

## HB0459S01 compared with HB0459

~~deleted text~~ shows text that was in HB0459 but was deleted in HB0459S01.

inserted text shows text that was not in HB0459 but was inserted into HB0459S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

Representative Don L. Ipson proposes the following substitute bill:

### EDUCATION INTERPRETATION SERVICES FOR DEAF AND HEARING IMPAIRED STUDENTS

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Don L. Ipson**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill modifies the Interpreter Services for the Hearing Impaired Act by describing the membership requirements for Interpreters Certification Board, providing an exemption from interpreter certification, and prohibiting interpreter services from forming a monopoly or engaging in price fixing.

##### Highlighted Provisions:

This bill:

- ▶ amends the definition of "interpreter services";
- ▶ amends membership provisions of the Interpreters Certification Board within the State Board of Education;

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- ▶ provides ~~{that the Interpreters Certification Board may recommend certification be revoked if the board finds an individual attempted to create a monopoly for interpretation services;~~
- provides a one-year exemption from interpreter certification for an individual providing interpretive services at an institution of higher learning;
- prohibits interpreter service companies from forming a monopoly or engaging in price fixing; a certification exemption in the event of a spacial need; and
- ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

53A-26a-102, as enacted by Laws of Utah 1994, Chapter 306

53A-26a-201, as enacted by Laws of Utah 1994, Chapter 306

~~{ 53A-26a-202, as enacted by Laws of Utah 1994, Chapter 306~~

+ 53A-26a-305, as last amended by Laws of Utah 2010, Chapter 324

~~{ENACTS:~~

~~53A-26A-504, Utah Code Annotated 1953~~

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section 53A-26a-102 is amended to read:

#### **53A-26a-102. Definitions.**

As used in this chapter:

- (1) "Advisory board" or "board" means the Interpreters Certification Board created in Section 53A-26a-201.
- (2) "Certified interpreter" means a person who is certified as meeting the certification requirements of this chapter.
- (3) "Hearing impaired" means a hearing loss which:
  - (a) necessitates the visual acquisition of language; or

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(b) adversely affects the acquisition of language but which does not preclude the auditory acquisition of language.

(4) "Interpreter services" means those services provided for payment by ~~an individual holding one's self out to be~~ a certified interpreter to facilitate effective communication between hearing and hearing impaired persons.

Section ~~44~~2. Section **53A-26a-201** is amended to read:

### **53A-26a-201. Board.**

(1) There is created to assist the State Board of Education the Interpreters Certification Board consisting of the following 11 members:

(a) a designee of the director of the Division of Services to the Deaf and Hard of Hearing (DSDHH) in the Utah State Office of Rehabilitation;

(b) a designee of the State Board of Regents;

(c) a designee of the State Board of Education;

(d) four professional interpreters, recommended by the director of DSDHH~~;~~and, who fall into the following categories:

(i) one interpreter from higher education;

(ii) one interpreter from the Utah College of Applied Technology;

(iii) one interpreter from the public school system; and

(iv) one interpreter from the private sector; and

(e) four persons who are hearing impaired, recommended by the director of DSDHH.

(2) (a) The State Board of Education shall make all appointments to the board.

(b) In making its appointments under Subsections (1)(d) and (e), the State Board of Education shall give consideration to recommendations by interpreters for the hearing impaired and members of the hearing impaired community.

(3) (a) Board members shall serve three-year terms, except that for the initial terms of board members, three shall serve one-year terms, four shall serve two-year terms, and four shall serve three-year terms.

(b) A person may not serve more than two three-year consecutive terms.

(c) If a vacancy occurs on the board for any other reason than the expiration of a term, the State Board of Education shall appoint a replacement for the remainder of the term pursuant to Subsections (1) and (2).

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(4) The State Board of Education may remove any board member for cause, which shall include misconduct, incompetence, or neglect of duty.

(5) The board shall elect annually a chair and vice chair from among its members.

(6) The board shall meet as often as necessary to accomplish the purposes of this chapter, but not less than quarterly.

(7) Board members shall receive compensation for actual and necessary expenses in connection with their service on the board, but shall not receive a per diem.

~~{ Section 2. Section 53A-26a-202 is amended to read:~~

~~53A-26a-202. Powers and duties of the board:~~

~~(1) The board shall function as an advisory board to the State Board of Education and under the direction of the State Board of Education shall perform the following duties concerning the certification of interpreters:~~

~~(a) recommend to the state board appropriate rules;~~

~~(b) recommend to the state board policy and budgetary matters;~~

~~(c) recommend to the state board a passing score for applicant examinations;~~

~~(d) screen applicants for certification and recommend certification, renewal, reinstatement, and recertification actions to the state board in writing;~~

~~(e) recommend standards of supervision for persons in training to become certified interpreters; [and]~~

~~(f) act as presiding officer in conducting hearings associated with adjudicative proceedings and in issuing recommended orders when so designated by the State Board of Education[.]; and~~

~~(g) recommend certification be revoked if the board finds a certified individual has attempted to create a monopoly for interpretive services in a geographic area.~~

~~(2) The State Board of Education, with the collaboration and assistance of the advisory board, shall:~~

~~(a) prescribe certification qualifications;~~

~~(b) prescribe rules governing applications for certification;~~

~~(c) provide for a fair and impartial method of examination of applicants;~~

~~(d) define unprofessional conduct, by rule, to supplement the definition under this chapter; and~~

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~~———— (e) establish conditions for reinstatement and renewal of certification.~~

~~———— (3) (a) The advisory board shall designate one of its members on a permanent or rotating basis to:~~

~~———— (i) assist the state board in reviewing complaints involving the unlawful or unprofessional conduct of a certified interpreter; and~~

~~———— (ii) advise the state board in its investigation of these complaints.~~

~~———— (b) An advisory board member who has, under Subsection (3)(a), reviewed a complaint or advised in its investigation is disqualified from participating with the advisory board when it serves as a presiding officer of an administrative proceeding concerning the complaint.~~

‡ Section 3. Section **53A-26a-305** is amended to read:

### **53A-26a-305. Exemptions from certification -- Temporary or restricted certification.**

(1) The following individuals may engage in the practice of a certified interpreter, subject to the stated circumstances and limitations, without being certified under this chapter:

(a) an individual serving in the Armed Forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or other federal agencies while engaged in activities regulated under this chapter as a part of employment with that federal agency if the person holds a valid certificate or license to provide interpreter services issued by any other state or jurisdiction recognized by the State Board of Education;

(b) a student engaged in providing interpreter services while in training in a recognized school or institution of higher education approved by the State Board of Education to the extent the student's activities are supervised by qualified faculty, staff, or designee, and the services are a defined part of the training program;

(c) an individual engaged in an internship, residency, apprenticeship, or on-the-job training program approved by the State Board of Education while under the supervision of qualified persons;

(d) an individual residing in another state and certified or licensed to provide interpreter services in that state, who is called in for a consultation by an individual certified to provide interpreter services in this state, and the services provided are limited to that consultation;

(e) an individual who is invited by a recognized school, association, or other body

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approved by the State Board of Education to conduct a lecture, clinic, or demonstration on interpreter services if the individual does not establish a place of business or regularly engage in the practice of providing interpreter services in this state; and

(f) an individual licensed in another state or country who is in this state temporarily to attend to the needs of an athletic team or group, except that the individual may only attend to the needs of the team or group, including all individuals who travel with the team or group, except as a spectator.

(2) (a) An individual temporarily in this state who is exempted from certification under Subsection (1) shall comply with each requirement of the jurisdiction from which the individual derives authority to practice.

(b) Violation of any limitation imposed by this section is grounds for removal of exempt status, denial of certification, or another disciplinary proceeding.

(3) (a) Upon the declaration of a national, state, or local emergency, the State Board of Education, in collaboration with the advisory board, may suspend the requirements for permanent or temporary certification of persons who are certified or licensed in another state.

(b) Individuals exempt under Subsection (3)(a) shall be exempt from certification for the duration of the emergency while engaged in providing interpreter services for which they are certified or licensed in the other state.

(4) The State Board of Education, after consulting with the advisory board, may adopt rules for the issuance of temporary or restricted certifications if their issuance is necessary to or justified by:

(a) a lack of necessary available interpretive services in any area or community of the state, if the lack of services might be reasonably considered to materially jeopardize compliance with state or federal law; ~~[or]~~

(b) a need to first observe an applicant for certification in a monitored or supervised practice of providing interpretive services before a decision is made by the board either to grant or deny the applicant a regular certification~~[-]; or~~

~~(5) c) An individual providing interpretive services at an~~ a special need for a school  
or institution of higher learning may be exempted from certification requirements for one  
year, if:

~~(a) the institution finds the interpreter is qualified, and~~

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~~(b) the individual is supervised by qualified faculty, staff, or a designee, and the individual is engaged in:~~

~~(i) training at a recognized school approved by the State Board of Education;~~

~~(ii) an internship;~~

~~(iii) a residency program;~~

~~(iv) an apprenticeship program; or~~

~~(v) an on-the-job training program} education.~~

{ ~~Section 4. Section 53A-26A-504 is enacted to read:~~

~~**53A-26A-504. Penalty for monopoly and price fixing.**~~

~~(1) Interpretive service companies are subject to the requirements of the Utah Antitrust Act, Sections 76-10-911 through 76-10-926.~~

~~(2) An interpreter service may not form a monopoly in a geographic area in order to control the market for providing interpretive services to the deaf and hearing impaired.~~

~~(3) A licensed interpreter or an interpretive service company may not engage in price fixing, bid rigging, or another unlawful practice described in Section 76-10-914 on a bid or contract.~~

### Legislative Review Note

~~as of 2-24-11 4:02 PM~~

~~Office of Legislative Research and General Counsel}~~