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To: Senate Industry, Business, and Labor
From: Christopher Dodson, Executive Director
Subject: House Bill 1450 - Pregnant Workers Protection
Date: March 8, 2023

The North Dakota Catholic Conference supports House Bill 1450 to strengthen protection for pregnant workers.

The bill is straightforward. It makes clear that our existing law protecting pregnant workers includes workers with medical needs due to pregnancy or childbirth.

The story of how this bill came about might help explain why HB 1450 is an important improvement to our existing law.

Both before and after the *Dobbs* decision, the United States Conference of Catholic Bishops expressed its support for several Congressional bills and proposals to advance the health, safety, and flourishing of women, children, and families. Among those bills was the Pregnant Workers Fairness Act (PWFA).

The PWFA came about because it became apparent that a previous law, the Pregnancy Discrimination Act of 1978, was deficient in several respects. For example, “pregnancy” in the Act was interpreted by courts to not include medical conditions related to childbirth or miscarriages. The PWFA was introduced to fix those problems.

The PWFA had broad bipartisan support and was supported by organizations as varied as the U.S. Chamber of Commerce and the U.S. Catholic Bishops. Despite the broad support, the PWFA, like many bills in Congress, was not moving forward.

For that reason, we looked at whether North Dakota should enact its own PWFA. It turns out that it did in 2015 with House Bill 1463. That law requires an employer to make temporary reasonable accommodations for a pregnant employee. It also set what is a “reasonable accommodation.” It is a good law, except in one respect. The definition of pregnancy does not include childbirth and medical conditions related to pregnancy and childbirth.

Knowing that courts had interpreted “pregnant” too narrowly in the past, on December 12 of last year North Dakota’s Catholic bishops called for including childbirth and medical conditions related to pregnancy and childbirth in the existing law. Two weeks later, Congress finally passed the federal PWFA.

Therefore, in addition to strengthening North Dakota's law, House Bill 1450 provides uniformity for both employers and employees. The new federal PWFA applies to all employers with fifteen or more employees. North Dakota's law applies to employers of any size. For North Dakota employers with fifteen or more employees, HB 1450 will provide some uniformity between the state and federal requirements.

Many North Dakota businesses have fewer than 15 employees and will not be subjected to the federal PWFA. However, North Dakota law already requires those employers to make reasonable accommodations for pregnant individuals. Clarifying that "pregnant" includes childbirth and related medical conditions gives better guidance to those employers.

More importantly, this small change in the law is the right thing to do for pregnant workers and new mothers. There is no rational reason why the state would provide protection to workers who may need accommodations because of pregnancy, but not because of conditions related to childbirth or miscarriages.

In 2015, North Dakota did what Congress took years to do. It acted to protect pregnant workers. House Bill 1450 strengthens that existing law by ensuring that women with conditions related to childbirth or pregnancy are provided the same protection.

We ask for a **Do Pass** recommendation on House Bill 1450.