

2025 SENATE JUDICIARY

SB 2285

2025 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

SB 2285
1/29/2025

Relating to judicial deference.

9:01 a.m. Chair Larson opened the meeting.

Members present:

Chair Larson, Vice Chairman Paulson, Senators: Castaneda, Cory, Luick, Myrdal, Braunberger.

Discussion Topics:

- Interpreting ambiguous laws
- Chevron deference
- Increase litigation
- Strain Public Service Commission's resources
- Regulate licenses
- Shifting power
- DMR regulations
- Special interpretation expert
- Supreme Court direction
- Meaning of deference

9:01 a.m. Senator Cory, District 42, introduced the bill.

9:04 a.m. Jaclyn Hall, Executive Director of the ND Association for Justice, testified in favor and submitted testimony #32416.

9:12 a.m. Randy Christmann, Chair of Public Service Commission, testified in opposition and submitted testimony #32297.

9:21 a.m. Johannes Palsgraaf, General Counsel, Insurance Department, testified in opposition.

9:36 a.m. Nathan Anderson, Director, DMR, testified in opposition and submitted testimony #32540.

9:43 a.m. Brad Peterson, Legal Director, Protection and Advocacy, testified as neutral.

9:49 a.m. Christopher Joseph, General Counsel, Governor's Office, testified as neutral.

Additional written testimony:

Senate Judiciary Committee

SB 2285

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Brain Norman, Director of State Affairs, Goldwater Institute, submitted testimony in favor #31880.

9:52 a.m. Chair Larson closed the hearing.

Kendra McCann, Committee Clerk

GOLDWATER

I N S T I T U T E

January 27th, 2025

Senator Diane Larson

Chairman, Senate Judiciary Committee

Madam Chair and Members of the Senate Judiciary Committee:

I am writing to submit written testimony in support of SB 2285 on behalf of the Goldwater Institute. The Goldwater Institute works in courtrooms, capitols, and communities nationwide to protect constitutional rights and empower individuals to live freer lives. SB 2285 states that judges shall not defer to state agency interpretations of statutes or regulations.

Across the nation, government agencies often apply overzealous interpretations of their own statutes and regulations which serve to expand their own power in enforcement or regulatory proceedings. These generous interpretations are then upheld by exceedingly deferential courts, which can expand agency power in a manner that goes against legislative intent. This dynamic effectively turns administrative agencies into law-making entities that step into the constitutional domain of the legislative branch. This status quo is woefully biased in favor of the government, and it is irreparably harming Americans from all walks of life.

In fact, in 2024, the United States Supreme Court finally recognized that agency deference is fundamentally unfair and that courts have the sole constitutional duty to interpret law by overturning *Chevron* deference in *Loper Bright v. Raimondo*. However, North Dakota state courts still defer to state agency interpretations of law and regulation in certain circumstances.

SB 2285 levels the playing field by requiring courts to review agency actions without deference. This provision will ensure that judges are neutral arbiters of justice rather than parties biased in favor of administrative power. The legislation's presumption in favor of limiting agency power will create a necessary check on the administrative state's ever-expanding shadow over our individual liberties and protect the legislature's constitutional lawmaking prerogative.

In 2018, based on legislation developed by the Goldwater Institute, Arizona became the first state in the country to adopt this reform. 13 other states have since followed suit via legislation or through court decisions. Adopting SB 2285 will protect your constituents' constitutional rights before deferential judges and reclaim the legislative branch's sole authority to create law.

The Goldwater Institute applaud the North Dakota legislature for considering this impactful reform, and we ask you to vote yes on SB 2285.

Sincerely,

Brian Norman

Director of State Affairs

Goldwater Institute

bnorman@goldwaterinstitute.org | (225) 287-8912

Senate Bill 2285

Presented by: Randy Christmann, Chair
Public Service Commission

Before: Senate Judiciary Committee
The Honorable Diane Larson, Chair

Date: January 29, 2025

TESTIMONY

My name is Randy Christmann, Chair of the Public Service Commission (PSC). I am here today to provide testimony in opposition to this bill.

The Public Service Commission is a constitutional agency comprised of three statewide elected officials. Unlike other agencies, constitutional agencies hold executive authority as defined by the Legislature but are not subject to executive appointment. Generally, the Commission is vested with authority over a number of jurisdictions relating to economics, environmental, infrastructure protection, energy infrastructure siting, gas pipeline safety, and coal mine reclamation. Many of these jurisdictions are public interest statutes requiring decisions based on legal terms of art such as “prudent,” “used and useful,” “just and reasonable,” “for the public convenience and necessity,” or “in the public interest.”

Regulatory frameworks like economic regulation of franchise monopolies and environmental siting are often not well-defined because they require the flexibility and broad authority to investigate and address a wide range of issues that may arise to protect the public and individual citizens. The Commission operates with a commitment to public involvement, allowing individuals to participate in proceedings through public

input and even to have a seat at the table without legal representation. This openness stands in contrast to the more rigid processes found in the courts and certain other administrative proceedings.

Additionally, the PSC manages several state-federal partnerships, including programs for pipeline safety and coal mine reclamation. These programs are subject to regular federal audits, which evaluate compliance with federal standards like the Surface Coal Mining and Reclamation Act and regulations from the Pipeline and Hazardous Materials Safety Administration. If federal auditors find that the state is not adequately enforcing these standards, they may issue findings of inadequacy, potentially resulting in federal agencies assuming enforcement responsibilities.

It is unclear what issues this bill will resolve, but there is a high likelihood that it will result in additional litigation. While the impacts are difficult to forecast, the PSC operates on a lean staff. The additional time and work engaged in addressing appeals and litigation may cripple the agency.

If the Legislature deems this bill necessary, I respectfully urge you to exclude agencies led by elected officials, such as the Public Service Commission. These agencies have the appropriate expertise to make informed decisions and are directly accountable to the people of North Dakota.

Chair Larson, thank you for the opportunity to testify. I am happy to answer any questions you may have.



North Dakota Association for Justice
PO Box 365
Mandan, ND 58554
The Trial Lawyers of North Dakota

Jaclyn Hall, Executive Director
jaclyn@ndaj.org

Chairwoman Larson and members of the Senate Judiciary Committee, I am Jaci Hall, Executive Director of the North Dakota Association for Justice. I am here today in support of SB2285.

On June 28, 2024, the Supreme Court finally and emphatically overruled *Chevron* deference, the watershed rule that governed the level of deference afforded to administrative agency interpretation of ambiguous statutes for nearly forty years.

Chevron deference, established in 1984, required courts to defer to 'permissible' agency interpretations of statutes those agencies administer, even when a reviewing court reads the statute differently. This principle of the deference to administrative agencies was a cornerstone of administrative law for nearly four decades.

In *Loper Bright Enterprises v. Raimondo*, the majority opinion represents an emphatic rejection of the agency deference ushered in *Chevron*. The court's decision had an immediate and lasting impact on an executive agency interpretation of ambiguous statutes.

Chief Justice Roberts noted, under the American Procedures Act, courts utilize their own judgment in deciding questions of law, notwithstanding an agency's interpretation of the law. In the majority's view, the APA "makes clear that agency interpretations of statutes—like agency interpretations of the Constitution—are *not* entitled to deference.

According to Chief Justice Roberts, "agencies have no special competence in resolving statutory ambiguities. Courts do," and "even when an ambiguity happens to implicate a technical matter, it does not allow the agency to authoritatively interpret the statute from the courts and give it to the agency.

Federal and state statutes share a common problem: they're vague. When legislators write bills, they often fail to define complicated terms and frequently use fuzzy language. When enforcing unclear laws, executive agencies must make educated guesses about the best way to interpret hazy statutory language.



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Jaclyn Hall, Executive Director
jaclyn@ndaj.org

But sometimes, agencies guess wrong, and that leads them to implement laws in ways state legislatures never would have approved—from forcing factory workers in West Virginia to use expensive smokestack scrubbers to meet emissions standards, to forcing fishermen in Rhode Island to pay federal “herring monitors” to perform fishing inspections. These consequences prompt lawsuits against the administrative state that all hinge on the same question: what does the law mean?

The most common way state courts defer to administrators is by using what we call “substantial deference” standards. These standards give state agencies about the same amount of deference that *Chevron* gave to federal agencies.

American courts—federal and state—were designed to interpret statutes. It is their job, plain and simple—the very “judicial power” assigned to them in the Constitution. Shifting the power of statutory interpretation to executive agencies snatches away the constitutional prerogative of an impartial judiciary and drops it into the hands of unelected, often politically motivated agency officials.

SB2285 seeks to do what the *Chevron* decision at the Supreme Court achieved – shift judicial power back to the statutes the Legislature has created.

Here is an Example - On January 19, 2025, the North Dakota Supreme Court overturned a WSI denial of PTSD benefits Oak Reile, an injured worker. In his decision, Chief Justice Jensen wrote that he believed WSI exceeded the scope of the legislature’s delegation of authority when it promulgated N.D. Admin. Code § 92-01-02-02.5. He determined that the ALJ’s order affirming WSI’s decision denying benefits, despite finding that Mr. Reile is statutorily entitled to them, is not in accordance with the law. The court determined the ALJ had found Mr. Reile was not entitled to benefits based on WSI’s regulation, explaining: “If N.D.C.C. § 65-01-02(11) were the only applicable statute, Mr. Reile’s treatment for adjustment disorder with depressed mood should be covered.”



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Jaclyn Hall, Executive Director
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If the Administrative Law Judge utilized the statute instead of the administrative rule, Mr. Reile would have received his benefits timely and the request would not have had to go to the ND Supreme Court – saving both time and money.

The founding fathers created three branches of government, legislative, executive and judicial. These three branches are very important – and to allow executive agencies to interpret legislative statutes how they see fit is not right. After the *Chevron* decision, it is not law.

Allowing any agency official, whether appointed, elected or hired, to be able to utilize their interpretation of the statute and not the statute itself goes against the decision the United States Supreme Court decided. The legislature creates statutes, and they are law. No person or agency is above the laws of North Dakota. If agencies determine adjustments should be made, they should go through the proper channels and not interpret the law through changes in the administrative rule.

In closing, North Dakota is not alone in their decision to follow the US Supreme Court's action. Idaho, Nebraska, Indiana, Arizona, Wisconsin, and Tennessee have created legislation and Kansas, Utah, Mississippi, Arkansas, Michigan, Ohio, and Delaware's Supreme Courts have deemed this type of deference unconstitutional. SB2285 does not reject all administrative rules, rather it dictates the statute is the law and the administrative rule can be used to support the statute.

Please vote for a Do Pass on SB2285.

Thank you.



SB 2285

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

Judicial deference.

Notwithstanding any other provision of law, in interpreting or applying a statute, regulation, or rule, a judge may not defer to an administrative agency's interpretation of the statute, regulation, or rule. After applying all customary rules of interpretation, the court shall resolve any remaining ambiguity against increased agency authority.

- The "Chevron Deference" was focused on unelected federal bureaucrats
- Federal agencies ignored the will of Congress, resulting in federal overreach
- Federal rules are one-size-fits-all, involve red tape that hampers the intent of the rule
- A judge cannot defer to an agency subject matter expert. This is problematic
- Our field of work is specialized and technical. Not allowing a judge to defer to agency expertise would significantly impact an informed decision. Our personnel are engineers and geoscientists, many trained by industry, with years and decades of practical experience and training
- State agencies such as the Industrial Commission are made up of elected officials
- Director of Mineral Resources is an appointed position. The Oil and Gas Division focuses on and has decades of experience in safe and reliable regulation for North Dakotans
- Regulations are specific to North Dakota, specific to the conditions, geography and weather that makes North Dakota unique to many other top energy producing states
- It is not a one-size-fits-all approach to regulation. Interpreting regulations specific to North Dakota. Oil and gas regulation is complex and highly technical. Agency staff wrote regulations and inherently understand the reasons those rules were written and are best informed to understand their interpretation and applying them in a scientifically sound and common sense way
- Rulemaking is very local, and it is easy for interested parties to engage in the process
- This agency has decades of experience enforcing the regulations

Mark F. Bohrer
ASSISTANT DIRECTOR
OIL AND GAS DIVISION

Nathan D. Anderson
DIRECTOR
DEPT. OF MINERAL RESOURCES

Edward C. Murphy
STATE GEOLOGIST
GEOLOGICAL SURVEY

2025 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee Peace Garden Room, State Capitol

SB 2285
2/3/2025

Relating to judicial deference.

10:24 a.m. Chair Larson opened the hearing.

Members present:

Chair Larson, Vice Chairman Paulson, Senators: Castaneda, Cory, Luick, Myrdal, Braunberger.

Discussion Topics:

- Judicial deference
- Agency authority
- Legislative power restoration
- Federal regulations impact

10:34 a.m. Senator Castaneda moved amendment LC# 25.1100.01001, testimony #38391, to remove the last line of the bill.

11:35 a.m. Senator Luick seconded.

10:35 a.m. Voice Vote - Motion Passed.

10:35 a.m. Senator Myrdal moved to further amend bill to state shall not apply to an agency administered by elected public officials.

11:36 a.m. Senator Luick seconded.

10:37 a.m. Voice Vote - Motion Failed.

10:37 a.m. Senator Paulson moved a Do Pass as amended.

10:37 a.m. Senator Luick seconded.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Ryan Braunberger	Y
Senator Jose L. Castaneda	Y
Senator Claire Cory	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion Passed 7-0-0.

Senate Judiciary Committee

SB 2285

2/3/2025

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10:38 a.m. Senator Myrdal will carry the bill.

10:38 a.m. Chair Larson closed the hearing.

Kendra McCann, Committee Clerk

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

2-3-25
JL (OK)

SENATE BILL NO. 2285

Introduced by

Senators Cory, Sickler, Paulson

Representatives Koppelman, Vetter, Schauer

- 1 A BILL for an Act to create and enact a new section to chapter 28-32 of the North Dakota
2 Century Code, relating to judicial deference.

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

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

6 **Judicial deference.**

- 7 Notwithstanding any other provision of law, in interpreting or applying a statute, regulation,
8 or rule, a judge may not defer to an administrative agency's interpretation of the statute,
9 regulation, or rule. ~~After applying all customary rules of interpretation, the court shall resolve any~~
10 ~~remaining ambiguity against increased agency authority.~~

**REPORT OF STANDING COMMITTEE
SB 2285**

Judiciary Committee (Sen. Larson, Chairman) recommends **AMENDMENTS** ([25.1100.01001](#)) and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2285 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

25.1100.01001
Title.02000

Prepared by the Legislative Council
staff for Senator Cory
January 28, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2285

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Senators Cory, Sickler, Paulson

Representatives Koppelman, Vetter, Schauer

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10 ~~remaining ambiguity against increased agency authority.~~

2025 HOUSE JUDICIARY

SB 2285

2025 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

SB 2285
3/12/2025

A BILL for an Act to create and enact a new section to chapter 28-32 of the North Dakota Century Code, relating to judicial deference.

9:01 a.m. Chairman Klemin called the meeting to order.

Members Present: Chairman Klemin, Vice-Chairman Karls, Vice-Chairman Vetter, Representatives Christianson, Henderson, Hoverson, Johnston, McLeod, S. Olson, Satrom, Tveit, Wolff, Schneider

Members Absent: Representative VanWinkle

Discussion Topics:

- Administrative Rules Committee process
- Supreme Court Chevron Deference decision
- State agency interpretation of statute

9:02 a.m. Senator Claire Cory, North Dakota Senator for District 42, introduced the bill and provided testimony #40939.

9:04 a.m. Jaclyn Hall, Executive Director of the North Dakota Association for Justice, testified in favor and provided testimony #40835.

9:19 a.m. James Manley, State Policy Chief for Pacific Legal Foundation, testified in favor and provided testimony #40582.

9:22 a.m. Brad Peterson, Legal Director for North Dakota Protection and Advocacy Project, testified in favor.

9:32 a.m. Doug Goehring, North Dakota Agriculture Commissioner, testified in opposition and provided testimony #40958.

9:35 a.m. Randy Christmann, Chair of the Public Service Commission, testified in opposition and provided testimony #40911.

9:42 a.m. Sandra DePountis, Executive Director of the North Dakota Board of Medicine, testified in opposition and provided testimony #40754.

9:48 a.m. Nathan Anderson, North Dakota Department of Mineral Resources, testified in neutral and provided testimony #40699, #40964.

9:54 a.m. Jonathan Fortner, Vice President of Government Relations for Lignite Energy Council, testified in opposition and provided testimony #40902.

9:57 a.m. Todd Kranda, North Dakota Petroleum Council, testified in opposition and provided testimony #40878.

10:01 a.m. Chris Joseph, General Counsel for the North Dakota Office of the Governor, testified neutrally.

10:03 a.m. Johannes Palsgraaf, General Counsel for the North Dakota Insurance Department, testified in opposition.

10:07 a.m. David Glatt, Director of the North Dakota Department of Environmental Quality, testified neutrally and provided testimony #40974.

Additional written testimony:

Mark Hardy, Executive Director of North Dakota Board of Pharmacy, submitted testimony in opposition #40672.

Allyson Hicks, Assistant Attorney General and General Counsel for the Public Health Division, submitted testimony in favor #40981.

10:10 a.m. Vice-Chairman Karls closed the hearing.

Wyatt Armstrong, Committee Clerk



March 12, 2025

Statement of Pacific Legal Foundation before the House Judiciary Committee in support of Senate Bill 2285, to create and enact a new section to chapter 28-32 of the North Dakota Century Code, relating to judicial deference

Chair Klemin and members of the Committee:

My name is James Manley, and I am State Policy Chief at Pacific Legal Foundation. PLF is a nonprofit public interest law firm dedicated to defending Americans' liberties when threatened by government overreach and abuse. Since our founding 50 years ago, we have been helping Americans fight for their constitutional rights in courthouses and legislatures across the country. We have won 18 cases at the United States Supreme Court.

I write to express PLF's strong support for Senate Bill 2285, a proposal to eliminate judicial deference to agency interpretations of law in North Dakota. This reform is essential to restoring the balance of power among the three branches of government and ensuring that courts fulfill their constitutional duty to independently interpret the law. By passing this legislation, North Dakota would join a growing movement of states committed to protecting individual liberties and the rule of law. A full list is available at statedeference.org.

Judicial deference—such as the *Chevron*-style deference long criticized at the federal level—allows agencies to effectively rewrite laws under the guise of interpretation, often granting the agencies themselves excessive power and insulating their decisions from meaningful judicial review. As PLF has extensively [documented](#), this practice undermines accountability, allowing unelected bureaucrats to expand their authority beyond legislative intent. Deference has resulted in regulatory overreach, chilling economic freedom, and violating property rights.

North Dakota's proposed reform would lift this thumb on the scale in favor of government by reaffirming the judiciary's role in upholding the rule of law and ensuring agencies exercise only the power the legislature has delegated to them. Courts are uniquely equipped to provide impartial analysis of statutory meaning, free from the conflicts of interest that inherently arise when agencies interpret laws they administer. As PLF's "[Three Pillars of Regulatory Reform](#)" framework emphasizes, eliminating judicial deference fosters transparency and fairness, ensuring that laws reflect the will of the people rather than the preferences of bureaucrats.

Moreover, ending judicial deference aligns with North Dakota's constitutional commitment to limited government and separation of powers. By requiring agencies to adhere strictly to legislative mandates, this reform would not only curb bureaucratic overreach but also incentivize



PACIFIC LEGAL FOUNDATION

clearer and more precise lawmaking. The result is a legal system where citizens, businesses, and local governments can better predict and comply with regulatory requirements.

I urge you and your colleagues to support Senate Bill 2285 as a critical step toward safeguarding individual freedoms, promoting good governance, and upholding the rule of law in North Dakota. Thank you for considering this important legislation.

Thank you for the opportunity to testify. I am happy to answer any questions; my contact information is listed below.

Respectfully,

James M. Manley
State Policy Chief



STATE OF NORTH DAKOTA
GOVERNOR DOUG BURGUM

**NORTH DAKOTA STATE BOARD OF PHARMACY
OFFICE OF THE EXECUTIVE DIRECTOR**

MARK J. HARDY, PHARM.D. | 1838 E INTERSTATE AVE SUITE D • BISMARCK, ND 58503
(701) 877- 2404 • WWW.NDBOARD.PHARMACY • MHARDY@NDBOARD.PHARMACY

Senate Bill No 2285 – Judicial Deference

House Judiciary Committee – 327B Room
9:00 AM - Wednesday – March 12, 2025

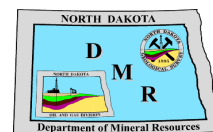
Chairman Klemin, Members of the House Judiciary Committee for the record I am Mark Hardy, Executive Director of the North Dakota State Board of Pharmacy. Thank you for the opportunity to provide testimony on this legislation.

Our office does have concerns with the provisions of this Bill, as written, and the impact it may have on our Board. I admit that it is rare that the Board of Pharmacy has administrative hearings on complaints and most often can resolve them through an agreed upon stipulation with the parties involved. In that spirit, the existing model has functioned very well. There is a high level of complexity in the profession and businesses in which the Board of Pharmacy regulates. This is why there are administrative boards like ours to act on behalf of the public.

This legislation may lead to more administrative hearings, given the provisions would change the parameters involved in those hearings. An increase in these hearings would come at a higher cost to all parties involved and would bring more financial risk over our Board.

Another situational consequence that we see this legislation creates is judges being unable to utilize the Board's professional expertise on a case. The Judge is likely not to have the expertise or understanding of the standard of care that may be applied in a particular matter. I am unaware of where they may turn in these situations. A common example in our industry is the highly technical field of pharmaceutical compounding. There are compatibilities, techniques, and other important standards that are expected for safety. To a Judge that has no understanding of these technical aspects of practice, where do they get their understanding of standards?

Changes to make it clear that this only applies to ambiguous areas of our laws and rules would be helpful to make this legislation clearer and minimize the negative effects. We appreciate the opportunity to testify on this legislation and provide our concerns.



March 12, 2024

Testimony Presented by: Nathan Anderson, Director
Department of Mineral Resources

Presented to: House Judiciary Committee
Representative Lawrence Klemin, Chair

SENATE BILL 2285

Introduced by:
Senators Cory, Sickler and Paulson
Representatives Koppelman, Vetter and Schauer

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

Judicial deference.

Notwithstanding any other provision of law, in interpreting or applying a statute, a regulation, or rule, a judge may not defer to an administrative agency's interpretation of the statute, regulation, or rule.

Proposed Amendment: Notwithstanding any other provision of law, in interpreting or applying ~~a~~ an ambiguous statute, regulation, or rule, a judge may not defer to an administrative agency's interpretation of the ambiguous statute, regulation, or rule.

- The "Chevron Deference" was focused on unelected federal bureaucrats
- Federal agencies ignored the will of Congress, resulting in federal overreach
- Federal rules are one-size-fits-all, involve red tape that hampers the intent of the rule
- A judge cannot defer to an agency subject matter expert. This is problematic
- Our field of work is specialized and technical. Not allowing a judge to defer to agency expertise would significantly impact an informed decision. Our personnel are engineers and geoscientists, many trained by industry, with years and decades of practical experience and training
- State agencies such as the Industrial Commission are made up of statewide elected officials
- Federal agencies are led by unelected officials

Mark F. Bohrer
ASSISTANT DIRECTOR
OIL AND GAS DIVISION

Nathan D. Anderson
DIRECTOR
DEPT. OF MINERAL RESOURCES

Edward C. Murphy
STATE GEOLOGIST
GEOLOGICAL SURVEY

- Director of Mineral Resources is appointed by the statewide elected Industrial Commission. The Oil and Gas Division focuses on and has decades of experience in safe and reliable regulation for North Dakotans
- Regulations are specific to North Dakota, specific to the conditions, geology, geography, and weather that makes North Dakota unique to many other top energy producing states
- It is not a one-size-fits-all approach to regulation. Interpretating regulations specific to North Dakota. Oil and gas regulation is complex and highly technical. Agency staff wrote regulations and inherently understand the reasons those rules were written and are best informed to understand their interpretation and apply them in a scientifically sound and common sense way
- Rulemaking is very local, and it is easy for interested parties to engage in the process
- This agency has decades of experience enforcing the regulations
- Federal laws are different, can be over 1,000 pages and are enforced by personnel that may have had no input on their writing and are open to wide interpretation
- It is critical that judges be able to defer to the DMR when appropriate. This does not mean judges should indiscriminately accept DMR's interpretation but if DMR is able to show a judge it is reasonably applying the law with a sound scientific basis, the judge should be able to defer and rely on DMR's technical expertise
- Prohibiting judges from deferring to DMR experts would harm the state's environment and economy. Judges would not be able to take advantage of DMR's expertise, that acts in the best interests of the state. Instead, judges would be guided by special interests that may not have the best interests of the state in mind. This bill would hamstring DMR's ability to enforce its regulations. Judges would not be able to defer to DMR's expertise and interpretation and may look to the special interests' interpretation for compliance requirements
- It is critical that a judge be able to defer to DMR when DMR can justify its interpretation and application of the law. In some cases, opponents have retained their own experts, often from outside the state with no knowledge of the unique circumstances that exist in North Dakota. Under this bill, these hired, out-of-state experts could be relied on by a judge but DMR's experts could not. This would result in poor decision-making and uncertainty, making North Dakota less attractive for investment
- The Legislature should want judges to defer to DMR where DMR has provided justification for doing so. The alternative is that judges, who generally do not have technical backgrounds, will have to rely on parties seeking to advance their own agendas, and not North Dakota's
- Judges have the authority to interpret statutes, regulations, and rules. However, it is also appropriate for judges to defer to an administrative agency's interpretation of its own regulations or rules, as these agencies are the subject matter experts and the original drafters. Regulations and rules promulgated under a statute are reviewed by legislative sponsors, and the legislature's Administrative Rules Committee has the power to object if a regulation or rule is deemed unreasonable, arbitrary, capricious, or beyond

the agency's delegated authority. Additionally, the committee can void all or part of a regulation or rule if it lacks statutory authority, fails to comply with legislative intent or procedural requirements of the Administrative Practices Act, conflicts with state law, or is arbitrary and capricious.

- If this bill is passed into law, it could result in an ironic situation where a judge is not allowed to defer to the administrative agency's interpretation of a statute, regulation, or rule and arrive at a different interpretation, even though the administrative agency wrote it



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JUDICIARY COMMITTEE
MARCH 12, 2025

TESTIMONY OF
NORTH DAKOTA BOARD OF MEDICINE
SENATE BILL NO. 2285

Chair Klemin, members of the Committee, I'm Sandra DePountis, Executive Director of the North Dakota Board of Medicine, appearing on behalf of the Board to provide opposition testimony on Senate Bill 2285.

The Legislature tasks the North Dakota Board of Medicine to license and discipline certain health care providers in the State of North Dakota. In doing so, the Board is responsible for verifying that only qualified and competent practitioners are providing health care services to the citizens of North Dakota. The Board does not take this responsibility lightly. When reviewing a potential disciplinary action, the Board first obtains significant evidence that may include subpoenaing comprehensive and voluminous medical records; obtaining outside experts; requiring the licensee to obtain independent physical, psychiatric, or competency evaluations; etc. Once all evidence is obtained, an Investigatory Panel of the Board does a thorough and comprehensive review of the file to determine whether disciplinary action is warranted, and, if so, whether it can meet the required preponderance of the evidence burden of proof. In fulfilling due process requirements, the Board utilizes the Administrative Agencies Practice Act (28-32) to obtain recommended findings of facts, conclusions of law, and order from an Administrative Law Judge (ALJ). Disciplinary cases can be nuanced and technical, requiring Board member expertise, training, and education to make informed decisions, which may require deviation from the ALJ's recommendations.

Mission Statement

The Board's mission is to protect the public's health, safety and welfare by regulating the practice of medicine, thereby ensuring quality health care for the citizens of this state.

The ALJs in North Dakota are skilled judges and although well versed in the law, are not medical practitioners able to render expertise about highly technical matters that come before them. If the Board does not accept the ALJ's recommendation, the Board must adequately explain its rationale for deviating, which still must be supported by evidence. A reviewing court may also lack this technical knowledge, making it logical for the court to be able to defer to the agency's expertise.

The Administrative Agencies Practice Act and reviewing courts have long recognized that administrative agencies possessing specialized knowledge and experience on technical matters are in the best position to make the final determination, especially with an agency like the Board of Medicine. As recognized by the Supreme Court, practicing health care members of the Board provide the expertise and experience that is necessary to make decisions due to the "technical" nature of its disciplinary cases. As an example, NDBOM v. Hsu, 2007 ND 9, the Supreme Court ultimately found the ALJ's recommendations to be "unworkable" and affirmed the Board's departure from the recommendations based on the evidence. To support such a decision, the Court provides:

¶42 "The legislature has vested the Board with authority to discipline physicians. Generally, the determination of the appropriate sanction to be imposed by the Board is a matter of discretion. **In technical matters involving agency expertise, an agency decision is entitled to appreciable deference.** The determination of a physician's standard of care and the requirements for appropriate documentation of that care involve technical matters. The Board is comprised mostly of practicing physicians, and the Board's determination is entitled to appreciable deference. Moreover, it is not the court's function to act as a super board when reviewing decisions by an administrative agency, and courts do not reweigh the evidence or substitute their judgment for a duly authorized agency." (internal citations omitted, emphasis added)

Deference ensures that those with the greatest subject matter expertise inform the substance of the decision. Medical cases hinge on the specialty area and applicable standards of care involved in the case, which a court may miss or lack the ability to provide and thus courts should be allowed to defer to the Board's interpretation and findings.

Finally, taking away deference will have a fiscal impact on the Board. Full ramifications of this bill are unknown at this time. For example, it is unknown if taking away deference will make licensees less willing to settle by stipulation and instead result in more cases being brought before an ALJ, resulting in more time and expenses. In any event, if a reviewing court cannot rely on the Board's expertise, the Board would need to employ outside experts for every case, which are very expensive. Currently, if the Board does not have a member with expertise in the specialty area at issue in a case before it, the Board obtains an independent expert to provide such a review and opinion. Depending on the expert and specialty area – the Board has received quotes of \$650/hour to just review medical records for an initial expert opinion, which increase to \$2,910/hour for court testimony along with a \$4,000 "appearance fee." To now require this for all cases would have a fiscal effect that may need to be offset by fee increases of licensees.

The Board would therefore be supportive of the amendment upholding the intent of this bill by allowing courts to be the ultimate decision-maker for statutory construction of ambiguous statutes, while still being able to defer to agency expertise on technical subject matters.

Thank you for your time and attention and I would be happy to answer any questions.



North Dakota Association for Justice
PO Box 365
Mandan, ND 58554
The Trial Lawyers of North Dakota

Jaclyn Hall, Executive Director
jaclyn@ndaj.org

Chairman Klemin and members of the House Judiciary Committee, I am Jaci Hall, Executive Director of the North Dakota Association for Justice. I am here today in support of SB2285.

On June 28, 2024, the Supreme Court finally and emphatically overruled *Chevron* deference, the watershed rule that governed the level of deference afforded to administrative agency interpretation of ambiguous statutes for nearly forty years.

Chevron deference, established in 1984, required courts to defer to 'permissible' agency interpretations of statutes those agencies administer, even when a reviewing court reads the statute differently. This principle of the deference to administrative agencies was a cornerstone of administrative law for nearly four decades.

In *Loper Bright Enterprises v. Raimondo*, the majority opinion represents an emphatic rejection of the agency deference ushered in *Chevron*. The court's decision had an immediate and lasting impact on an executive agency interpretation of ambiguous statutes.

Chief Justice Roberts noted, under the American Procedures Act, courts utilize their own judgment in deciding questions of law, notwithstanding an agency's interpretation of the law. In the majority's view, the APA "makes clear that agency interpretations of statutes—like agency interpretations of the Constitution—are *not* entitled to deference.

According to Chief Justice Roberts, "agencies have no special competence in resolving statutory ambiguities. Courts do," and "even when an ambiguity happens to implicate a technical matter, it does not allow the agency to authoritatively interpret the statute from the courts and give it to the agency.

Federal and state statutes share a common problem: they're vague. When legislators write bills, they often fail to define complicated terms and frequently use fuzzy language. When enforcing unclear laws, executive agencies must make educated guesses about the best way to interpret hazy statutory language.



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But sometimes, agencies guess wrong, and that leads them to implement laws in ways state legislatures never would have approved—from forcing factory workers in West Virginia to use expensive smokestack scrubbers to meet emissions standards, to forcing fishermen in Rhode Island to pay federal “herring monitors” to perform fishing inspections. These consequences prompt lawsuits against the administrative state that all hinge on the same question: what does the law mean?

The most common way state courts defer to administrators is by using what we call “substantial deference” standards. These standards give state agencies about the same amount of deference that *Chevron* gave to federal agencies.

American courts—federal and state—were designed to interpret statutes. It is their job, plain and simple—the very “judicial power” assigned to them in the Constitution. Shifting the power of statutory interpretation to executive agencies snatches away the constitutional prerogative of an impartial judiciary and drops it into the hands of unelected, often politically motivated agency officials.

SB2285 seeks to do what the *Chevron* decision at the Supreme Court achieved – shift judicial power back to the statutes the Legislature has created.

Here is an Example - On January 19, 2025, the North Dakota Supreme Court overturned a WSI denial of PTSD benefits Oak Reile, an injured worker. In his decision, Chief Justice Jensen wrote that he believed WSI exceeded the scope of the legislature’s delegation of authority when it promulgated N.D. Admin. Code § 92-01-02-02.5. He determined that the ALJ’s order affirming WSI’s decision denying benefits, despite finding that Mr. Reile is statutorily entitled to them, is not in accordance with the law. The court determined the ALJ had found Mr. Reile was not entitled to benefits based on WSI’s regulation, explaining: “If N.D.C.C. § 65-01-02(11) were the only applicable statute, Mr. Reile’s treatment for adjustment disorder with depressed mood should be covered.”



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If the Administrative Law Judge utilized the statute instead of the administrative rule, Mr. Reile would have received his benefits timely and the request would not have had to go to the ND Supreme Court – saving both time and money.

The founding fathers created three branches of government, legislative, executive and judicial. These three branches are very important – and to allow executive agencies to interpret legislative statutes how they see fit is not right. After the *Chevron* decision, it is not law.

Allowing any agency official, whether appointed, elected or hired, to be able to utilize their interpretation of the statute and not the statute itself goes against the decision the United States Supreme Court decided. The legislature creates statutes, and they are law. No person or agency is above the laws of North Dakota. If agencies determine adjustments should be made, they should go through the proper channels and not interpret the law through changes in the administrative rule.

In closing, North Dakota is not alone in their decision to follow the US Supreme Court's action. Idaho, Nebraska, Indiana, Arizona, Wisconsin, and Tennessee have created legislation and Kansas, Utah, Mississippi, Arkansas, Michigan, Ohio, and Delaware's Supreme Courts have deemed this type of deference unconstitutional. SB2285 does not reject all administrative rules, rather it dictates the statute is the law and the administrative rule can be used to support the statute.

Please vote for a Do Pass on SB2285.

Thank you.

SENATE BILL 2285
Testimony of Todd D. Kranda
House Judiciary Committee

- March 12, 2025 -

Chairman Klemin and members of the House Judiciary Committee, for the record, my name is Todd D. Kranda, I am an attorney with the Kelsch Ruff Kranda Nagle & Ludwig law firm in Mandan, ND. I am appearing before you as a lobbyist on behalf of the North Dakota Petroleum Council.

The North Dakota Petroleum Council (NDPC) represents more than 550 companies involved in all aspects of the oil and gas industry, including oil and gas production, refining, pipeline development, transportation, mineral leasing, consulting, legal work, and oilfield service activities in ND, SD, and the Rocky Mountain region.

NDPC is opposed to SB 2285 which eliminates judicial deference for an administrative agency's interpretation of a statute, regulation or rule under the Administrative Agency Practice Act, Chapter 28-32 NDCC.

SB 2285 apparently seeks to overturn the application of the federal Chevron doctrine in ND State Courts. However, if there is one primary take away from my testimony today, it is the fact that the ND Supreme Court never adopted the federal Chevron doctrine to begin with, and SB 2285 is nothing more than a solution in search of a problem that does not exist in ND.

In ND, there are several factors or tests that reviewing courts apply which are opposite of the Chevron decision and afford additional judicial review. In ND, the reviewing court will affirm an agency action unless: 1) a preponderance of evidence does not support the agency's findings; 2) the agency's findings of fact do not support its conclusions of law and its decision; 3) the agency's decision violates constitutional rights

of the claimant; 4) the agency did not comply with Administrative Agency's Practice Act in the proceedings; 5) the agency's rules or procedures have not afforded a claimant a fair hearing; or 6) the agency's decision is not in accordance with the law. State of North Dakota, By and Through its Tax Commissioner, vs. American West Community Promotions, Inc., 645 N.W.2d 196 (ND 2002).

While it is correct to state that our ND courts will grant deference to an agency finding where an issue is highly technical and requires specialized expertise, an agency's interpretation of a statute involving a non-technical issue or general interpretation of law is afforded little deference. And while our ND courts will give some deference to a "long-standing agency interpretation", our ND Supreme Court has held as stated in the case cited above "We will not defer to even a long-standing agency interpretation that is contrary to the intent of the legislature." *Id.* at 204.

NDPC has a significant concern with the potential impact that SB 2285 will have on ND's primacy over federal regulations. SB 2285 jeopardizes the local control ND has over federal regulations, particularly within the ND Department of Environmental Quality. SB 2285 also would unnecessarily impact state agencies that are effectively using the ND Administrative Agency Practice Act to regulate the oil and gas industry in an efficient, timely, and responsive manner. SB 2285 would erode the judicial deference granted to these agencies which will lead to unnecessary, lengthy, and incredibly costly court proceedings and negate the value these agencies bring to the table related to the technical expertise used to arrive at an agency's initial decision or ruling.

In conclusion, the NDPC opposes the passage of SB 2285 which is unnecessary, overly broad and will likely create additional litigation. NDPC urges this committee to give SB 2285 a **Do Not Pass Recommendation**. Thank you for the opportunity to provide this information. I would be happy to try to answer any questions.



March 12, 2025

Chairman Klemin and Members of the Committee,

Thank you for the opportunity to testify today in opposition of SB2285 on behalf of the Lignite Energy Council. North Dakota has a strong regulatory framework that allows state agencies to develop practical, science-based rules that support industry compliance while maintaining environmental and safety standards. This balance has allowed industries, particularly the coal sector, to operate successfully without undue regulatory burdens from the state.

A key element of our regulatory success is the state's primacy over several environmental programs, granted by the EPA. Achieving primacy required years of legislative effort to develop policies that ensure effective state enforcement of federal standards. This process reinforced North Dakota's ability to regulate locally while meeting rigorous federal requirements, providing stability and predictability for industries. The North Dakota Department of Environmental Quality (NDDEQ), the North Dakota Industrial Commission (NDIC), and the Public Service Commission (PSC) administer key environmental and resource management programs, ensuring regulations are enforced effectively while preserving local decision-making authority.

SB2285 threatens this well-established system by removing the courts' ability to defer to administrative agencies' interpretations of statutes, regulations, or rules. This fundamental change undermines the role of agencies in applying their specialized expertise to regulatory matters, leading to increased legal uncertainty and inconsistent enforcement. While concerns about judicial overreach are understandable, and primarily occur at the federal level, this bill introduces legal uncertainty, increases litigation, and undermines the ability of state agencies to apply regulations consistently. Judges rely on agency expertise to ensure informed and stable rulings—without this deference, regulatory enforcement could become inconsistent and unpredictable.

Furthermore, this bill could put North Dakota's primacy status at risk. If state agencies face legal challenges that hinder their ability to interpret and enforce regulations effectively, the EPA may determine that North Dakota is not meeting federal oversight requirements. This could result in the loss of primacy, shifting regulatory authority to federal agencies, reducing local control, and creating additional obstacles for industries like coal that rely on stable, state-driven regulations.

For industries making long-term investments, clear and predictable regulations are essential. SB2285 would introduce unnecessary risks, leading to delays in permitting, inconsistent enforcement, and an



uncertain regulatory environment. Our current system ensures that agency expertise is considered alongside judicial oversight, maintaining an effective balance that supports both regulatory compliance and economic stability. Disrupting this balance could have serious consequences for North Dakota's economy and regulatory framework.

I urge the committee to reject SB2285 with a "Do Not Pass" recommendation to preserve North Dakota's well-functioning regulatory framework. Thank you for your time and consideration.

Sincerely,

Jonathan Fortner
Vice President of Government Relations and External Affairs
Lignite Energy Council

Senate Bill 2285

Presented by: Randy Christmann, Chair
Public Service Commission

Before: House Judiciary Committee
The Honorable Lawrence Klemin, Chair

Date: March 12, 2025

TESTIMONY

My name is Randy Christmann, Chair of the Public Service Commission (PSC). I am here today to provide testimony in opposition to this bill.

The Public Service Commission is a constitutional agency comprised of three statewide elected officials. Unlike other agencies, constitutional agencies hold executive authority as defined by the Legislature but are not subject to executive appointment. Generally, the Commission is vested with authority over a number of jurisdictions relating to economics, environmental, infrastructure protection, energy infrastructure siting, gas pipeline safety, and coal mine reclamation. Many of these jurisdictions are public interest statutes requiring decisions based on legal terms of art such as “prudent,” “used and useful,” “just and reasonable,” “for the public convenience and necessity,” or “in the public interest.”

Regulatory frameworks like economic regulation of franchise monopolies and environmental siting are often not well-defined because

they require the flexibility and broad authority to investigate and address a wide range of issues that may arise to protect the public and individual citizens. The Commission operates with a commitment to public involvement, allowing individuals to participate in proceedings through public input and even to have a seat at the table without legal representation. This openness stands in contrast to the more rigid processes found in the courts and certain other administrative proceedings.

Additionally, the PSC manages several state-federal partnerships, including programs for pipeline safety and coal mine reclamation. These programs are subject to regular federal audits, which evaluate compliance with federal standards. Problems may arise if federal auditors find that the state is not adequately enforcing these standards, even if the inadequacy were the result of a judge's ruling. The auditors may then issue findings of inadequacy, potentially resulting in federal agencies assuming enforcement responsibilities.

It is also worth noting that in states that have moved toward limiting judicial deference, there has been recognition that certain subject matters within longstanding agency expertise should be exempted. For example, Arizona's statute removing deference from the agencies expressly

provides that deference is retained for the regulation of public utilities and carriers¹ by their public utilities commission.

It is unclear what issues this bill will resolve, but there is a high likelihood that it will result in additional litigation. While the impacts are difficult to forecast, the PSC operates on a lean staff. The additional time and work engaged in addressing appeals and litigation may cripple the agency. If the Legislature deems this bill necessary, I respectfully urge you to exclude agencies led by elected officials, such as the Public Service Commission. These agencies have the appropriate expertise to make informed decisions and are directly accountable to the people of North Dakota.

Chair Klemin, thank you for the opportunity to testify. I am happy to answer any questions you may have.

¹ See Ariz. Rev. Stat. section 12-910(H) (The removal of deference “does not apply to any agency action pursuant to Title 40”, Public Utilities and Carriers).



North Dakota Senate

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Senator Claire Cory

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COMMITTEES:

Judiciary
Transportation (Vice Chair)

TESTIMONY IN SUPPORT OF SENATE BILL 2285 SENATE JUDICIARY COMMITTEE JANUARY 29, 2025

Good Morning Chairman Klemin and House Judiciary Committee Members. My name is Claire Cory. I am a North Dakota State Senator representing District 42, which includes northwest Grand Forks. I stand as the prime sponsor of Senate Bill 2285 asking for your support.

Senate Bill 2285 says when a judge interprets a statute, regulation or rule, the judge is to follow the statute rather than deferring to the agency to conduct their interpretation.

This is a matter of proper separation of powers. This bill does not imply agencies are failing to serve North Dakotans well or acting in a way that is improper. This is more to ensure there is a proper review process regardless of the impact on agencies, a checks and balances if you will. 2285 in no way impacts the judge from agreeing with the agency interpretation of a rule or statute, if the judge agrees this is correct, after weighing the evidence in a neutral manner. In litigation involving private parties, there is no judicial deference to one party over the other; all parties are to be equal.

Chair Klemin and members of the Committee, this concludes my testimony and I am happy to answer any questions.

Respectfully submitted,

Claire Cory

COMMISSIONER
DOUG GOEHRING



ndda@nd.gov
www.agdepartment.com

**Testimony of Doug Goehring
Agriculture Commissioner
House Judiciary
J-Wing 327B
March 12, 2025**

Chairman Klemin and members of the House Judiciary Committee, I am Agriculture Commissioner Doug Goehring. I am here today in opposition to SB 2285 which relates to judicial deference.

Although I can appreciate challenging the Chevron decision and holding federal agencies accountable for not following the law; I have concerns with what this bill would do to diminish the ability of state agencies to carry out the will and intention of the legislature, and it invites litigation against state agencies for enforcing state laws. It takes away the ability for agencies, with significant technical knowledge, to effectively defend decisions and actions made in accordance with statute. This bill would reduce the force and effect of statutes the legislature adopts in the eyes of the court and our ability to implement and enforce those laws.

Chairman Klemin and committee members, I urge a do not pass on SB 2285. I would be happy to answer any questions you may have.

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

Introduced by

SENATE BILL NO. 2285

Senators Cory, Sickler, Paulson

Representatives Koppelman, Vetter, Schauer

- 1 A BILL for an Act to create and enact a new section to chapter 28-32 of the North Dakota
2 Century Code, relating to judicial deference.

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

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

6 **Judicial deference.**

- 7 Notwithstanding any other provision of law, in interpreting or applying ~~a~~an ambiguous statute,
8 regulation, or rule, a judge may not defer to an administrative agency's interpretation of the
9 ambiguous statute, regulation, or rule.

10



Neutral Testimony

Environmental Quality

Senate Bill No. 2285
House Judiciary Committee
March 12, 2025

TESTIMONY OF

L. David Glatt, Director

North Dakota Department of Environmental Quality

Chairman Klemin and members of the House Judiciary Committee. My name is David Glatt, Director of the North Dakota Department of Environmental Quality (DEQ). The DEQ is responsible for rule implementation oversight and enforcement of many of the environmental protection programs in the state. DEQ staff spend countless hours in the field and the office working with the regulated communities gaining specific state and industry knowledge necessary to ensure proper application of rules. The DEQ actions exhibit our commitment to following sound science and the law, in the field as well as in the court room. The DEQ has questions on whether SB 2285 could prohibit a proper judicial review of all relevant science by discounting state specific experience resulting in inappropriate outcomes at the judicial level.

SB 2285 could benefit outside organizations, industries, and states in legal disputes involving state permits and enforcement actions brought by the Department. Could it allow out of state agenda driven interests to receive judicial deference even though they may have limited to no scientific or practical experience with state industries, environmental conditions or quality? Does it ensure that judicial outcomes do not use faulty scientific conclusions not appropriate for the North Dakota environment or industries? Some examples of out of state "experts" include statements that there is no difference between Lignite and other types of coal when considering the application of appropriate treatment technologies or stating that pollution control devices need only be present and not required to be operating to control air emissions. The Department's record of common-sense rule application and expertise should be given due consideration and full judicial review. A judicial decision should only be made after all arguments from both sides are equally and fully considered based upon the law and applicable science.

Support of Proposed Amendment

The Department supports the proposed amendment which specifies that the court should only limit deference to ambiguous statute and rules.

Mr. Chairman and committee members, this concludes my testimony. — I would be happy to answer any questions.



Testimony
Engrossed SB 2285
House Judiciary Committee
Representative Klemin, Chairman
March 12, 2025

Chairman Klemin, and members of the House Judiciary Committee, I am Allyson Hicks, Assistant Attorney General, General Counsel for the Public Health Division with the Department of Health and Human Services (Department). I appear before you to express the Department's support of the amendment to engrossed SB 2285. The Department is neutral on the bill itself.

The amendment as proposed would limit the application of the engrossed bill to ambiguous statutes, which is in line with the status of current case law. This would continue to allow deference to agencies' technical expertise in the application of statutes and rules which are unambiguous as is the current practice.

Again, the Department does not take a position on the bill but is supportive of the amendment. This concludes my testimony. I would be happy to answer any questions the committee may have. Thank you.

2025 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

SB 2285
3/12/2025

A BILL for an Act to create and enact a new section to chapter 28-32 of the North Dakota Century Code, relating to judicial deference.

2:33 p.m. Chairman Klemin opened the hearing.

Members Present: Chairman Klemin, Vice-Chairman Karls, Vice-Chairman Vetter, Representatives Christianson, Henderson, Hoverson, Johnston, McLeod, S. Olson, Satrom, Tveit, VanWinkle, Wolff, Schneider

Discussion Topics:

- Public hearings for administrative agency's interpretations of statutes
- North Dakota Administrative Rules committee

2:34 p.m. Representative Tveit moved to adopt the Amendments proposed in testimony #40964 (submitted during the March 12, 2025, 9:00 a.m. hearing).

2:35 p.m. Representative VanWinkle seconded the motion.

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	N
Representative Steve Vetter	N
Representative Nels Christianson	N
Representative Donna Henderson	N
Representative Jeff Hoverson	N
Representative Daniel Johnston	N
Representative Carrie McLeod	N
Representative SuAnn Olson	N
Representative Bernie Satrom	Y
Representative Mary Schneider	Y
Representative Bill Tveit	Y
Representative Lori VanWinkle	N
Representative Christina Wolff	N

2:42 p.m. Motion failed 4-10-0.

2:43 p.m. Representative Hoverson moved a Do Pass.

2:43 p.m. Representative Wolff seconded the motion.

Representatives	Vote
Representative Lawrence R. Klemin	N
Representative Karen Karls	N
Representative Steve Vetter	Y
Representative Nels Christianson	Y
Representative Donna Henderson	Y
Representative Jeff Hoverson	Y
Representative Daniel Johnston	Y
Representative Carrie McLeod	N
Representative SuAnn Olson	Y
Representative Bernie Satrom	N
Representative Mary Schneider	N
Representative Bill Tveit	N
Representative Lori VanWinkle	Y
Representative Christina Wolff	Y

2:51 p.m. Motion passed 8-6-0.

2:51 p.m. Vice-Chairman Vetter will carry the bill.

2:51 p.m. Chairman Klemin closed the hearing.

Wyatt Armstrong, Committee Clerk

**REPORT OF STANDING COMMITTEE
ENGROSSED SB 2285 ([25.1100.02000](#))**

Judiciary Committee (Rep. Klemin, Chairman) recommends **DO PASS** (8 YEAS, 6 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). SB 2285 was placed on the Fourteenth order on the calendar.