that I am able.

Eileen Gray: We also have talked about that with this bill. The certification is the way the licensure board would just require proof of the person's certification but there is a lot of other ways that people can also be licensed. So somebody isn't an interpreter, but is working toward licensure, we have as one of those those other exceptions, in case of an emergency situation. The thing about the certification is that we already have that law in place, that people need to be certified, and unfortunately, the law is not currently being followed and there is no way for us to get people to do it. By licensure, it would be a pretty simple process. It would be people sending in their credentials to us and then they would be able to be licensed to work. Certification is required, but there is no way to police that.

Senator Judy Lee: In their profession, is there a roster of people who have completed certifications and are nationally certified? I know that it not what you want, but I would encourage you to consider that as an option that we may have to consider, because I don't you want to pay \$500-\$1000 apiece to establish a board for four dozen people. You would have to bear the cost of doing your board, and there is more to it than just video conferencing now and then. It's kind of a big deal. I ask that you think about that as something that we might have to chat with you about, if we can't go all the way that you want us to go.

Eileen Gray: We'll certainly consider whatever. My biggest concerns I think are just that there is a variety of people that would sit under that, the law that we have in place, does not have any ability to police it. If we did not do a change of some sort, there would be

interpreter's not skilled working in whatever settings. In the 21st. century, it seems though we're behind and I would to see us be able to get to that place.

Michele Rolewitz: President of the North Dakota Association of the Deaf (NDAD) I recommend that you do pass SB 2185. See attached testimony.

Senator Andrist: The process of certification and even licensure, I sense could be done without huge costs if the people who served on the board were able to do it voluntarily or for a lost cost. Because, when you get into the issue of enforcement, that can have enormous costs related to it. Example given. When you talk about enforcement that is where the cost really start getting expensive.

Michele Rolewitz: Since the law was already passed in 2001, and we've already had ten years and even though the law requires certified interpreters, there are still some working that aren't certified. Who oversees those people? Who is monitoring them to make sure that they are doing what they should to get certified? This is imperative for our lives. Who is observing them? Who can people complain too if there are unskilled interpreters working in the field? This law needs more teeth, that's' our concern. The law has already passed, the law is already in place, but it's not enough to suit our needs.

Senator Andrist: I wanted to point out, that if you have a concern, for a board that can be viable and pay its own way, that's where the really high costs come as when you start putting the teeth into the system.

Sharon Potts- Saylor: Favor of SB 2157. See attached testimony.

Senator Olafson: Relayed a personal story and the importance of having proper communication is critical. Would you agree with that? **Sharon-Potts Saylor:** Yes, definitely! I want to feel comfortable understanding what is being said, and that allows communication to take place comfortably. If that doesn't happen, than all kinds of miscommunication can occur.

Carmen Grove Suminski: Superintendent of the North Dakota School for the Blind. Testified in support of SB 2185. See attached testimony.

Senator Andrist: Do you have any concerns as Senator Judy Lee and I both, can visualize that education and licensure certification were they could be done without a whole lot of cost to them? Do we need to enforce it? Do you have any concerns with handling that part of the bill because we require licensure as two other people who testified to this bill? They see a great need for enforcement and that's where the cost can get expensive.

Carmen Grove Suminski: I haven't really researched it. You know in my experience I haven't been involved with this type of thing. I don't know it could interface with Educational Standards and Practices Board (ESPB), there's all of the teachers and so forth that were asked for their certification comes from their owned paid license. I am really not knowledgeable, but I certainly would be willing to collaborate and work with it on the administrative level. But I do strongly believe in is that it is the right of every person who is

deaf and hard of hearing to have that proper interpreter and that proper communication base.

Senator Laffen: I share your same desire to have qualified people do sign language. I struggle with the right procedure to get to there, between certification and licensure. The interpreters that you provide for the state, are they all certified to that certification that national certification?

Carmen Grove Suminski: The majority of them are, Renee being an example. We do and anyone that is not, must come from a 2 year program and not have that full certification. But then they would work and have that mentoring piece and the goal is we provide is to enable them to have the professional development to obtain the certification. So, we have a sign language interpreters' state classification that requires that full certification. There is also a classification within the state system that's called Sign Language Facilitator, so if they don't have that full certification, they can go into that classification which is at a lower grade level and lower pay, but then there's the requirement to work towards that full sign language certification.

Sr. Laffen: So do you ever run into problems with people complaining about that level difference? They received service from you and do they call and say it just didn't work out.

Carmen Grove Suminski: During the process of this plan which was previously mentioned in testimony, we had an interpreter and the interpreter was for the deaf person. At first there were complaints the person was not doing an adequate job. There was a concern, so another person was obtained that did meet the needs of the person with the hearing loss.

Senator Laffen: That could be a possible solution if you're at a hospital or school and you have complaints Do you hire the interpreters full time? **Carmen Grove Suminski:** Yes, the interpreters that we have at School for the Deaf, or any of the state, they are full time.

Senator Laffen: Renee is a full time employee of the School for the Deaf. **Senator Laffen:** But she is sort of loaned out? **Carmen Grove Suminski:** She works in an Outreach Capacity so she will works with college age students, high school students, and then there is a reimbursement back to the School for the Deaf. We are the resource for interpreters and as stated earlier, as more people are going on to secondary education. School for the Deaf is not just a school for K-12; we serve persons of all ages. That was mandated I believe where the legislation was changed that School for the Deaf would provide services to persons of all ages.

Senator Judy Lee: Committee, up until I believe, four years ago, the services for this Schools for the Blind and Deaf, were limited to school age children. The Human Services committee heard from people of all ages about basic care and assisted living and long term care facilities where as people aged they may have some hearing issues. It was not without its challenges in getting it adopted by the legislature to provide services in an Outreach Capacity from both School of the Blind and School for the Deaf throughout the state. So that if there were people beyond the age of 18, no 21, you were out of luck and you weren't going to get any services because they were not allowed by law to provide services to

people older than 21. I am so please that the state legislature finally saw the benefit of that because our long term facilities have benefited. Your two facilities now are providing services to people of all ages, throughout the entire state and that is one of the best things the legislature has ever done. Because we did that, now we have an increased demand for certified interpreters and so do you see shortages now and is there a concentrated effort to encourage more people to go into this field?

Carmen Grove Suminski: Yes, there is a definite shortage. What is going to complicate it a little more, the interpreter is also going to require an addition to not only a 2 year program its' going to suffice, but they are going to need a degree, a degree in English or some related field.

Senator Andrist: Can you or anybody else give me how long it would takes to learn interpreting?

Eileen Gray: It takes a while. We run students through a two year program. They are required before they come into the program to have some sign language skills. At the end of 2 years, we give them at least 2 years (South Dakota requires five years) for them to work in the field to practice their sign language in order to be qualified to take the national testing. So it does take some time to work toward certification. There is a shortage, partly due to something called Video Relay Interpreting (VRI). We are also looking at free lance or community interpreters to reign in a little.

Senator Dotzenrod: There appears to be some demand for this. Is this bill going to make it easier to meet that demand or have we by having the bill, created some additional barrier or hurdle to meeting the demand?

Carmen Grove Suminski: I am hoping it will not complicate the situation because I think the agencies are there to work together to enable that person to become certified. We're there to work together and provide that professional development piece to make them higher qualified and certified. The person hard of hearing is entitled to have that certified interpreter.

Senator Dotzenrod: Current law says you have to be certified. But then we have exceptions under current that say if you're volunteering and you're not charging for your services you don't have to be certified, if you are in an emergency situation you don't have to be certified, and that's under current law. It looks like if we adopt this we are going to maintain those exceptions. **Carmen Grove Suminski:** Right. **Senator Dotzenrod:** If we have licensing, if you're a volunteer you don't have to be licensed? If you are in an emergency situation, it is not a requirement if this were adopted. So those people that are doing interpreting and are going to be covered, are they charging for their services?

Senator Dotzenrod: When you charge for the services by the hour, is it quite expensive to get these services? Is it \$ 50 dollars an hour, it is \$10 hour, how difficult how expensive are these services? **Eileen Gray:** The average cost for a free lance interpreter in North Dakota would be anywhere from \$25.00- \$35.00 hour, generally a minimum of 2 hours; it is a little less than other states but according to Section 504, which is federal law, any organizations that receive federal funding must provide services, and in facility services it includes interpreting skill, the cost goes back to the hospital and clinic. It usually is built into the

Senator Dotzenrod: When you charge for the services by the hour, is it quite expensive to get these services? Is it \$ 50 dollars an hour, it is \$10 hour, how difficult how expensive are these services? **Eileen Gray:** The average cost for a free lance interpreter in North Dakota would be anywhere from \$25.00- \$35.00 hour, generally a minimum of 2 hours; it is a little less than other states but according to Section 504, which is federal law, any organizations that receive federal funding must provide services, and in facility services it includes interpreting skill, the cost goes back to the hospital and clinic. It usually is built into the

interpreting skill, the cost goes back to the hospital and clinic. It usually is built into the budget because people across the country know that not' going to happen to provide according to ADA. **Senator Dotzenrod:** The bill sets up on page 2, lines 18-24 how these meetings, how the board will meet, and how they will be compensated and the reimbursed for mileage, and they will be paid under 54-06-09 which I think is probably the state legislature, I think, it looks to me like giving the 40 that we're going be talking some very limited ability to have meetings. I would expect that is adopted this that the board would have to be manage by someone who is a part time employee working at home with limited meetings. Is that a fair assumption? **Carmen Grove Suminski:** I have not been directly involved but, I don't think all of those specifics technicalities have all been worked out yet. I do know that through IVAN and other means of connecting that it can really reduce the cost. When the advisory group was meeting as a full group they were face to face at every single meeting and yes that was costly to the state. However, now when we they are working in an advisory council and those funds are no longer available, we are doing it through via IVAN and setting up sites across the state. School for the Deaf has that capability, plus we have video relay, and would be a partner and be able to set that up and work in that avenue to reduce the cost in that respect.

Senator Judy Lee: Short observation given regarding sign interpreters.

Allison Dollar: Assistant Director of Special Education for the Department of Public Instruction, Special Education unit. I support SB 2185. See written testimony.

Senator Andrist: You're asking for an amendment suggesting on page 4 to remove the overstrike. **Allison Dollar:** On just the first sentence, but still removing the last that specify the date of August 1, 2005 they must be nationally certified. Leave that stricken, but we still need to detail the qualifications and skills that and educational interpreter needs to have. A lot of the conversation we've been having has mainly been looking at community interpreting and free-lance interpreting; the Department of Public Instruction is looking at this in terms of what's needed in the educational system K-12. We would ask that interpreters who went through the program and are certified through the Educational Interpreters Certificate or Professional Assessment still is allowed to be an interpreter in the educational setting.

David Bjork, State Employee and Lawyer for the Protection and Advocacy Project. The protection and advocacy project is an independent state agency that acts to protect people with disabilities from abuse, neglect and exploitation, and advocates for the disability related rights of people with disabilities. See written testimony. **Senator Laffen:** Are you in support of this bill because the things I wrote down, I couldn't tell if they were improvements for it or just against it. **David Bjork:** I support the concept, and I support the bill. I think that what I am suggesting would be improvements to the bill that might make it possible to pass the bill.

Rena Bittner submitted written testimony as the sign language interpreter from the School of the Deaf. She signed for those who testified in the committee hearing who are deaf. See written testimony.

Senator Andrist: Closed hearing SB 2185.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Political Subdivisions Committee Red River Room, State Capitol

SB2185
January 31, 2011
13619

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to regulation of sign language interpreters.

Minutes:

You may make reference to "attached testimony."

Senator Andrist reopened SB 2185 for committee discussion. He has concerns whether they are able to operate their own or create their own licensing agency. My opinion is they could do it a lot with the credentialing system.

Senator Lee: If you would like, I could give you an update on that as well. **Senator Andrist:** I would like to see it converted to certification process. I think they could do a lot with that. The pitfalls are, if you give them enforcement authority this is where the costs can come in; if they are going to have the authority to preclude somebody else from doing this.

Senator Lee: Our really good idea was such a good idea, that it is already in place. The School for the Deaf does have the lists of certified sign interpreters now, so we wouldn't be really doing anything different. But they were asking for really was the ability to regulate and provide a penalty. My understanding from Carmen Grove Suminski, (the administrator of the two schools), is that already exists and is on the School for the Deaf website, the names of the people who are certified sign interpreters. We wouldn't be making much progress because they've already progressed to that point. They offered several things, but administrative support is a concern, but they really were hoping to have some kind of enforcement to because of the danger they see in people who are not certified doing this. It is federally mandated that sign language interpreters need to have certification credentials. Examples shared.

Senator Andrist: I think there are some unintended consequences with this legislation.

Senator Laffen: My initial thought was who gets harmed if we don't do this? What is it hurting if we don't do this? I wasn't convinced in any of the testimony of who really gets harmed that much? There are signed interpreters out there. We heard one piece of testimony where she went to college and couldn't understand the instructor. We all have that same experience with the language of our instructors. Our choice is to file a complaint and make the school improve the university's equipment. But I don't know that its' really for public health safety and welfare issue.

Senator Lee: Referred to Mr. David Bjork's written testimony. I think it's worth taking a peak at again at his testimony, but, if we we're going to do it, he did recommend an additional change of language also. They supported the passage of it, but it doesn't sound like their seeing any onerous things going on right now either.

Senator Andrist: I tried to be open to this, because I tend to go back to Senator Laffen's submission, that we'd be better to just kill the bill.

Senator Dotzenrod: Along that same line, I am just wondering if someone is in a circumstance where they are having an issue or real problem understanding what's going on. I would think you would become frustrated, it's difficult to understand what's going on, wouldn't you have an option under our current law, to go to the people that are in charge and say, we have a requirement in law that there is certification required under current law in North Dakota, and I cannot understand this person. Are they certified and if their not, I would request that I have someone who is? Whether it's a medical or legal proceeding, I would think that if we have a requirement under current law that their certified, and you are in a circumstance where it's not working and you can't quite understand what's going on, you should be able under current law, go to someone in a position of responsibility here. How come we're not following the rules here? I think under our current system you are to be certified. One of the real problems here is the number, the universe is so small here, and that if you try to impose some system to try to bring organization to it, there is no resources to work with. It is just too small.

Senator Olafson: Read page 3, starting at Line 11 over struck an "is an individual may not practices or represent as an interpreter for deaf, deaf blind, speech impaired, or hard of hearing individuals in the state unless the individual holds a valid nationally recognized certification." **Senator Andrist:** That's already in code. **Senator Olafson:** Exactly! **Senator Laffen:** I asked Carmen Sumanski, then, what is the issue and she said there is no person saying there are signed interpreters that does not have that representation. So, I was wondering well why not then just add our claim to; who are not certified then they need to be policed then by the State's Attorney. But even that has, some unintended consequences of the person that has assured and is just trying to help and don't know the laws and they are doing a good service. Somebody called them on it. **Senator Dotzenrod:** On page 4, the length is the list of exceptions; this is not something we are adding. So under current law, on line 4, " an interpreter working at a religious activity while they exempted out, somebody who is doing it for volunteer purposes in that setting on line 5, there are exempted, and also somewhere if you select out for yourself the person you want to be the signer for you, that is exempted out. So it seems to me, you still have the right under our current system if you're not in one of these exceptions to be able to say, I want this requirement in state law of being certified to be enforced, in those few circumstances where it really is critical. I lean toward the idea that we're not quite ready yet in North Dakota to be able to do this. **Senator Lee:** I also think that the people who do need sign interpreters are to a large extent extremely aware of the rights that they have. Because the deaf community is a cohesive, tightly knit group even if they all don't live in the same place. So they do have some recognition of what is available to them. There certainly some circumstances such as when the folks were testifying here where you can't wait for written copies of what has been said. But there also are circumstances in which a person, if there not totally comfortable

with what the signer may have said, can ask for written copies before something transpires. It is not there only language is my point. A lot of them are lip readers, not all, but some, so I get it, why want everybody wants to be perfect, but everybody isn't going to be able to do that.

Senator Dotzenrod: If the legislature adopts this and it became law, it seems to me we would be open to quite a bit of criticism for doing this. Because we put in place something that is really non-functional, it doesn't have and we haven't got the resources available to make it work. I think we're opening ourselves up to some people looking at and wondering what was the legislature thinking of, why did they do this? We've got this board that can't really work, there is no money there; we can't really have meetings because we're requiring here that they be paid a certain rate. So I think, given the choices we have, neither one which I am really particular happy with, but I think the best one is to not pass it.

Senator Olafson: I would suggest as a committee, we consider having an amendment drafted to provide the appropriate penalty because we do have all these exceptions, ex. in the church, just add the penalty. I would suggest that we consider having an amendment drafted which hedges the bill and adds the penalty.

Senator Andrist: Are you going to create the licensing board then? **Senator Olafson:** No. Hedge the bill and just add the penalty. Is there is an infraction, is there something more appropriate? **Senator Laffen:** On the last page of the bill, they had a suggested penalty. **Senator Andrist:** It is a Class B misdemeanor. Somebody suggested changing that to an infraction. **Senator Olafson:** That's there. **Senator Laffen:** Instead of hedging the bill, could we scratch everything but that? **Senator Olafson:** That's what I would suggest we consider. **Senator Andrist:** So what are we going to take out? **Senator Olafson:** All the underlined language except that. **Senator Dotzenrod:** Won't this be kind of kill it? **Senator Olafson:** Yes. **Senator Dotzenrod:** Every section is repealed except for what we have. **Senator Olafson:** Well, you don't repeal existing, delete it. All the new language is deleted with the exception of the penalty found on page 7. **Senator Lee:** What is the penalty for a Class B misdemeanor? **Senator Olafson:** 30 days or \$1,000 for a class B misdemeanor this would be judicial discretion. **Senator Laffen:** Is there a lighter penalty that we know of? **Senator Lee:** Class A; minor misdemeanor. **Senator Olafson:** B would be the lowest misdemeanor, but I think its 30 days and \$1000 dollars. **Senator Dotzenrod:** I think the legislature can set up in any place in the code, right next to the statute, a violation of this section shall be \$100 fine or \$200, I think there are places where that's been done too. **Senator Dotzenrod:** Did we hear anytime during this hearing that someone was in a situation where they requested to have a certified signer and it was not provided? **Senator Andrist:** I didn't hear that, not that I recall. I guess my preference is probably still to do away with the bill, but I am open to any motion that anybody wants to make.

Intern response: A class B misdemeanor maximum penalty is 30 days imprisonment or a fine of \$1000 or both.

Senator Olafson: I do think that is too high, so I think we can specify what violation of this section is punishable by a fine of up to whatever dollar amount, and fine. **Senator Andrist:** Someone has to sign the complaint. The state's attorney does not have to accept it. **Senator Olafson:** I think our Intern should check with legislative council to see if we can do it that way, just say a violation of this section is punishable by a fine of up to \$250 or

whatever we want. **Senator Andrist:** So you would just do a hog house amendment to say a violation to Section 43:52:01 is a misdemeanor. No. You just want to provide for a penalty? **Senator Olafson:** You just want to provide for a penalty and say a violation of this section is punishable by a fine of \$250, if we can do it that way? **Senator Andrist:** That's all that would be in the bill. **Senator Olafson:** That's right. So the way they would draft that hog house amendment would be after a bill, a violation of this section that's all it would be then. **Senator Andrist:** Would any states attorney accept a complaint if its' not a misdemeanor? **Senator Dotzenrod:** What normally would happen is I suppose someone is in that environment and they can't understand what's being going on, so they go to someone that's in a supervisory position or whosoever in charge of the program and ask for someone who is a certified signer. I guess in most cases they would get one, if they don't get one. Then the person that is in charge says we don't have the time or resources, you're just going to have get along with this. So, what they would do then, at that point, if they want to continue to try to understand, they'll just continue, and they either walk out to call a states attorney or they muck their way through for the day, and ask the states attorney to enforce or file some sort of grievance or action against that person. I guess the law says the person has to be certified, so I imagine that's the person, the signer is the one that is in trouble, not the person running the program or is in charge of it. We say in here, you cannot represent yourself in the state as a signer, unless you are certified. I would imagine the states attorney would try to find that individual, who was doing the signing. Mechanically, it seems like it would work.

Senator Olafson: That's why we have a thing called discretionary prosecutorial authority.

Senator Andrist: Could Senator Olafson prepare an amendment, since you wanted it. We'll either adopt it, or give the bill a do pass, or we'll kill it and let it die, which my sense is from the committee would welcome.

Senator Lee: There are going to be circumstances where the deaf individual is going to have to make a choice. And then it comes under that portion that says someone that is personally selected is acceptable. We all want the most perfect service in every area that we can get, but, the reality is you can't always do it. What do we do to make sure that something isn't dangerous? I don't know if this is going to be dangerous.

SB 2185 committee discussion closed.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Political Subdivisions Committee
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SB 2185
February 7, 2011
13926

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Relating to regulation of sign language interpreters

Minutes:

You may make reference to "attached testimony."

Senator Andrist opened the Committee Work on SB 2185.

Senator Olafson in this bill is a penalty for a violation from an email from Samantha Kramer our law intern after speaking with Jennifer with the Legislative Council. She lays out two options. The first would be a hog house amendment. In it we have a dollar amount and the fine if a violation occurs in line with the culpability which in this case would likely be knowingly, and the second option would be simply then to return the bill to remove all the new language and include Section 10, at the same time includes some language that we can use for the hog house type amendment. Jennifer did say the committee could simply use language stating the dollar amount and the penalty would be a Class B misdemeanor. There in common thread among occupation statutes. She also said that changing the penalty to only a dollar amount would still provide the states attorney with prosecutorial discretion.

Senator Lee: What are the penalties again for a Class B misdemeanor? **Senator Olafson:** 30 days and \$500 or \$1000 fine. I think it's 30 and \$1000. **Senator Andrist:** I am trying to figure out the practical effect of this now? So now, we would require that you not do this unless you're properly certified and if you did it anyway then you would be subject to whether or not the State's Attorney wanted to prosecute you. Is that my right understanding? **Senator Lee:** I don't know that we want to eliminate everything that was in here. Example on page 1, beginning on line 23 it talks about video remote interpreting (VRI), would we not want to continue to permit that? We don't want to do what the licensure board is, because there isn't enough financial support to do that. That would all go. We've already got the exceptions so that okay. There was some discussion about an amendment removing the overstrike on page 4, line 22-24 in the school setting; so I don't know that everything in here we necessarily want all of it to go away? Are there any things in here that would still be helpful? **Senator Andrist:** We had some testimony that they already have certification rules didn't we? So they're required if they want to do this without threat of penalty to have certification, or become certified. **Senator Lee:** David Bjork had some

stuff about additional changes in current law including page 3, line 12. Maybe Samantha can take a look and see from the testimony that we got from Mr. Bjork and also there was some from Allison Dollar. **Senator Andrist:** Beginning on line 12, it already exists that you may not practice unless you have a valid national recognized certificate. **Senator Laffen:** My opinion is the purpose of this bill was to create a licensing board for this group. I would recommend –my opinion is that we should just kill this bill.

Senator Andrist: Would you like to make a motion? Senator Laffen: Made a motion to kill this bill. 2nd –Senator Olafson
Do not pass recommendation.

Discussion:

Senator Lee: I agree we can't do the licensing board. But they wanted to have some kind of teeth to the issue, and that's why it comes back to what Samantha has found after Senator Olafson had a discussion with Jennifer Clark in the Legislative Council about having some kind of penalty. So I think that at least deserves discussion. If we want to, consider offering the State's Attorney some kind of penalty for those people who are putting themselves out to be certified when they are not.

Senator Andrist: I think your points are well taken, if we just kill the bill, people are still prohibited from being an interpreter if they aren't nationally certified. There is just no penalty in this, unless we do something. **Senator Lee:** And I did just find that the testimony from Allison Dollar, and DPI requested that the section about elementary school, be left in, but, that the last two sentences be removed because of there were some dates in there. **Senator Andrist:** And that's where? **Senator Lee:** That would be on page 4, exception 9, the department requests that to meet the needs of the k-12 population this section remain in the bill but the last two sentences be removed which begins with the individual may work in a school setting without national certification until August 1, 2005. So I think it would be appropriate to recognize that DPI would like the obsolete wording removed. If we kill the bill then the first part will be in there anyway. So will the last part then. If we're going to do anything about penalty, then lets' fix the DPI part also.

Senator Dotzenrod: Where is the language? **Senator Lee:** That was on page 4, exception 9. It begins on line 22, talks about individual working in an elementary or secondary school, they just wanted to leave in lines 22-23-24, but continue to have deleted lines 25-28 because there no longer in effect. Eliminating the overstrike on line 22-24 page 4, is what DPI would like to have done.

Senator Olafson: I don't have a problem withdrawing my 2nd if Senator Laffen would withdraw the motion and doing some of those minor things in providing a penalty. **Senator Laffen:** I don't have any problem with that.

Senator Olafson: I withdraw my 2nd, **Senator Laffen:** I withdraw my motion.
Senator Andrist: We're back to consideration of the bill?

Senator Olafson: Can Samantha work on an appropriate amendment based on what we want to do? Do we need that video remote interpreting definition? I don't think we do? That is just the definition.

Senator Lee: The only question I have about that Senator Andrist, whether or not for some of the reimbursements. We are having to authorize telemedicine in one form or another, so that it can be considered appropriate care. So I don't know if that's the reason this is in here, but I am just thinking that it's a video remote interpreting in some cases would mean that somebody didn't have access to on site and could provide the service, that it would be okay.

Senator Olafson: But is there anything prohibiting them from doing that now? **Senator Lee:** There is nothing that authorizes them and sometimes that means you don't get paid, it doesn't count, if there in a hospital and it's a small hospital and they can get a VRI but they don't have anybody in a small town that is a certified sign interpreter, it would mean that the medical facility could do some video remote interpreter. Example given. The language defines it. It is not going to hurt anybody to have it there; it may help some of the smaller facilities or places that don't have an on-site and certified interpreter to get someone in as a remote. **Senator Laffen:** So this piece is adding that in now? **Senator Lee:** And authorizes that as being an acceptable alternative to a face to face interpreter. I think that makes sense.

Senator Olafson: So this is the definition but we also need something that says that licensed interpreters can do the interpretation by video teleconferencing or something like that. That's the definition but it doesn't provide for the process, it defines the process. **Senator Andrist:** If you're putting that Subsection 9 back in, you do that by just killing the bill. **Senator Olafson:** No, No. We're on page 1, **Senator Lee:** 23-24 on page 1 and 1 and 2 on page 2. **Senator Olafson:** That provides the definition about the process but it doesn't provide authorization for the process. **Senator Lee:** Well maybe while Samantha is working on this she can find out if we need further language to say that is kosher. **Senator Olafson:** So we both need the definition and the authorization for the process. What else did we want to leave in; everything else in the next two pages is gone. On page 4 we removed the overstrike on lines 22-24, leave the overstrike on the remainder. **Senator Lee:** We'll eliminate everything from page 2 line 3 thru page 3 line 7. **Senator Olafson:** Starting on line 11, you'd leave the original language? **Senator Lee:** We maybe want to keep that overstrike because we aren't going to grandfather anybody in anymore, because that is already done. **Senator Olafson:** That overstrike can stay, but the new language should be eliminated on the remainder of the page. Remove the overstrike on lines 22-24, leave the rest over-struck, and eliminate everything on page 5, of the new language. **Senator Lee:** Back to the bottom of page 4, which is still the current language but then we added a sentence. **Senator Andrist:** They wanted to get rid of the exemption. **Senator Lee:** Well they just want to say after December 31, 2013 and we don't want that. I am just asking if that is important or not? **Senator Laffen:** I think they are saying they want that exemption to go away. So we can leave that. **Senator Lee:** I am okay with that exemption going away. **Senator Andrist:** Well the exemption is gone in two years anyway. **Senator Lee:** In line 1 and 2, then we would eliminate everything else on page 5, down to line 28 anyway and the rest of it and all of 6, and then we get to the video remote interpreting again, on page 6 line 13. **Senator Lee:** They may not, unless we could say certified because they are already that. So we're going to permit people to provide services, however we do with the verbiage

VRI if they are certified; they are not going to be licensed. **Senator Olafson:** If their certified. **Senator Andrist:** So a person may not provide video remote interpreting services unless they are certified. **Senator Laffen:** Aren't we keeping the disciplinary part? **Senator Olafson:** There is no board to discipline anyone. There is just a violation. **Senator Lee:** How are we going to do the penalty then? **Senator Laffen:** It can just be the last one, 12,13,14,15 like that.

Senator Andrist: What do you think about the idea of putting a major amendment and just creating a hog house situation of the whole thing? **Senator Lee:** However, would LC wants' to do it is fine with me. I don't care what road we get there. **Senator Andrist:** We take it and start over and substitute the new language. **Senator Laffen:** I like that better. **Senator Lee:** That would be fine, but I think we have to go through what we got on here to figure out how we are going to do this. **Senator Laffen:** You're going to end up with 4 or 5 amendments.

Senator Olafson: Do we need the second sentence on the penalty, starting on line 13 " In addition to the criminal penalties provided, the civil remedy of injunction is available to restrain and enjoin a violation of this chapter without proof of actual damages sustained by any person". It says that a judge could issue an order of injunction, where you are prohibited by this court from further activity of this kind without respect to whether there's been actual damage to a person or not. **Senator Laffen:** That helps give them some teeth they were looking for. **Senator Olafson:** Based on what we're doing with the rest of the bill, if that is advisable in this situation? **Senator Laffen:** What I like is this is the penalty they came up with. **Senator Dotzenrod:** The \$200 how does how does that fall into the Class B Misdemeanor? The \$20 on line 6, page 7, I think we got rid of that. That's gone. Are they exempt from anyone who is doing this violating this does this intend for them to be subject to a \$200 cost? **Senator Olafson:** They did, but a Class B misdemeanor gives the judge, it' up to a fine up to a \$1000; 30 days or a \$1000. We're leaving it to the judge. As long as he can fine less than \$1000. **Senator Olafson:** He can defer imposition of sentence for one year based on no further violations.

Closed committee work on SB2185.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Political Subdivisions Committee
Red River Room, State Capitol

SB 2185
February 9, 2011
14031

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to regulation of sign language interpreters

Minutes:

You may make reference to "attached testimony."

Senator Andrist opened the Committee Work on SB2185. All senators present.

Senator Andrist brought in a copy of the proposed amendments to SB 2185. This is sort of an Engrossed version of 2185.

Samantha Kramer, Political Subdivisions Law Intern, explained the amendment to the committee with the committee asking questions in reference to the amendments.

Senator Andrist closed the committee work on SB2185.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Political Subdivisions Committee
Red River Room, State Capitol

SB2185
February 10, 2011
14310

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the fee and demerit points for entering a road closed due to hazardous conditions.

Minutes:

You may make reference to "attached testimony."

Senator Andrist opened the Committee Work on SB2185. All members present.

Senator Judy Lee: Thanked Samantha for her work with Jennifer in Legislative Council.

Senator Judy Lee: I move the amendments.
Senator Olafson- 2nd.

Senator Laffen Discuss among the committee what the amendments do in the bill? **Senator Andrist:** The amendment adapts most of the old language and we added that video remote interpreting in the definition section. We removed an old date. **Senator Laffen:** Remind me, does this become a hog house amendment? **Senator Andrist:** Yes.

Senator Olafson: The original bill proposed an establishment of a licensure board with the amendment is gone. **Senator Andrist:** There is no licensure board but we leave the requirements that you must be certified to be an interpreter and provide a penalty if you interpret, you violate the civil penalty. **Senator Olafson:** What the amendment does is that the most subjective change would be the addition of the penalty; and also the definition of Video Remote Interpreting. **Senator Judy Lee:** It was explained to us without having that when it says Section 3 January 1, 2014, the dates in the obsolete language, just goes away. We don't have to have it, but this goes away in the bill. I think the main thing was it was important for the interpreters to understand this and recognize the penalty if you're not qualified. What they really wanted was teeth. So with the penalties you can be reported to the State's Attorney. We tried to be accommodating in that regard and include the other newer language about the VRI conferencing; you recommend that to be included, so we tried to cover the other parts of the bill itself.

Senator Andrist: I think it makes it pretty clear that people are doing professionally. I don't think it would stop an amateur from helping a friend or something. **Senator Lee:** We have all the exceptions still in there.

Senator Dotzenrod: I do think there is a possibility that when the bill comes on the floor there might be someone who would question that penalty. It doesn't seem by its nature to be a type of activity that people would consider to be a criminal activity or a violation of law to someone who is interpreting when they may be not certified. There may be some questions about that penalty as a Class B Misdemeanor. I think the exceptions for the most part would take care of that. But I think the answer to that is if someone were to challenge this on the floor, about being a Class B misdemeanor; that seems pretty high for something that seems harmless. But it really is for the people if you're not going to meet one of these exceptions. Then you're kind of in professional environment where you've got some impact on people.

Senator Olafson: You're absolutely right that there could be situations where it could have some serious consequences. There could be other situations where the consequences are very minimal and the states attorney has judicial discretion with a Class B Misdemeanor. They are going to look at the circumstances of the case and determine the penalty at that point. **Senator Andrist:** I think you're right, they would determine how grievous the offense. **Senator Olafson:** And what the consequences were by providing those services without certification. **Senator Andrist:** We're talking about people making a living. **Senator Judy Lee:** Or for money, specifically interpreting for money.

Vote on motion to amend: 5 Yeas, 0 No, 0 Absent
Senator Laffen moves Do Pass as Amended
2nd - Senator Olafson
Committee discussion followed
5 Yeas, 0 No, 0 Absent
Carrier: Senator Laffen (Hog house amendment)

Senator Andrist closed the committee work on SB2185.

FISCAL NOTE
 Requested by Legislative Council
 02/11/2011

Amendment to: SB 2185

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The original bill expands the definition of interpreter to include persons offering video remote interpreting. The amended bill requires that persons providing video remote interpreting services hold a valid national certification.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The amended bill has no state fiscal impact.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Joe Morrissette	Agency:	OMB
Phone Number:	328-1024	Date Prepared:	02/14/2011

FISCAL NOTE

Requested by Legislative Council
01/12/2011

Bill/Resolution No.: SB 2185

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill creates an interpreter licensure board to license and regulate sign language interpreters in ND. The board consists of 5 members appointed by the Governor, entitled to receive per diem at rates established by the board.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 7 allows the board to establish fees not to exceed \$50 for applications and \$100 for annual license fees. It is unknown how many licenses will be issued.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Revenues will be derived from application and license fees established by the board.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Expenditures will relate to board member per diem and administrative expenses relating to licensing and regulating sign language interpreters. These expenditures can not be estimated.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Joe Morrissette	Agency:	OMB
Phone Number:	328-1024	Date Prepared:	01/17/2011

PROPOSED AMENDMENTS TO SENATE BILL NO. 2185

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create two new sections to chapter 43-52 of the North Dakota Century Code, relating to the regulation of sign language interpreters; to amend and reenact sections 43-52-01 and 43-52-02 of the North Dakota Century Code, relating to regulation of sign language interpreters; and to provide a penalty."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-52-01 of the North Dakota Century Code is amended and reenacted as follows:

43-52-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Consumer" means an individual who is deaf, deaf-blind, speech-impaired, hard-of-hearing, or who requires special communication techniques in order to communicate.
2. "Interpreter" means an individual who engages in the practice of interpreting.
3. "Interpreting" means the translating or transliterating of English concepts to any necessary specialized vocabulary used by a consumer or translating of a consumer's specialized vocabulary to English concepts. Necessary specialized vocabularies include American sign language, English-based sign language, and oral interpreting.
4. "Nationally recognized certification" means certification granted by a national organization that is based on a skills assessment of the applicant. These organizations include the registry of interpreters for the deaf and the national association of the deaf.
5. "Video remote interpreting" is a process that allows an individual who is deaf or hard-of-hearing to communicate with a hearing individual at the same location through an interpreter displayed via videoconferencing equipment or through a television with a videophone.

SECTION 2. AMENDMENT. Section 43-52-02 of the North Dakota Century Code is amended and reenacted as follows:

43-52-02. Practice of interpreting – Video remote interpreting.

An individual may not practice or represent as an interpreter for deaf, deaf-blind, speech-impaired, or hard-of-hearing individuals in the state unless the individual holds a valid nationally recognized certification. ~~However, an individual who was practicing as an interpreter in this state before August 1, 2001, has until July 31, 2003, to meet the certification requirement under this section.~~ A person may not provide video remote interpreting services in this state unless certified under this chapter.

~~program if, during that period, the individual is mentored by a trained mentor who is either a certified interpreter or a deaf adult. Section 3 of this Act is effective January 1, 2014.~~

SECTION 4. A new section to chapter 43-52 of the North Dakota Century Code is created and enacted as follows:

Penalty – Civil penalty.

Any person who violates this chapter is guilty of a class B misdemeanor. In addition to the criminal penalties provided, the civil remedy of injunction is available to restrain and enjoin a violation of this chapter without proof of actual damages sustained by any person.

SECTION 5. EFFECTIVE DATE. Section 3 of this Act becomes effective on January 1, 2014.

Date: 2/10/2011
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2185

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Judy Lee Seconded By Senator Olafson

Senators	Yes	No	Senators	Yes	No
Senator John Andrist	✓		Senator Curtis Olafson	✓	
Senator Lonnie Laffen	✓		Senator Jim Dotzenrod	✓	
Senator Judy Lee	✓				

Total (Yes) 5 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2/10/2011
Roll Call/Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2185

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Laffen Seconded By Senator Olafson

Senators	Yes	No	Senators	Yes	No
Senator John Andrist	✓		Senator Curtis Olafson	✓	
Senator Lonnie Laffen	✓		Senator Jim Dotzenrod	✓	
Senator Judy Lee	✓				

Total (Yes) 5 No 0

Absent 0

Floor Assignment Senator Laffen

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2185: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2185 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create a new section to chapter 43-52 of the North Dakota Century Code, relating to the regulation of sign language interpreters; to amend and reenact sections 43-52-01, 43-52-02, and 43-52-03 of the North Dakota Century Code, relating to regulation of sign language interpreters; to provide a penalty; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-52-01 of the North Dakota Century Code is amended and reenacted as follows:

43-52-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Consumer" means an individual who is deaf, deaf-blind, speech-impaired, hard-of-hearing, or who requires special communication techniques in order to communicate.
2. "Interpreter" means an individual who engages in the practice of interpreting.
3. "Interpreting" means the translating or transliterating of English concepts to any necessary specialized vocabulary used by a consumer or translating of a consumer's specialized vocabulary to English concepts. Necessary specialized vocabularies include American sign language, English-based sign language, and oral interpreting.
4. "Nationally recognized certification" means certification granted by a national organization that is based on a skills assessment of the applicant. These organizations include the registry of interpreters for the deaf and the national association of the deaf.
5. "Video remote interpreting" is a process that allows an individual who is deaf or hard-of-hearing to communicate with a hearing individual at the same location through an interpreter displayed via videoconferencing equipment or through a television with a videophone.

SECTION 2. AMENDMENT. Section 43-52-02 of the North Dakota Century Code is amended and reenacted as follows:

43-52-02. Practice of interpreting.

An individual may not practice or represent as an interpreter for deaf, deaf-blind, speech-impaired, or hard-of-hearing individuals in the state unless the individual holds a valid nationally recognized certification. ~~However, an individual who was practicing as an interpreter in this state before August 1, 2001, has until July 31, 2003, to meet the certification requirement under this section.~~ A person may not provide video remote interpreting services in this state unless certified under this chapter.

SECTION 3. AMENDMENT. Section 43-52-03 of the North Dakota Century Code is amended and reenacted as follows:

43-52-03. Exceptions.

This chapter does not prevent or restrict:

1. A nonresident interpreter working in this state not more than nineteen days per year.
2. An interpreter working at a religious activity.
3. An interpreter working as a volunteer without compensation.
4. An interpreter working in an emergency. An emergency is a situation in which the consumer decides that the length of time needed to obtain a licensed interpreter is likely to cause injury or loss to the consumer.
5. The activities and services of an interpreter intern or student-in-training enrolled in a program of study in interpreting at an accredited institution of higher learning; interpreting under the supervision of a licensed interpreter as part of a supervised program; and identified as an interpreter intern or student-in-training.
6. An individual using sign language or a manual communication system as a means of communication with or on behalf of a family member, a deaf individual, a deaf-blind individual, a speech-impaired individual, or hard-of-hearing individual who has specifically requested that use by that individual.
7. A communication made as a reasonable accommodation for the employment of a deaf, deaf-blind, speech-impaired, or hard-of-hearing individual.
8. A communication with a deaf, deaf-blind, speech-impaired, or hard-of-hearing individual who could not communicate using American sign language or English-based sign language.
9. An individual working in an elementary or secondary school who has successfully completed a three-year educational interpreter certificate program of study or who has passed the educational interpreter performance assessment at a level of 3.5 or higher. ~~The individual may work in the school setting without national certification until August 1, 2006, if the individual is being mentored by a trained mentor who is either a certified interpreter or a deaf adult. To continue working in the school setting after August 1, 2006, the individual must have obtained national certification.~~
10. ~~An individual who has successfully completed an accredited interpreter training program from interpreting without certification for a period of up to two years from the date of completion of the program if, during that period, the individual is mentored by a trained mentor who is either a certified interpreter or a deaf adult.~~

SECTION 4. A new section to chapter 43-52 of the North Dakota Century Code is created and enacted as follows:

Penalty - Civil penalty.

Any person who violates this chapter is guilty of a class B misdemeanor. In addition to the criminal penalties provided, the civil remedy of injunction is available to restrain and enjoin a violation of this chapter without proof of actual damages sustained by any person.

SECTION 5. EFFECTIVE DATE. Section 3 of this Act becomes effective on
January 1, 2014."

Renumber accordingly

2011 HOUSE HUMAN SERVICES

SB 2185

2011 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

SB 2185
March 14, 2011
Job # 15414

Conference Committee

Committee Clerk Signature *Marlynn Kienzle*

Explanation or reason for introduction of bill/resolution:

Relating to regulation of sign language interpreters; and to provide a penalty.

Minutes:

"Attached testimony #1, 2, 3, 4, 5, 6, 7."

Chairman Weisz: Opened the hearing on SB 2185.

Sen. Dave Oehlke from District 15: The bill in front of you relates to the interpreters and how they are certified and what they can do. The interpreters wanted to create an association but didn't realize how expensive that is to do. What the intent was of the bill is to provide some regulation and stipulations on the interpreters the bill was amended somewhat. One of the first things you will see in the bill is the definition of what video remote interpreting is. On the next page you will see the practice of interpreting and how that affects remote interpreting and that you have to be a National Certified Interpreter in order to provide that service. There is a civil penalty at the end of the bill if you are in violation of statute. Notice that the bill doesn't go into effect until 2014. That is to give these folks that are an interpreter time to get certified. The idea is to give the level of interpreting service up to a par so that it is professionally done. It wouldn't be good for me to talk in Norwegian and someone is interpreting in Swahili it wouldn't do anyone any good.

Rep. Porter: If I'm reading this write, with the video remote interpreting, is it just the individuals within this state we are trying to cover or is it interstate with the language?

Sen. Dave Oehlke: A remote interpreter happens from here but far, far away. We could have a remote Interpreter Center in Bismarck and you are a hearing person, you would call in to the Interpreter Center and you also connect to the person who is hard of hearing. Now they have the ability to sign to the interpreter at the center. That interpreter can tell you what the person has said and you can have a video conference in that manner.

Rep. Porter: I'm not concerned with us regulating a practice within the state. What I am wondering, are we trying to regulate a center that is in Iowa so that an individual could not use that center and the services provided by that center in Iowa. I am reading on page 2 that they may not provide those services in this state unless they are certified under this chapter. So what I am just wondering is how far we are reaching out to regulate the business of interpreting with this bill?

Sen. Dave Oehlke: I believe this would regulate the interpreters located in North Dakota.

Rep. Porter: That is not how I read it. On page 2, line 8 is where I am confused on this.

Rep. Corey Mock from District 42: I am honored to part of this bill. I was approached by a member of a task force who is working on addressing the American Sign Language, licensure and certification section of our state statute. What you have before you SB 2185 as amended. The original bill came in to create a state licensure board. This would be a self regulating board of 5 members so they could certify and license interpreters. North Dakota is one of the few without our own Licensing Board. It heard a great hearing in the Senate but there were concerns about self funding because there are so few Interpreters in North Dakota. The Senate decided the best way to approach this is to keep the section of law as it was. You have to be Nationally Certified to be hired in North Dakota as an interpreter. There are no teeth in the law. So if a person is not certified but is hired there is no penalty, which is concerning. I know American Sign Language. I took the course at UND. I can put that on my resume and is an added benefit and could work as a clerk, however working in an emergency room or hospital and being the designated Sign Language Interpreter, knowing I took 4 semesters of sign language doesn't not mean I am certified to interpret an emergency situation. So what this bill would do, as it is amended, is recognize two things, video remote interpreting, which is primarily for rural areas and the use of the technology like Skype to fill in to wait for interpreter to get there. I don't have engrossed version with me, but I do have the amendment. (See Attachment #1) The changes that I am proposing is to clean up the language to make it so the current law is not changed with the exception of removing dates, adding the definition and removing the effective date. The reason is that we already require interpreters to be certified now, which is existing law. (Went through amendment changes) Hopefully it clarifies what the Senate Political Subdivision did.

Rep. Porter: I would like to hear your take on the Section 2 verbiage about a person may not provide video remote services in this state unless certified under this chapter or your language a valid nationally recognized certification. Is the intent of that to stop or try to regulate businesses outside of the state?

Rep. Mock: My understanding is that there is one Video Interpreting Service Center in the state of North Dakota. The intent is to not to regulate that it is to place BRI in the code.

Rep. Porter: It just doesn't read that way. The way it reads to me is that you cannot provide video remote interpreting services unless you are following this chapter of North Dakota law or it is a class D misdemeanor.

Rep. Mock: If Services are to be in North Dakota our laws currently require any interpreting services for hire, the interpreter must be Nationally Certified or locally licensed. The intent is that any person paid to interpret is Nationally Certified.

Eileen Gray Coordinator of Sign Language and Interpreting Studies at Lake Region State College in Devils Lake: Testified in support of the bill. (See Testimony #2) (Passed out handout #3)

Rep Anderson: Can you explain that assessment level of 3.5 or higher? How is graded?

Eileen Gray: The National Testing that I spoke about at the beginning is the Registry of Interpretation for the deaf testing. There is another nationally recognized certification and that is the EIPA (Education Interpreter Performance Assessment). This assessment assesses people who are specifically going to be working in schools. It is a requirement that you can get if you are going to work in schools only. The top number is 5 and we have looked at giving this test to my students as an exit tool. The 3.5 is the standard. Some states accept it at a little bit higher but we are excepting 3.5 that national standard.

Rep. Paur: Your illustration of Ms Perish, where she needed to wait 5 hrs for a qualified interpreter and she was writing notes, I do not understand the problem with that. If I had a feeding tube and I couldn't talk, I would be perfectly fine writing notes.

Eileen Gray: The most difficult thing with American Sign Language is negation. If I want to negate something I do it with a head shake or depending with signage or facial expression. So many times when a person is writing a note in English and the deaf person understand ASL they will misunderstand it so writing back and forth can be used but it is not very effective and there can be a good chance of confusion with writing.

Allison Dollar: Assistant Director of Special Education from the DPI. (See Testimony #4)

Michele Rolewitz: President of the ND Association of the Deaf testified in support of the bill. (See Testimony #5) ASL is a visual language and not a written language.

Sharon Potts-Sayler: Testified in support of the bill. (See Testimony #6)

HANDED IN TESTIMONY

Carmen Grove Suminski: Superintendent of the ND Vision Services/School for the Blind and ND School for the Deaf. (See Testimony #7)

Chairman Weisz: Closed the hearing on SB 2185.

2011 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

SB 2185
March 15, 2011
Job #15462

Conference Committee

Committee Clerk Signature



Minutes:

"attached Amendments and roll call votes"

Chairman Weisz: Let's take up SB 2185. I don't think there were any suggestions for amendments from the testifiers.

Rep. Pietsch: Reminded him that there is a correction.

Chairman Weisz: Thank you Rep. Pietsch. There was a correction because there was a board. There was the amendment suggested by Rep. Mock and the intent was to fix the problems about changing from licenses to being certified. There was discussion on the amendment.

Rep. Porter: It has the start of an appearance of being a fence of making sure those two exemptions are no longer in existence and that then you have to --- Weisz interrupted Porter.

Chairman Weisz: We are eliminating exemption 6 and 7. Elaine Gray wants line 6 and 7 removed 6 and 7. I don't agree with her assessment here. The exceptions that are list here are not necessarily referenced to just for pay. So if she is saying exception 3 takes care of it, no, that is just saying the interpreter working as a volunteer without compensation. It is not necessarily the same as an "individual using sign language as a means with or on behalf". It doesn't say they are going to be paid. Her argument is that it would be paid for and it doesn't say that. I don't know why # 7 is in conflict with the Americans with Disability Act. So why can't someone be exempted for reasonable accommodations. If the definition is wrong then change the definition. There should have been an amendment to change that. It is saying that if I was an employer, I would have to use a certified interpreter. That is the way I read it. On page 3, exception 10 should be reinstated. His amendment does bring section 10 back, "the individual has successfully completed", that would come back under his amendment. Then take out the effective date.

Rep. Porter: I'm not all that uncomfortable with the amendments up through the removal of those two exemptions. I move the amendment 2001 minus the verbiage for page 2 line 24, verbiage page 2 overstrike lines 25 through 29, and have Steven fix the numbers. The numbers do not need to be in there since the numbers don't change. The remaining is okay.

Rep. Kilichowski: Seconded the motion.

Rep. Holman: I probably will support the motion but I look at 7 and 8 and wonder how they are even different. The one on top of page 3 looks like it would take care of the other one.

Chairman Weisz: Her rationale is it is in violation of the American Disabilities Act and she had no explanation of what that conflict would be.

Rep. Holman: It looks like it is one of those situations where if it is one of those violations who would bother.

Chairman Weisz: That is the other point. If it is an agreement with the employee why would anyone really care?

Rep. Porter: Just on the ADA thing, that whole law is written with reasonable accommodation in the whole thing. An employer is to do exactly what it says in number 7, "Provide a reasonable accommodation". Why would it be against it if that is the whole bases of the law?

Chairman Weisz: Their argument is that reasonable means it has to be certified.

Rep. Porter: That is what they would like, yes.

Rep. Porter: Made a motion for Do Pass as amended.

Rep Schmidt: Seconded the motion.

Do Pass Yeas 12 Nays 0 Absent 1 Carrier Rep. Paur

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2185

Page 1, line 4, after the first semicolon insert "and"

Page 1, line 4, remove "; and to provide an effective date"

Page 2, line 9, replace "certified under this chapter" with "the person is an individual who holds a valid nationally recognized certification"

Page 2, line 18, overstrike "licensed" and insert immediately thereafter "certified"

Page 2, line 22, overstrike "licensed" and insert immediately thereafter "certified"

Page 2, line 24, overstrike "An individual using sign language or a manual communication system as a means of"

Page 2, overstrike lines 25 through 29

Page 3, line 1, overstrike "8."

Page 3, line 4, overstrike "9." and insert immediately thereafter "7."

Page 3, line 4, overstrike "successfully"

Page 3, overstrike line 5

Page 3, line 11, after the overstruck period insert "8."

Page 3, line 11, remove the overstrike over "~~An individual who has successfully completed an accredited interpreter training~~"

Page 3, remove the overstrike over lines 12 through 14

Page 3, remove lines 21 and 22

Renumber accordingly

Date: 3-15-11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2185

House HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. PORTER Seconded By Rep. Kilichowski

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ			REP. CONKLIN		
VICE-CHAIR PIETSCH			REP. HOLMAN		
REP. ANDERSON			REP. KILICHOWSKI		
REP. DAMSCHEN					
REP. DEVLIN					
REP. HOFSTAD					
REP. LOUSER					
REP. PAUR					
REP. PORTER					
REP. SCHMIDT					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent: 2001 amendment

Voice Vote
Motion Carried

VR
3/15/11

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2185

Page 1, line 4, after the first semicolon insert "and"

Page 1, line 4, remove "; and to provide an effective date"

Page 2, line 9, replace "certified under this chapter" with "the person is an individual who holds a valid nationally recognized certification"

Page 2, line 18, overstrike "licensed" and insert immediately thereafter "certified"

Page 2, line 22, overstrike "licensed" and insert immediately thereafter "certified"

Page 3, line 4, overstrike "successfully"

Page 3, overstrike line 5

Page 3, line 11, remove the overstrike over "40:"

Page 3, line 11, remove the overstrike over "~~An individual who has successfully completed an accredited interpreter training~~"

Page 3, remove the overstrike over lines 12 through 14

Page 3, remove lines 21 and 22

Renumber accordingly

Date: 3-15-11
Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2185

House HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Porter Seconded By Schmidt

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ	<input checked="" type="checkbox"/>	<input type="checkbox"/>	REP. CONKLIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
VICE-CHAIR PIETSCH	<input checked="" type="checkbox"/>	<input type="checkbox"/>	REP. HOLMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
REP. ANDERSON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	REP. KILICHOWSKI	<input checked="" type="checkbox"/>	<input type="checkbox"/>
REP. DAMSCHEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
REP. DEVLIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
REP. HOFSTAD	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
REP. LOUSER	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
REP. PAUR	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
REP. PORTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
REP. SCHMIDT	<input checked="" type="checkbox"/>	<input type="checkbox"/>			

Total (Yes) 12 No 0

Absent 1

Floor Assignment Rep. Paur

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2185, as engrossed: Human Services Committee (Rep. Weisz, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2185 was placed on the Sixth order on the calendar.

Page 1, line 4, after the first semicolon insert "and"

Page 1, line 4, remove "; and to provide an effective date"

Page 2, line 9, replace "certified under this chapter" with "the person is an individual who holds a valid nationally recognized certification"

Page 2, line 18, overstrike "licensed" and insert immediately thereafter "certified"

Page 2, line 22, overstrike "licensed" and insert immediately thereafter "certified"

Page 3, line 4, overstrike "successfully"

Page 3, overstrike line 5

Page 3, line 11, remove the overstrike over "40:"

Page 3, line 11, remove the overstrike over "~~An individual who has successfully completed an accredited interpreter training~~"

Page 3, remove the overstrike over lines 12 through 14

Page 3, remove lines 21 and 22

Renumber accordingly

2011 TESTIMONY

SB 2185

NDLA, Intern 02

From: NDLA, Intern 02
Date: Friday, January 28, 2011 11:59 AM
To: Olafson, Curtis
Subject: SB 2185-Amendment Options

Hello Senator Olafson,

After speaking with Jennifer in Legislative Council, the committee has 2 options.

The first would do a hoghouse amendment and then creating language regarding the dollar amount to be fined should a violation occur, creating language of culpability, which in this case would likely be "knowingly" from NDCC 12.1-02-02, or creating language of an infraction from NDCC 12.1-32-01, which is the classification of offenses typically used for occupations.

The second option would be to simply amend the current bill to remove all the new language and then amend section 10 with one of the same types of language that could be used in the hoghouse type amendment.

Jennifer did say that the committee could simply use language stating a specific dollar amount, however the penalty of a Class B misdemeanor is very common among occupation statutes. She also said that changing the penalty to only a dollar amount would still provide the state's attorney with prosecutorial discretion.

Samantha Kramer
Legislative Intern
Senate Human Services & Senate Potical Subdivisions
tern2@nd.gov

PROPOSED AMENDMENTS TO SENATE BILL NO. 2185

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create two new sections to chapter 43-52 of the North Dakota Century Code, relating to the regulation of sign language interpreters; to amend and reenact sections 43-52-01 and 43-52-02 of the North Dakota Century Code, relating to regulation of sign language interpreters; and to provide a penalty."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-52-01 of the North Dakota Century Code is amended and reenacted as follows:

43-52-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Consumer" means an individual who is deaf, deaf-blind, speech-impaired, hard-of-hearing, or who requires special communication techniques in order to communicate.
2. "Interpreter" means an individual who engages in the practice of interpreting.
3. "Interpreting" means the translating or transliterating of English concepts to any necessary specialized vocabulary used by a consumer or translating of a consumer's specialized vocabulary to English concepts. Necessary specialized vocabularies include American sign language, English-based sign language, and oral interpreting.
4. "Nationally recognized certification" means certification granted by a national organization that is based on a skills assessment of the applicant. These organizations include the registry of interpreters for the deaf and the national association of the deaf.
5. "Video remote interpreting" is a process that allows an individual who is deaf or hard-of-hearing to communicate with a hearing individual at the same location through an interpreter displayed via videoconferencing equipment or through a television with a videophone.

SECTION 2. AMENDMENT. Section 43-52-02 of the North Dakota Century Code is amended and reenacted as follows:

43-52-02. Practice of interpreting – Video remote interpreting.

An individual may not practice or represent as an interpreter for deaf, deaf-blind, speech-impaired, or hard-of-hearing individuals in the state unless the individual holds a valid nationally recognized certification. ~~However, an individual who was practicing as an interpreter in this state before August 1, 2001, has until July 31, 2003, to meet the certification requirement under this section.~~ A person may not provide video remote interpreting services in this state unless certified under this chapter.

SECTION 3. AMENDMENT. Section 43-52-03 of the North Dakota Century Code is amended and reenacted as follows:

43-52-03. Exceptions.

This chapter does not prevent or restrict:

1. A nonresident interpreter working in this state not more than nineteen days per year.
2. An interpreter working at a religious activity.
3. An interpreter working as a volunteer without compensation.
4. An interpreter working in an emergency. An emergency is a situation in which the consumer decides that the length of time needed to obtain a licensed interpreter is likely to cause injury or loss to the consumer.
5. The activities and services of an interpreter intern or student-in-training enrolled in a program of study in interpreting at an accredited institution of higher learning; interpreting under the supervision of a licensed interpreter as part of a supervised program; and identified as an interpreter intern or student-in-training.
6. An individual using sign language or a manual communication system as a means of communication with or on behalf of a family member, a deaf individual, a deaf-blind individual, a speech-impaired individual, or hard-of-hearing individual who has specifically requested that use by that individual.
7. A communication made as a reasonable accommodation for the employment of a deaf, deaf-blind, speech-impaired, or hard-of-hearing individual.
8. A communication with a deaf, deaf-blind, speech-impaired, or hard-of-hearing individual who could not communicate using American sign language or English-based sign language.
9. An individual working in an elementary or secondary school who has successfully completed a three-year educational interpreter certificate program of study or who has passed the educational interpreter performance assessment at a level of 3.5 or higher. ~~The individual may work in the school setting without national certification until August 1, 2005, if the individual is being mentored by a trained mentor who is either a certified interpreter or a deaf adult. To continue working in the school setting after August 1, 2005, the individual must have obtained national certification.~~
10. ~~An individual who has successfully completed an accredited interpreter training program from interpreting without certification for a period of up to two years from the date of completion of the~~

~~program if, during that period, the individual is mentored by a trained mentor who is either a certified interpreter or a deaf adult. Section 3 of this Act is effective January 1, 2014.~~

SECTION 4. A new section to chapter 43-52 of the North Dakota Century Code is created and enacted as follows:

Penalty – Civil penalty.

Any person who violates this chapter is guilty of a class B misdemeanor. In addition to the criminal penalties provided, the civil remedy of injunction is available to restrain and enjoin a violation of this chapter without proof of actual damages sustained by any person.

SECTION 5. EFFECTIVE DATE. Section 3 if this Act becomes effective on January 1, 2014.

Testimony in Support of SB 2185

Representative Corey Mock – District 42

January 21, 2011

Senator Andrist and members of the Senate Political Subdivisions Committee:

Good morning and thank you for the opportunity to testify. For the record, my name is Corey Mock, state representative from District 42, which encompasses the majority of north Grand Forks. I stand before you today not only as a legislator, but as a resident of North Dakota with noticeable hearing loss caused by traumatic injury. Years ago I sustained significant loss of hearing while deer hunting in western North Dakota. Had I spent more time at the gun range, I probably could have avoided this situation later in life. I later learned that hearing loss is permanent, and I accepted at a young age that it would be an added problem for as I got older.

I embraced the opportunity to learn American Sign Language during my time at the University of North Dakota. I was intrigued by the language and, through classes, learned more than just a second language. I learned of the culture that surrounds our Deaf community.

My two years of American Sign Language taught me a lot. I can communicate with others that may be deaf or hard-of-hearing without the use of an interpreter. However, I am not a certified interpreter and do not use my second language frequently enough to be considered fluent. I'm likely giving myself much more credit than I deserve, especially if you ask some in the audience that have watched me sign on multiple occasions.

I worked on this legislation with many of the supporters and co-sponsors, and would like to walk through the bill briefly before I conclude:

Section 1 adds the definitions of "board" and "video remote interpreting" to this section of code. Video remote interpreting, or VRI, is a vital service for rural communities that may not have access to a certified interpreter on a regular basis.

Section 2 is the creation of an interpreter licensure board, an entity that does not exist in North Dakota. As you will see later in this bill, interpreters are required to be nationally certified, but there is no state board to determine which certifications are appropriate and no license to verify compliance. Currently, our certification law is unenforced and is violated on a regular basis. The board as proposed is 5 members appointed by the governor: one Deaf advocate, three certified interpreters, and one representative from the department of human services.

Section 3 spells out the responsibility of the board, including the managing and distributing interpreter licenses.

Section 4 is the transition period from current law to the enforced licensure law.

Subsection 1 is the status quo – each interpreter in North Dakota must be nationally certified.

Subsection 2 is the primary transition period. During these 2 years, an interpreter must be nationally certified (as required by current law), licensed under this chapter, or hold a provisional certificate.

Subsection 3 mandates that after January 1, 2014, all interpreters in North Dakota must hold a valid license or provisional certificate as defined in this chapter.

Subsection 4 prohibits the use of “licensed interpreter for the deaf”, “licensed translator for the deaf”, or another similar title that may be misleading to the consumer without state licensure.

Section 5 are current exceptions for this chapter and are only changed in subsection 9, which defines current acceptable certification programs and leaves this authority in the hands of the licensure board.

Section 6 determines the criteria for licensure and the newly created provisional certificate, effective in 2012.

Section 7 establishes fee caps the board may charge for licensure and renewal.

Section 8 allows VRI services to charge facility licenses based on the number of certified interpreters employed at the facility.

Section 9 provides for a civil penalty for violating this chapter of law as overseen by the board.

Section 10 makes any violation of this chapter eligible for charges up to a class B misdemeanor.

Before I conclude and answer questions, I would like to share one brief anecdote. Like learning French or Spanish in high school, American Sign Language is a skill that can be applied throughout a person’s career and may give an edge while searching for a job. However, taking courses in a language does not qualify a person to interpret. In some settings, employers are hiring people like me to interpret for school-aged children or hospital patients. The assumption is that the signer knows enough to teach a younger child or provide enough translating to get by.

How comfortable would you be if your child’s teacher had the equivalent of a third grade education? Or more appropriate, if they had me as a translator?

I hope you will strongly consider SB 2185 and support a higher quality of communication for everyone in North Dakota. Thank you for your time.

NDLA, S PSD

From: Mock, Corey R.
Sent: Friday, January 21, 2011 12:13 PM
To: NDLA, S PSD
Subject: FW: SB 2185

For your records – thank you.

Corey

Corey Mock
State Representative: District 42
Capitol: (701) 328-4504
Mobile: (701) 732-0085
crmock@nd.gov

From: Mock, Corey R.
Sent: Friday, January 21, 2011 10:37 AM
To: Andrist, John M.; Olafson, Curtis; Dotzenrod, Jim A.; Lee, Judy E.; Laffen, Lonnie J.
Cc: Oehlke, H. Dave; Robinson, Larry J.; Burckhard, Randy A.; Hofstad, Curt L.
Subject: SB 2185

Senator Andrist and members of the Political Subdivisions committee,

It would have been inappropriate for me to stand up again and participate in the bill hearing – but I did want to thank you for your time and consideration of the interpreter licensure bill.

One point that didn't occur to me until later in the hearing: as the bill is proposed, each VRI facility that operates in other states (e.g. Minneapolis) would have to be licensed in North Dakota in order to operate. Perhaps the supporters of the bill have more information regarding this, but there are numerous facilities operating across the country that have to be licensed in individual states.

Based on the fee structure established, each certified interpreter would pay a \$50 application fee, \$100 license fee, and annual \$100 renewal fees. With approximately 40 interpreters actively working in North Dakota, and an additional 10 that are in interpreter training, this would provide approximately \$7,500 in initial revenue for the board. Furthermore, each VRI that would wish to operate in North Dakota would have to pay the \$100-\$500 facility license fee. If there are 20 centers across the United States, and each employed more than 10 interpreters, this would be an additional \$10,000 annually to the board.

While there are always financial concerns for the board, we have not touched the out of state facilities that provide this service.

I do appreciate your willingness to work on this legislation and, if necessary, amend the bill to make it work. I am honored to have your leadership and experience working on this issue to address the supporters brought forward today.

Thank you again – safe travels home this weekend.

Corey

Corey Mock

State Representative: District 42

Box 12542

and Forks ND 58208-2542

Capitol: (701) 328-4504

Mobile: (701) 732-0085

crmock@nd.gov

Testimony in support of SB #2185 – 1/21/11

Chairman Andrist and members of the Senate Political Subdivisions Committee:

My name is Eileen Gray and I am coordinator of the American Sign Language and Interpreting Studies program at Lake Region State College in Devils Lake. I am a certified sign language interpreter and am the current president of North Dakota Registry of Interpreters for the Deaf. I am a member of the national Registry of Interpreters for the Deaf and am past president of Minnesota Registry of Interpreters for the Deaf. I teach courses in American Sign Language (ASL) linguistics, deaf culture, interpreting and interpreter ethics. I strongly support the passage of SB#2185.

I was raised by a deaf parent, so I learned sign language as an infant and as a young child I was fluent in ASL. On occasion it would be necessary for me to interpret for my mother either for a phone call or when callers came to the door. If my mother were angry or upset I would often change what she was saying to ease the situation. As a CODA, or Child of Deaf Adult as we are known in the deaf community, I had no understanding of ethics or of interpreting. Even though I was familiar with the language, I was not qualified to interpret.

As an adult I became interested in becoming an interpreter so began to take courses in ASL, interpreting and ethics. I also found that although I was familiar with my mom's signing style and that of my other deaf family members, I had to practice to understand other deaf adults and the regional differences in the language and the subtleties of ASL, even though I had been using it my entire life.

ASL is not "English on the hands" as some might think. ASL has its own unique sentence structure, syntax, negation, use of past and present tense and more. A skilled user of American Sign Language must be able to use and understand facial expression and body movement as part of the grammatical structure of the language. A shake of the head changes the entire meaning of a statement. In addition, English is usually learned as a second language for native ASL users, so communication in English can often be often misunderstood due to the many differences between ASL and English. You can easily see the importance of an interpreter possessing a high degree of skill in ASL.

The national Registry of Interpreters for the Deaf (RID) provides a certification test which consists of both a written exam and a performance test to ensure that working interpreters have the qualifications, understanding of ethical considerations and the skill necessary to interpret. An interpreter who passes the RID certification test must then adhere to a strict code of professional conduct which governs confidentiality, business practices and professional behavior. RID has a best practices board that mediates complaints against interpreters but those best practices only apply to members of RID. Licensure would ensure that all those working as interpreters in the state of North Dakota would meet the standards of a qualified interpreter.

In November of 2000 a deaf woman, Lee Perish, came to the emergency room of Abbott Northwestern Hospital in Minneapolis, Minnesota with severe abdominal pain. An interpreter was provided, but one that was not qualified. According to the discrimination complaint that

was filed with the Minnesota Department of Human Rights, Ms. Perish waited for 5 hours for a qualified interpreter and during that time had to write notes with hospital staff sometimes on the back of their hands. She finally called an interpreter on her own. Under the settlement of the lawsuit, Abbott Northwestern agreed to pay \$25,000 to Ms. Perish and paid \$5,000 to four organizations that provide interpreter services or advocate for the disabled. As a result of this action, 22 hospitals in the metro area signed on to a consortium guaranteeing that a deaf person coming in to an emergency room would receive the services of a certified interpreter through an on-call system. This situation could have resulted in a tragedy. We don't want it to happen here in North Dakota.

The North Dakota Registry of Interprets for the Deaf, an affiliate chapter of RID, supports this bill. We encourage each member to vote in support of SB #2185 for the benefit of the deaf and hard of hearing citizens of the state of North Dakota.

Please feel free to contact me for any additional information.

Eileen M. Gray
Coordinator
American Sign Language and Interpreting Studies Program
1801 College Drive North
Lake Region State College
Devils Lake ND 58301
Eileen.gray@lrsc.edu
701.662.1649 office
218.969.3881 cell

Testimony in support of SB #2185 – 1/21/11

Chairman Andrist and the Senate Political Subdivisions Committee:

I am Michele Rolewitz, President of the North Dakota Association of the Deaf (NDAD) and I am from Fargo. I recommend that you do pass Senate Bill #2185.

We feel that the current interpreting law, which was passed in 2001, does not work because there is nothing in place to ensure compliance and enforcement. There are still some interpreters who do not have national certification working in our state, in various settings including education. Who monitors them or who can we voice a concern or complaint to? We feel it would be very beneficial to have a Licensure Board oversee the interpreting field. This Board would provide compliance and enforcement by reviewing interpreters' national certification and granting annual state licenses. We would be able to file a complaint with them, if necessary, and request a review of an interpreter's qualifications. We would feel confident knowing that the interpreters are qualified to interpret for us and our deaf youth.

I would like to provide an analogy for you to consider... There is a medical board, to oversee physicians. This board ensures physicians are licensed to perform medical procedures as well as ensuring continued education and assessment of their skills. This is for the benefit of the public to make sure physicians are qualified to provide good care. If you were to visit a doctor without a medical certification and they performed a procedure on you that wasn't successful, how would you feel? How could the damage affect you? The same could be said for a young deaf child who had a non-certified interpreter. Their communication and language skills could be damaged which can greatly affect their independence and cause low self-esteem. Crucial information between a person and a family physician could be misunderstood. There are many ways in which using a non-qualified interpreter could be harmful. We don't want that to happen in this state.

Lastly, I want to thank you very much for your time and for listening to our concerns. NDAD is a non-profit organization consists of 80 members which represent the Deaf and Hard of Hearing community across the state of North Dakota. They support this bill. As you can see, a "do pass" vote is very important to us. You will be our life savers!

Thank you,

Michele Rolowitz
President
NDAD

Testimony in support of SB #2185 – 1/21/11

Chairman Andrist and members of the Senate Political Subdivisions Committee:
Thank you for your time listening to us. We strongly support Senate Bill #2185.

My name is Sharon Potts-Sayler and I am from Devils Lake. I have 2 jobs, working full time as a Soil Conservation Technician for the Natural Resources Conservation Service and as a part time instructor teaching American Sign Language at Lake Region State College in Devils Lake. I am also a member of North Dakota Association of the Deaf.

I want to share my experience with non-certified and certified interpreters at college in the past. Long ago, I went to college in Missouri and Wyoming. In one class, the interpreter was not certified but was a CODA. CODA means Child of Deaf Adult and tends to be expert in signing. But this interpreter couldn't sign and used fingerspelling for every word. I could hardly understand her. The worst part was that she was inept at reading my signing so I was not able to ask the teacher a question or clarify on a topic. I struggled until the semester was finally done and I barely passed that class with D-. After the class was completed the interpreter started telling other people that I got a D- for my grade. That was humiliating. The interpreter was supposed to keep her job in my class confidential which is part of the interpreter Code of Professional Conduct. It was a very bad experience for me. I did not trust any non-certified interpreter. For the rest of my college years, I emphasized to my advisor that I preferred a certified interpreter for all of my classes. At last, I was very happy with the certified interpreters that they hired and I graduated from the University of Wyoming with a BA degree and a 3.3 GPA.

We feel that it is urgent for bill #2185 to be passed. It will give us the deaf community confidence knowing that our interpreters are qualified, and that they know and adhere to the Code of Professional Conduct.

Thank you again for your time.

Sharon Potts-Sayler
Devils Lake

Testimony

Chairman Andrist and Members of the Senate Political Subdivisions Committee:

My name is Carmen Grove Suminski. I am the current superintendent of the North Dakota School for the Deaf (NDSB) and the North Dakota Vision Services/School for the Blind (NDVS/SB). I will provide testimony relative to Senate Bill #2185. It is a pleasure to speak before you today and provide NDSB support to this legislation. This biennium has been one of **change, partnering and planning.**

Mission: To provide an environment in which individuals who are deaf or hard of hearing can access the services and support that they may need to become and remain integrated, productive citizens of the state. (Page 9, Future Services Plan, Outline and Description)

Interpreter services throughout the state of North Dakota are considered a core service of NDSB. This past year in compliance with HB #1013 a Future Services Plan for NDSB was completed by a group of legislators, parents, alumni, with community and state representation. A significant amount of discussion centered about this topic.

NDSB supports legislation that will improve communication for all persons that are deaf and hard of hearing. Access to a qualified and licensed interpreter adheres to our mission and the "Case Statement" as developed by the NDSB Advisory Council.

The NDSB Advisory Council Recommends:

Establishing the NDSB Center of Excellence to develop innovative approaches and access technologies to promote deaf education, both on and off campus; pursue research for effective strategies; and provide needs-based programs and services for adult clients which will greatly benefit North Dakota citizens, of any age, who are deaf and hard of hearing.

There is a significant shortage of these qualified persons. The goal of NDSB as per our Future Services Plan is to work with related entities such as Lake Region State College, Minot State University, public schools to provide this much needed training and coordination.

Thank you.

TESTIMONY ON SB 2185
SENATE POLITICAL SUBDIVISIONS COMMITTEE
January 21, 2011
Department of Public Instruction

Mr. Chairman and members of the committee:

My name is Alison Dollar and I am an Assistant Director of Special Education for the Department of Public Instruction (DPI). I am here to speak in support of SB 2185.

The Department of Public Instruction in partnership with staff, employees, alumni and parents of students attending the North Dakota School for the Deaf (NDSB), along with representation from the Legislative Assembly and the community of Devils Lake have developed the *NDSB - State Center of Excellence (SCOE) Future Services Plan*. The recommendation of SB2185 is to establish an interpreter licensure board. The *Future Services Plan* recommends that the NDSB “*establish a uniform, consistent process for training, certifying and monitoring ASL interpreters in numbers that will meet the existing and future needs*” (p.15). The *Future Services Plan* also recommends that the “*NDSB/SCOE will be responsible to ... Serve as the coordinating partner for the expansion and monitoring (training, certification and accountability) of interpreter services*” (p. 40). One option being considered is developing and housing this Board at the NDSB. To possibly alleviate any concerns with the sustainability, this board appears to fit under the mission of the ND Center of Excellence. In support of this bill, until the Board is in place and can assume these responsibilities, the Department would be willing to issue the provisionary educational interpreter

licenses based on the successful completion of the educational interpreter performance assessment.

The Department supports this bill as presented but suggests one minor revision. On Page 4, Exceptions 9 has been removed. This section states that an *“Individual working in an elementary or secondary school who has successfully completed a three year educational interpreter certificate program of study or who has passed the educational interpreter performance assessment at a level of 3.5 or higher. The individual may work in the school setting without national certification until August 1, 2005 if the individual is being mentored by a trained mentor who is either a certified interpreter or a deaf adult. To continue working in the school setting after August 1, 2005, the individual must have obtained national certification.”*

The Department requests that, to meet the needs of the K-12 population, this section remain in the bill but the last two sentences be removed (*The individual may work in the school setting without national certification until August 1, 2005 if the individual is being mentored by a trained mentor who is either a certified interpreter or a deaf adult. To continue working in the school setting after August 1, 2005, the individual must have obtained national certification*).

Chairman Andrist, this concludes my testimony. I would be happy to answer any questions the committee may have.

Testimony in Support of SB #2185

Chairman Andrist and members of the Senate Political Subdivisions Committee:

My name is Renae Bitner and I'm a nationally-certified sign language interpreter employed full-time by the North Dakota School for the Deaf (NDSB) in the Communications Department where I have worked for the past 16 ½ years. I do community freelance interpreting part-time as an independent contractor and I've worked part-time for Sorenson Communications as a video remote interpreter for three years. Prior to my return to ND as my home state, I worked for four years as an educational interpreter in a public school district in California. The NDSB Communications Department fully supports and encourages this committee to vote DO-PASS SB #2185.

As you can see, I've worked as a professional interpreter for over 20 years and have been nationally certified for 14 years. Unlike Eileen Gray, I do not have any Deaf family members and did not learn American Sign Language (ASL) natively. After completing a three-and-one-half year program at Mesa College in San Diego, I earned an Associate of Arts in ASL & English Interpreting. In 2005, I completed a bachelor's degree in Educational Interpreting from Idaho State University. Although I've gained many years of experience communicating with Deaf and hard of hearing children and adults, formally studying and using ASL in various settings, I will continue to study and learn ASL throughout my career and life because it will always be my second language.

The ND School for the Deaf is committed to supporting the interpreters in our state—certified and pre-certified alike. For the past three years, the NDSB Communications Department has co-sponsored annual workshops and conferences that allow certified interpreters opportunities to earn continuing education units (CEUs) in order to maintain their certification. These events also provide interpreting students and those working in the field but not yet certified opportunities to continue to develop their interpreting skills and to learn about the importance of ethical conduct as they work towards earning national certification.

In the event that SB #2185 passes and becomes a part of the ND Century Code, the Communications Department of NDSB is committed to supporting the Interpreters' Licensing Board by establishing and maintaining a list for referral of qualified, certified and licensed sign language interpreters for the citizens of ND who rely on these services and who seek to conduct their daily business without communication barriers.

The Communications Department of the ND School for the Deaf wishes to thank you for your time and encourage each of you to vote in support of SB #2185 for the benefit of the Deaf and hard of hearing citizens in our state.

Please feel free to contact me for additional information as needed.

Renae Bitner, BS, CI/CT, NAD IV, EIPA
 Outreach Interpreter – ND School for the Deaf
 418 E Broadway Ave, Suite #228
 Bismarck, ND 58503
 Email: renae.bitner@sendit.nodak.edu
 Phone: 701-328-3987 (office) or 701-740-753 (cell)

1/21/11

**Administrative Plan
Senate Bill #2185**

Mission of ND School for the Deaf State Center of Excellence:
To provide an environment in which individuals who are deaf or hard of hearing can access the services and support that they may need to become and remain integrated, productive citizens of the state. (Page 9, Future Services Plan, Outline and Description)

In response to the request of Senator Judy Lee, the North Dakota School for the Deaf State Center of Excellence and in compliance with the Future Services Transition Plan can offer the following **"in kind"** administrative structure and support relating to Senate Bill #2185:

- Provide administrative support and structural framework for the appointed board
- Provide access to information through NDSD's Toll Free Number
- Provide access to copying materials
- Create appropriate licenses
- Provide scheduling and access to IVN for Board meetings and ongoing communication
- Provide use of NDSD Conference Room for Board Meetings
- Continue to provide use of accessible communication systems (i.e., interpreters, video phones, Skype) for the persons who are deaf and hard of hearing
- Continue to provide use of video taping equipment in collaboration with Lake Region State College
- Continue to provide access to information via NDSD website
- Continue to provide a venue and planning of professional development
- Continue to function as a "training site" for interpreters
- Continue to partner with Lake Region State College and establish a partnership with Minot State University to develop a four year interpreting program
- Continue to maintain a current listing of certified interpreters in the state of North Dakota and provide referral services upon request
- Partner and plan with related entities in compliance with the mission above the following Case Statement:

**"The NDSD Advisory Council Recommends:
Establishing the NDSD Center of Excellence to develop
innovative approaches and access technologies to
promote deaf education, both on and off campus; pursue**

research for effective strategies; and provide needs-based programs and services for adult client which will greatly benefit North Dakota citizens, of any age, who are deaf and hard of hearing.”

**Carmen Grove Suminski
Superintendent
ND Vision Services/School for the Blind and
ND School for the Deaf State Center of Excellence**

**701-795-2708 (Blind)
701-665-4410 (Deaf)
csuminsk@nd.gov**

NDLA, S HMS

From: Lee, Judy E.
Sent: Saturday, January 22, 2011 3:32 PM
To: NDLA, S HMS
Subject: FW: SB 2185
Attachments: SB 2185 tst.doc

Here is David Boeck's written testimony from 2185. Please put copies in our books.
Thanks!

Senator Judy Lee
1822 Brentwood Court
West Fargo, ND 58078
home phone: 701-282-6512
e-mail: jlee@nd.gov

From: Boeck, David
Sent: Friday, January 21, 2011 9:02 PM
To: Andrist, John M.; Laffen, Lonnie J.; Dotzenrod, Jim A.; Lee, Judy E.; Olafson, Curtis
Subject: SB 2185

Attached is a summary and elaboration upon my testimony. Please let me know if you wish additional information.

David Boeck
Protection & Advocacy Project
Suite 409
400 East Broadway Avenue
Bismarck, ND 58501-4071

ph. 701-328-2950
fax 701-328-3934

Senate Political Subdivisions Committee
Sixty-Second Legislative Assembly of North Dakota
Senate Bill No. 2185
January 21, 2011

Good morning, Chairman Andrist and Members of the Senate Political Subdivisions Committee. I am David Boeck, a State employee and lawyer for the Protection & Advocacy Project. The Protection & Advocacy Project is an independent state agency that acts to protect people with disabilities from abuse, neglect, and exploitation, and advocates for the disability-related rights of people with disabilities.

This document is a summary of my spoken testimony and an expansion on issues identified at the hearing. During my testimony, when I use the term "Interpreter," I mean interpreter for deaf individuals.

Senate Bill 2185 would establish a regulatory framework for Interpreters parallel to the regulatory framework that exists for approximately 51 professions in Title 43 of the North Dakota Century Code. Interpreters are among the 51 professions already in Title 43 but SB 2185 would amend existing law to better regulate the profession. This would reduce the risk of fraud upon a deaf individual who relies upon interpreters to communicate with the speaking world.

In addition to the professions governed by Title 43, North Dakota regulates other professions. Examples are teachers, school administrators, and lawyers.

Forty-five professions in Title 43 have separate boards for licensing, registry, and regulation. Seven professions do not have separate boards. Interpreters is among the professions without a board. The other six use existing boards or agencies for licensing, registry, and regulation. The six use the Secretary of State ("contractors" and "home inspectors"), the Attorney General ("deception examiners"), the State Health Council ("electrologists and electronic hair removal technicians"), the State Health Officer ("environmental health practitioners"), and the Board of Dentistry ("dental hygienists and assistants"). The State Health Officer has an advisory board for environmental health practitioners.

Proponents of SB 2185 would realize most of their goals if another board or agency were to handle licensing, registry, and regulation of Interpreters. Possibilities might include the Department of Public Instruction, the School for the Deaf, or the Secretary of State. A voluntary advisory board might advise the agency/board.

I have not consulted any agency or board to determine its interest or ability to manage this responsibility within its current budget with the addition of modest income from licensing Interpreters.

The regulating agency/board might license an Interpreter only upon documentation that the National Association for the Deaf (NAD), Registry for Interpreters for the Deaf (RID), or the Educational Interpreter Performance Assessment (EIPA) Center had accredited or certified the applicant as

professionally qualified to perform as an Interpreter. This might obviate the need for a state examination for licensure at this time.

Existing law and SB 2185 refer to levels of licensure but do not define them. The regulating agency/board, with assistance from a voluntary advisory board, might establish several levels of licensure, e.g., full licensure, educational licensure, or limited licensure for an intern.

The Legislature might adopt the NAD/RID Code of Professional Conduct as a standard for Interpreters. The Legislature might establish a violation of the Code or of chapter 43-52 of the North Dakota Century Code as a class B misdemeanor. SB 2185 proposes a violation of Chapter 43-52 be a class B misdemeanor and proposes injunctive relief be available through a judicial proceeding. The availability of injunctive relief would be valuable.

Class B misdemeanor status for violation of a professional conduct law is common in North Dakota law, e.g., occupational therapists, physical therapists. But violation of a professional conduct law is a class A misdemeanor in many fields, e.g., audiologists and speech-language pathologists.

Using criminal law to enforce professional conduct law would eliminate much of the need for enforcement through a regulatory board. State's attorneys would be the enforcement mechanism. Providing the availability of injunctive relief would allow limited enforcement of the law by a private

party. Neither of these tools would satisfy the need for lesser disciplinary remedies.

I would recommend an additional change to the language of current law. Subsection 1 of section 43-52-02 seems awkward to me. I suggest that you insert "oneself" or "himself" after "represent" in the first line of current law, which is page 3, line 12 in SB 2185.

With these recommendations, the Protection & Advocacy Project supports passage of SB 2185.

I suspect the Legislative Council could draft amendments to SB 2185 but I would do so if that would be more convenient for you. Thank you.

by Rep Mock

#1

11.0573.02001
Title.

Prepared by the Legislative Council staff for
Representative Mock

March 10, 2011

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2185

Page 1, line 4, after the first semicolon insert "and"

Page 1, line 4, remove "; and to provide an effective date"

Page 2, line 9, replace "certified under this chapter" with "the person is an individual who holds a valid nationally recognized certification"

Page 2, line 18, overstrike "licensed" and insert immediately thereafter "certified"

Page 2, line 22, overstrike "licensed" and insert immediately thereafter "certified"

Page 2, line 24, overstrike "An individual using sign language or a manual communication system as a means of"

Page 2, overstrike lines 25 through 29

Page 3, line 1, overstrike "8."

Page 3, line 4, overstrike "9." and insert immediately thereafter "7."

Page 3, line 4, overstrike "successfully"

Page 3, overstrike line 5

Page 3, line 11, after the overstruck period insert "8."

Page 3, line 11, remove the overstrike over "~~An individual who has successfully completed an accredited interpreter training~~"

Page 3, remove the overstrike over lines 12 through 14

Page 3, remove lines 21 and 22

Renumber accordingly

Testimony in support of SB #2185 – 3/14/11

Chairman Weisz and members of the House Human Services committee:

My name is Eileen Gray and I am coordinator of the American Sign Language and Interpreting Studies program at Lake Region State College in Devils Lake. I am a certified sign language interpreter and am the current president of North Dakota Registry of Interpreters for the Deaf. I am a member of the national Registry of Interpreters for the Deaf and am past president of Minnesota Registry of Interpreters for the Deaf. I teach courses in American Sign Language (ASL) linguistics, deaf culture, interpreting and interpreter ethics. I strongly support the passage of SB#2185.

I was raised by a deaf parent, so I learned sign language as an infant and as a young child I was fluent in ASL. On occasion it would be necessary for me to interpret for my mother either for a phone call or when callers came to the door. If my mother were angry or upset I would often change what she was saying to ease the situation. As a CODA, or Child of Deaf Adult as we are known in the deaf community, I had no understanding of ethics or of interpreting. Even though I was familiar with the language, I was not qualified to interpret.

As an adult I became interested in becoming an interpreter so began to take courses in ASL, interpreting and ethics. I also found that although I was familiar with my mom's signing style and that of my other deaf family members, I had to practice to understand other deaf adults and the regional differences in the language and the subtleties of ASL, even though I had been using it my entire life.

ASL is not "English on the hands" as some might think. ASL has its own unique sentence structure, syntax, negation, use of past and present tense and more. A skilled user of American Sign Language must be able to use and understand facial expression and body movement as part of the grammatical structure of the language. A shake of the head changes the entire meaning of a statement. In addition, English is usually learned as a second language for native ASL users, so communication in English can often be often misunderstood due to the many differences between ASL and English. You can easily see the importance of an interpreter possessing a high degree of skill in ASL.

In November of 2000 a deaf woman, Lee Perish, came to the emergency room of Abbott Northwestern Hospital in Minneapolis, Minnesota with severe abdominal pain. An interpreter was provided, but one that was not qualified. According to the discrimination complaint that was filed with the Minnesota Department of Human Rights, Ms. Perish waited for 5 hours for a qualified interpreter and during that time had to write notes with hospital staff sometimes on the back of their hands. She finally called an interpreter on her own. Under the settlement of the lawsuit, Abbott Northwestern agreed to pay \$25,000 to Ms. Perish and paid \$5,000 to four organizations that provide interpreter services or advocate for the disabled. As a result of this action, 22 hospitals in the metro area signed on to a consortium guaranteeing that a deaf person coming in to an emergency room would receive the services of a certified interpreter through an on-call system. This situation could have resulted in a tragedy. We don't want it to happen here in North Dakota.

Portions of the current law are outdated and not in keeping with current practice for interpreters. Those portions were removed from the original proposal for the bill and a licensure board and licensure were proposed. It was understood that those portions would then be dealt with through the licensure board. We understand that licensure is not a possibility for this legislative session, and we are pleased that the Senate Political Subdivisions committee added the requested penalty to the current law. Unfortunately those portions of the bill which we had planned to be taken care of through the licensure board are still in place in the bill that was passed by the Senate. Those issues need to be revised before this bill is finally signed into law. The proposal in front of you includes the changes recommended by the North Dakota Association of the Deaf /North Dakota Registry of Interpreters for the Deaf legislative task force.

The North Dakota Registry of Interpreters for the Deaf, an affiliate chapter of RID, supports this bill. We encourage each member to vote in support of SB #2185 for the benefit of the deaf and hard of hearing citizens of the state of North Dakota.

Please feel free to contact me for any additional information.

Eileen M. Gray
Coordinator
American Sign Language and Interpreting Studies Program
1801 College Drive North
Lake Region State College
Devils Lake ND 58301
Eileen.gray@lrsc.edu
701.662.1649 office
218.969.3881 cell

SB 2185

History: The North Dakota Association of the Deaf /North Dakota Registry of Interpreters for the Deaf Task Force originally submitted a bill to the Senate Political Subdivision Committee proposing changes to the current interpreter law. Changes included the removal of some of the exceptions in the current law to better reflect current practice and compliance with the Americans with Disabilities Act, a licensure board to oversee and regulate the process of licensing interpreters, and a penalty added for violating the law. The Senate committee removed the licensure portion of the bill and added a penalty to the current law, but unfortunately some of the outdated language and exceptions remained. As a licensure board to develop regulations for interpreter practices is no longer included in the bill, those changes need to be reflected in the bill itself.

Recommended changes are listed below.

Page 2 Line 18 reads as follows: consumer decides that the length of time needed to obtain a licensed interpreter

Page 2 Line 18 should read: consumer decides that the length of time needed to obtain a certified interpreter

Rationale: this is a simple mistake in wording

Page 2 Exception 6 should be removed.

Rationale: The wording of this exception negates the bill by allowing anyone who is approved of by a deaf person to interpret for pay in North Dakota.

The issue of family members interpreting is already taken care of under exception 3, interpreters working as volunteers without compensation. A deaf person does have the right to choose a family member to interpret but not for compensation. According to the code of professional conduct of the national registry of interpreters for the deaf, a relative interpreting for a family member for compensation is considered a conflict of interest and is not an ethical practice.

Page 2 Exception 7 should be removed.

Rationale: This exception is in conflict with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.

4

**TESTIMONY ON SB 2185
HOUSE HUMAN SERVICES COMMITTEE
March 14, 2011
Department of Public Instruction**

Good Afternoon, Mr. Chairman and members of the committee:

My name is Alison Dollar and I am an Assistant Director of Special Education for the Department of Public Instruction. On January 21st I testified on behalf of the Department in support of SB2185 with the recommendation of allowing educational interpreters national certification through the Educational Interpreter Performance Assessment. We also recommended developing a Board to oversee the certification of interpreters. Although the development of the Board was removed from the Bill, we are pleased to see the testing requirement revised.

The Department continues to support SB2185.

Mr. Chairman, this concludes my testimony. I would be happy to answer any questions the committee may have.

#5

Good afternoon Chairman Robin Weisz and the House Human Services Committee. I am Michele Rolewitz, President of the North Dakota Association of the Deaf and I am from Fargo. I recommend that you do pass the Senate Bill 2185 with the penalty clause.

The current Interpreter law that was passed in 2001 does not have a penalty clause. There are some non-certified interpreters who are still working in the field around this state of North Dakota. The amendment of the current law to add a penalty clause will be very beneficial in ensuring that non-certified interpreters are not interpreting in our state. It is very crucial for interpreters to have national certification to ensure effective and smooth communication.

Lastly, I want to thank you very much for your time and for listening to our concerns. NDAD is a non-profit organization which consists of 80 members who represent the Deaf and Hard of Hearing community across the state of North Dakota and we all support this bill. As you can see, a "do pass" vote is very important to us.

Thanks and have a good day!

Michele Rolewitz
NDAD President

#6

Hello Chairman Robin Weisz and the House Human Service Committee. Thank you for your time listening us. We strongly support Senate Bill #2185.

My name is Sharon Potts-Sayler and I am from Devils Lake. I have 2 jobs, working full time as a Soil Conservation Technician at Natural Resources Conservation Service and as a part time Instructor teaching American Sign Language for Lake Region State College. I am also a member of North Dakota Association of the Deaf.

I want to share my experience with non-certified and certified interpreters at college in the past. Long ago, I went to college in Missouri and Wyoming. In one class, the interpreter was not certified but was a CODA. CODA means Child of Deaf Adult and tends to be expert in signing. But this interpreter couldn't sign and always used finger spelling for every word. I could hardly understand her. The worst part was that she was inept at reading my signing so I was not able to ask the teacher a question or clarify on a topic. I struggled until the semester was finally done and I barely passed that class with D-.

After the class was completed, the interpreter started telling other people that I got a D- for my grade. That was humiliating. The interpreter was supposed to keep her job in my class confidential which is part of the interpreter Code of Professional Conduct. It was a very bad experience for me. I did not trust any non-certified interpreter. For the rest of my college years, I emphasized to the counselor that I preferred a certified interpreter for all of my classes. At last, I was very happy with the certified interpreters that they hired and I graduated from the University of Wyoming with a BA degree and got a 3.3 GPA.

as amended.

We feel that it is urgent for this bill #2185 to be passed. It will give us the deaf community confidence knowing that our interpreters are qualified and that they know and adhere to the Code of Professional Conduct.

Thank you again for your time.

Sharon Potts-Sayler
Devils Lake

#17

**Testimony
Senate Bill #2185**

Chairman Robin Weisz and Members of the House Human Services Committee.

My name is Carmen Grove Suminski. I am the current superintendent of the North Dakota Vision Services/School for the Blind and North Dakota School for the Deaf. I will provide testimony relative to Senate Bill #2185.

**Mission of ND School for the Deaf State Center of Excellence:
To provide an environment in which individuals who are deaf or hard of hearing can access the services and support that they may need to become and remain integrated, productive citizens of the state. (Page 9, Future Services Plan, Outline and Description)**

The North Dakota School for the Deaf State Center of Excellence and in compliance with the Future Services Transition Plan can offer the following "in kind" administrative structure and support relating to Senate Bill #2185:

- **Provide administrative support and structural framework for the appointed board**
- **Provide access to information through NDSD's Toll Free Number**
- **Provide access to copying materials**
- **Create appropriate licenses**
- **Provide scheduling and access to IVN for Board meetings and ongoing communication**
- **Provide use of NDSD Conference Room for Board Meetings**
- **Continue to provide use of accessible communication systems (i.e., interpreters, video phones, Skype) for the persons who are deaf and hard of hearing**
- **Continue to provide use of video taping equipment in collaboration with Lake Region State College**
- **Continue to provide access to information via NDSD website**
- **Continue to provide a venue and planning of professional development**
- **Continue to function as a "training site" for interpreters**

- **Continue to partner with Lake Region State College and establish a partnership with Minot State University to develop a four year interpreting program**
- **Continue to maintain a current listing of certified interpreters in the state of North Dakota and provide referral services upon request**
- **Partner and plan with related entities in compliance with the mission above the following Case Statement:**

**"The NDSD Advisory Council Recommends:
Establishing the NDSD Center of Excellence to develop innovative approaches and access technologies to promote deaf education, both on and off campus; pursue research for effective strategies; and provide needs-based programs and services for adult client which will greatly benefit North Dakota citizens, of any age, who are deaf and hard of hearing."**

**Carmen Grove Suminski
Superintendent
ND Vision Services/School for the Blind and
ND School for the Deaf State Center of Excellence**

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