JOURNAL OF THE SENATE

Sixty-eighth Legislative Assembly

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Bismarck, March 28, 2023

The Senate convened at 12:30 p.m., with President Miller presiding.

The prayer was offered by Chaplain Greg Carr, Crisis Care Chaplaincy, Bismarck.

The roll was called and all members were present.

A quorum was declared by the President.

CORRECTION AND REVISION OF THE JOURNAL

MADAM PRESIDENT: Your **Committee on Correction and Revision of the Journal (Sen. Beard, Chairman)** has carefully examined the Journal of the Forty-fourth and Fifty-first Days and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 984, line 48, replace “March 13, 2023” with “March 14, 2023”

Page 1125, line 25, after the second "the" insert "amended"

SEN. BEARD MOVED that the report be adopted, which motion prevailed.

POINT OF PERSONAL PRIVILEGE

SEN. MAGRUM rose on a point of personal privilege.

REMARKS OF SENATOR MAGRUM

MADAM PRESIDENT: Today, I would like to bring to the Assembly’s attention coach Dan Carr, the Linton-HMB’s boys basketball coach from my district, District 8. Earlier this month, the Linton-HMB Lions brought Coach Carr his 800th career victory in a thrilling overtime win against Lamoure-Litchville/Marion in the Region 3 quarter-final game.

Dan started coaching in Linton in the 1981-82 school year. He has coached at Linton (Linton/Hazelton-Moffit-Braddock since 2010-11) for 41 seasons (1982-87; 1989-2023). He became Linton’s all-time winningest coach (in any sport) during his seventh season (1988-89) and North Dakota’s winningest boys’ basketball coach (689 wins) back in 2016. Coach Carr broke the previous mark held by legendary coach, Ed Beyer who coached Hillsboro High School. Coach Carr is the only basketball (boys or girls) coach in North Dakota to surpass 800 victories. His career record stands at 801-276, including his 3-year stint in MN at the start of his career.

In 41 seasons at Linton, here are Coach Carr’s impressive statistics:

1. His teams have won more than three-fourths of their games (765-252)
2. 23 Conference titles
3. A post-season record of 177-67 which is a 72.5%-win percentage
4. 32 district tournament championship game appearances
5. 20 district tournament titles
6. 40 appearances at the regional tournament in 41 seasons
7. 32 regional semi-final appearances
8. 20 appearances in regional championship games
9. The Lions won 11 region tournament titles
10. 6 semi-final appearances in the State Class B Tournament
11. 3 appearances in the State Class B Tournament championship game
12. 3 State Class B titles in 1984, 1985 and 2009
13. 2 unbeaten seasons in 1984 (27-0) and 2009 (26-0).

Coach Carr has been selected as the District Coach of the Year 15 times (most recently 2021), and region Coach of the Year 9 times (most recently 2021). He was selected as the

State Class B Coach of year in 1985 and 2005, and the Sportswriter's and Sportscaster's Male Team Coach of the Year in 1985. Carr's 1984 state championship team was selected as the N.D. Sportswriter's and Sportscaster's Association Male Team of the Year. Carr was selected as the State NFHSCA (National Federation of High School Coaches Association) Coach of the Year, which made him a finalist for the National NFHSCA Coach of the Year in 2003 and 2007, and he was a finalist for the NHSACA National Coach of the Year for Boys' Basketball on four occasions (2004, 2008, 2011 and 2014), and was selected as the National NHSACA Boys' Basketball Coach of the Year in 2014.

Carr was inducted into the Mayville State University Coaches' Hall of Fame in 2013, the North Dakota High School Coaches' Association Hall of Fame in 2014, the North Dakota Sports Hall of Fame, and the National High School Athletic Coaches Association (NHSACA) Hall of Fame in June 2018.

One former player said: Coach Carr teaches you more than just basketball. From the day you become a part of one of his teams, he teaches you respect, not just on the basketball court, but in every walk of life. Of course, teenagers in 2023 are far different than they were in 1982, but Carr's philosophy has remained the same..."Be on time, do your job, and respect and look out for your teammates."

All of us hope that we make a difference in the life of someone else. Coach Carr has made a difference in the lives of generations of young men.

REQUEST

SEN. KLEIN REQUESTED that the remarks of Sen. Magrum be printed in the Journal, which request was granted.

MOTION

SEN. ERBELE MOVED that the Senate reconsider its action whereby HB 1121, as amended, failed to pass, which motion failed on a verification vote.

MOTION

SEN. LEE MOVED that the Senate reconsider its action whereby Engrossed HB 1491, as amended, failed to pass, which motion failed on a verification vote.

CONSIDERATION OF AMENDMENTS

HB 1183: SEN. CLEARY (State and Local Government Committee) MOVED that the amendments on SJ pages 1152-1155 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed on a voice vote.

HB 1183 was rereferred to the **Appropriations Committee**.

CONSIDERATION OF AMENDMENTS

HB 1437, as engrossed: SEN. WESTON (Agriculture and Veterans Affairs Committee) MOVED that the amendments on SJ page 1158 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed on a voice vote.

Engrossed HB 1437 was rereferred to the **Appropriations Committee**.

CONSIDERATION OF AMENDMENTS

HB 1276, as engrossed: SEN. LEMM (Agriculture and Veterans Affairs Committee) MOVED that the amendments on SJ pages 1156-1157 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed on a voice vote.

Engrossed HB 1276 was rereferred to the **Appropriations Committee**.

CONSIDERATION OF AMENDMENTS

HB 1257: SEN. BRAUNBERGER (State and Local Government Committee) MOVED that the amendments on SJ page 1156 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

MOTION

SEN. KLEIN MOVED that after action taken on the Sixth order, Engrossed HB 1288 and Engrossed HB 1501 be placed on the Fourteenth order for immediate second reading and

final passage, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1288, as engrossed: SEN. K. ROERS (State and Local Government Committee) MOVED that the amendments on SJ pages 1157-1158 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

SECOND READING OF HOUSE BILL

HB 1288: A BILL for an Act to create and enact a new section to chapter 48-01.2, a new subsection to section 48-01.2-18, a new subsection to section 48-01.2-19, and a new section to chapter 54-21 of the North Dakota Century Code, relating to public improvement bids and state entities contracting for property management services; and to amend and reenact sections 48-02.1-03 and 54-21-24.1 of the North Dakota Century Code, relating to public improvement bids and the lease of additional space by state agencies.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 46 YEAS, 1 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Axtman; Barta; Beard; Bekkedahl; Boehm; Braunberger; Burckhard; Cleary; Clemens; Conley; Davison; Dever; Dwyer; Elkin; Erbele; Estenson; Hogan; Hogue; Kannianen; Kessel; Klein; Krebsbach; Kreun; Larsen; Larson; Lee; Lemm; Luick; Magrum; Mathern; Meyer; Myrdal; Patten; Paulson; Piepkorn; Roers, J.; Roers, K.; Rummel; Rust; Schaible; Sorvaag; Vedaa; Wanzek; Weber; Weston; Wobbema

NAYS: Sickler

Engrossed HB 1288, as amended, passed.

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CONSIDERATION OF AMENDMENTS

HB 1324, as engrossed: SEN. LEE (State and Local Government Committee) MOVED that the amendments on SJ page 1158 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

CONSIDERATION OF AMENDMENTS

HB 1423, as engrossed: SEN. MYRDAL (Agriculture and Veterans Affairs Committee) MOVED that the amendments on SJ page 1158 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

CONSIDERATION OF AMENDMENTS

HB 1517, as engrossed: SEN. BARTA (Industry and Business Committee) MOVED that the amendments on SJ page 1161 be adopted and then be placed on the Fourteenth order with **DO NOT PASS**, which motion prevailed on a voice vote.

CONSIDERATION OF AMENDMENTS

HB 1501, as engrossed: SEN. WEBER (Agriculture and Veterans Affairs Committee) MOVED that the amendments on SJ pages 1159-1161 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

SECOND READING OF HOUSE BILL

HB 1501: A BILL for an Act to amend and reenact subsection 1 of section 4.1-11-01, sections 4.1-11-08, 4.1-11-10, 4.1-11-11, 4.1-11-12, 4.1-11-13, 4.1-11-14, and 4.1-11-15, and subsection 1 of section 4.1-44-03 of the North Dakota Century Code, relating to the North Dakota soybean council and the North Dakota soybean fund; and to provide an effective date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Axtman; Barta; Beard; Bekkedahl; Boehm; Braunberger; Burckhard; Cleary; Clemens; Conley; Davison; Dever; Dwyer; Elkin; Erbele; Estenson; Hogan; Hogue; Kannianen; Kessel; Klein; Krebsbach; Kreun; Larsen; Larson; Lee; Lemm; Luick; Magrum; Mathern; Meyer; Myrdal; Patten; Paulson; Piepkorn; Roers, J.; Roers, K.; Rummel; Rust; Schaible; Sickler; Sorvaag; Vedaa; Wanzek; Weber; Weston; Wobbema

Engrossed HB 1501, as amended, passed.

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SECOND READING OF HOUSE BILL

HB 1513: A BILL for an Act to create and enact a new section to chapter 57-39.2 of the North Dakota Century Code, relating to a sales and use tax exemption for materials used to construct, expand, or upgrade a hospice care facility owned by a hospice program; to amend and reenact subsection 3 of section 57-40.2-03.3 of the North Dakota Century Code, relating to a use tax exemption for materials used to construct, expand, or upgrade a hospice care facility owned by a hospice program; and to provide an effective date.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 3 YEAS, 44 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Braunberger; Hogan; Mathern

NAYS: Axtman; Barta; Beard; Bekkedahl; Boehm; Burckhard; Cleary; Clemens; Conley; Davison; Dever; Dwyer; Elkin; Erbele; Estenson; Hogue; Kannianen; Kessel; Klein; Krebsbach; Kreun; Larsen; Larson; Lee; Lemm; Luick; Magrum; Meyer; Myrdal; Patten; Paulson; Piepkorn; Roers, J.; Roers, K.; Rummel; Rust; Schaible; Sickler; Sorvaag; Vedaa; Wanzek; Weber; Weston; Wobbema

Engrossed HB 1513 failed.

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SECOND READING OF HOUSE BILL

HB 1140: A BILL for an Act to create and enact a new section to chapter 12.1-20 of the North Dakota Century Code, relating to sexual reproductive imposition; and to provide a penalty.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Axtman; Barta; Beard; Bekkedahl; Boehm; Braunberger; Burckhard; Cleary; Clemens; Conley; Davison; Dever; Dwyer; Elkin; Erbele; Estenson; Hogan; Hogue; Kannianen; Kessel; Klein; Krebsbach; Kreun; Larsen; Larson; Lee; Lemm; Luick; Magrum; Mathern; Meyer; Myrdal; Patten; Paulson; Piepkorn; Roers, J.; Roers, K.; Rummel; Rust; Schaible; Sickler; Sorvaag; Vedaa; Wanzek; Weber; Weston; Wobbema

HB 1140 passed.

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SECOND READING OF HOUSE BILL

HB 1256: A BILL for an Act to create and enact a new section to chapter 12.1-11 of the North Dakota Century Code, relating to false allegations of sexual harassment or discrimination; and to provide a penalty.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee

recommendation of DO NOT PASS, the roll was called and there were 8 YEAS, 39 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Beard; Clemens; Estenson; Kreun; Larsen; Magrum; Wanzek; Weston

NAYS: Axtman; Barta; Bekkedahl; Boehm; Braunberger; Burckhard; Cleary; Conley; Davison; Dever; Dwyer; Elkin; Erbele; Hogan; Hogue; Kannianen; Kessel; Klein; Krebsbach; Larson; Lee; Lemm; Luick; Mathern; Meyer; Myrdal; Patten; Paulson; Piepkorn; Roers, J.; Roers, K.; Rummel; Rust; Schaible; Sickler; Sorvaag; Vedaa; Weber; Wobbema

Engrossed HB 1256 failed.

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SECOND READING OF HOUSE BILL

HB 1440: A BILL for an Act to create and enact chapter 26.1-40.2 and a new section to chapter 39-34 of the North Dakota Century Code, relating to delivery network company insurance and classifying a transportation network company driver as an independent contractor; and to amend and reenact subsection 3 of section 26.1-40.1-01, section 26.1-40.1-03, subsection 1 of section 26.1-40.1-04, and sections 39-34-01, 39-34-02, 39-34-04, and 39-34-06 of the North Dakota Century Code, relating to transportation network company insurance and transportation and delivery company networks.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Axtman; Barta; Beard; Bekkedahl; Boehm; Braunberger; Burckhard; Cleary; Clemens; Conley; Davison; Dever; Dwyer; Elkin; Erbele; Estenson; Hogan; Hogue; Kannianen; Kessel; Klein; Krebsbach; Kreun; Larsen; Larson; Lee; Lemm; Luick; Magrum; Mathern; Meyer; Myrdal; Patten; Paulson; Piepkorn; Roers, J.; Roers, K.; Rummel; Rust; Schaible; Sickler; Sorvaag; Vedaa; Wanzek; Weber; Weston; Wobbema

Engrossed HB 1440, as amended, passed.

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SECOND READING OF HOUSE BILL

HB 1376: A BILL for an Act to amend and reenact sections 15-19-01, 15.1-07-25.4, 15.1-31-01, 15.1-31-06, 15.1-31-07, and 15.1-31-08 of the North Dakota Century Code, relating to virtual instruction of students and open enrollment.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and is PLACED ON THE CALENDAR WITHOUT RECOMMENDATION, the roll was called and there were 25 YEAS, 22 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Axtman; Barta; Beard; Boehm; Burckhard; Cleary; Clemens; Erbele; Estenson; Kannianen; Klein; Kreun; Larsen; Larson; Luick; Magrum; Mathern; Meyer; Myrdal; Patten; Paulson; Sickler; Wanzek; Weston; Wobbema

NAYS: Bekkedahl; Braunberger; Conley; Davison; Dever; Dwyer; Elkin; Hogan; Hogue; Kessel; Krebsbach; Lee; Lemm; Piepkorn; Roers, J.; Roers, K.; Rummel; Rust; Schaible; Sorvaag; Vedaa; Weber

Engrossed HB 1376, as amended, passed.

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MOTION

SEN. KLEIN MOVED that HB 1313 be moved to the top of the Fourteenth order, which

motion prevailed.

SECOND READING OF HOUSE BILL

HB 1313: A BILL for an Act to amend and reenact section 54-35-06 of the North Dakota Century Code, relating to the chairman and vice chairman of the legislative management; to provide for application; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 43 YEAS, 4 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Axtman; Barta; Beard; Bekkedahl; Boehm; Burckhard; Cleary; Clemens; Conley; Davison; Dever; Dwyer; Elkin; Erbele; Estenson; Hogan; Hogue; Kannianen; Kessel; Klein; Krebsbach; Kreun; Larsen; Larson; Lemm; Luick; Magrum; Meyer; Myrdal; Patten; Paulson; Roers, J.; Roers, K.; Rummel; Rust; Schaible; Sickler; Sorvaag; Vedaa; Wanzek; Weber; Weston; Wobbema

NAYS: Braunberger; Lee; Mathern; Piepkorn

Engrossed HB 1313, as amended, passed and the emergency clause was declared carried.

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SECOND READING OF HOUSE BILL

HB 1321: A BILL for an Act to amend and reenact section 54-52-03 of the North Dakota Century Code, relating to retirement board membership; to provide an effective date; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 14 YEAS, 33 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Barta; Boehm; Estenson; Kessel; Klein; Larsen; Lemm; Magrum; Myrdal; Paulson; Schaible; Vedaa; Weston; Wobbema

NAYS: Axtman; Beard; Bekkedahl; Braunberger; Burckhard; Cleary; Clemens; Conley; Davison; Dever; Dwyer; Elkin; Erbele; Hogan; Hogue; Kannianen; Krebsbach; Kreun; Larson; Lee; Luick; Mathern; Meyer; Patten; Piepkorn; Roers, J.; Roers, K.; Rummel; Rust; Sickler; Sorvaag; Wanzek; Weber

Engrossed HB 1321, as amended, failed.

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SECOND READING OF HOUSE BILL

HB 1318: A BILL for an Act to amend and reenact subsection 2 of section 39-06-03.1, subsection 5 of section 39-06-14, and subsection 1 of section 39-06-14.2 of the North Dakota Century Code, relating to nondriver photo identification cards and operator licenses for noncitizens.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 44 YEAS, 3 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Axtman; Barta; Beard; Bekkedahl; Boehm; Braunberger; Burckhard; Cleary; Clemens; Conley; Davison; Dever; Dwyer; Elkin; Erbele; Estenson; Hogue; Kannianen; Kessel; Klein; Krebsbach; Kreun; Larsen; Larson; Lemm; Luick; Magrum; Meyer; Myrdal; Patten; Paulson; Piepkorn; Roers, J.; Roers, K.; Rummel; Rust; Schaible; Sickler; Sorvaag; Vedaa; Wanzek; Weber; Weston; Wobbema

NAYS: Hogan; Lee; Mathern

Engrossed HB 1318 passed.

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MOTION

SEN. KLEIN MOVED that the Senate be on the Fourth, Fifth, Thirteenth, and Sixteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 12:30 p.m., Wednesday, March 29, 2023, which motion prevailed.

MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)

MR. SPEAKER: The Senate has passed, unchanged: HB 1136.

MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)

MR. SPEAKER: The Senate has amended and subsequently passed: HB 1052, HB 1228, HB 1415, HB 1494.

MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)

MR. SPEAKER: The Senate has amended and subsequently failed to pass: HB 1121, HB 1133, HB 1491.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)

MADAM PRESIDENT: The House has amended and subsequently passed: SB 2196, SB 2227.

HOUSE AMENDMENTS TO SENATE BILL NO. 2196

Page 1, line 5, after the first "the" insert "operation and"

Page 2, line 23, overstrike "**Industrial water depot and lateral sales**" and insert immediately thereafter "**Revenue**"

Page 2, line 24, overstrike "industrial water depot and lateral sales" and insert immediately thereafter "revenue"

Page 2, line 26, overstrike "industrial water depot and lateral"

Page 2, line 27, overstrike "sales" and insert immediately thereafter "revenue"

Page 2, line 29, overstrike "industrial water depot and"

Page 2, line 30, overstrike "lateral"

Page 3, line 3, overstrike "industrial water depot"

Page 3, line 4, overstrike "sold at industrial water depots"

Page 3, line 5, overstrike "and lateral lines"

Page 4, line 9, after "rates" insert "and industrial water depot and lateral sales rates"

Page 4, line 11, overstrike ", with the exception of"

Page 4, overstrike line 12

Page 4, line 13, overstrike "sales"

Page 4, line 29, replace "forgiven" with "transferred to the infrastructure revolving loan fund on August 1, 2023"

Page 4, line 31, replace "forgiven" with "transferred to the infrastructure revolving loan fund on August 1, 2023. The loan must have an interest rate of two percent and a final maturity date not to extend beyond July 1, 2053"

Renumber accordingly

HOUSE AMENDMENTS TO SENATE BILL NO. 2227

Page 1, line 9, replace "eleven" with "thirteen"

Page 2, line 17, replace "Six" with "Eight"

Page 2, after line 26, insert:

"(7) An entity representing a licensed registered dietician.

(8) An entity representing a social worker or licensed clinical counselor."

Renumber accordingly

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)
MADAM PRESIDENT: The House has amended, subsequently passed, and the emergency clause carried: SB 2132.

HOUSE AMENDMENTS TO SENATE BILL NO. 2132

Page 1, line 2, remove the first "and"

Page 1, line 4, after "minors" insert "; and to declare an emergency"

Page 2, after line 18, insert:

"**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)
MADAM PRESIDENT: The House has amended and subsequently failed to pass: SB 2331.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)
MADAM PRESIDENT: Your signature is respectfully requested on: HB 1037, HB 1476.

MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)
MR. SPEAKER: The President has signed: HB 1037, HB 1476.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)
MADAM PRESIDENT: The Speaker has signed: HB 1037, HB 1476.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)
MADAM PRESIDENT: The Speaker has signed: HB 1046, HB 1149, HB 1195, HB 1241, HB 1262, HB 1264, HB 1323, HB 1359, HB 1381.

COMMUNICATION FROM GOVERNOR DOUG BURGUM
This is to inform you that on March 27, 2023, I have signed the following: SB 2027, SB 2043, SB 2050, SB 2067, SB 2070, SB 2091, SB 2098, SB 2105, SB 2148, SB 2153, SB 2158, SB 2173, SB 2193, SB 2202, SB 2222, SB 2224, SB 2225, SB 2232, SB 2233, SB 2293, SB 2305, SB 2321, SB 2352, and SB 2382.

REPORT OF STANDING COMMITTEE
HB 1028, as engrossed: Human Services Committee (Sen. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1028 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 2, after the semicolon insert "to amend and reenact section 23-17.3-01 and subdivision h of subsection 1 of section 23-17.3-05 of the North Dakota Century Code, relating to the regulation of home health agencies;"

Page 1, line 3, remove "to provide a statement of legislative intent;"

Page 1, line 3, after the second "a" insert "legislative management"

Page 1, line 3, remove "to the"

Page 1, line 4, remove "legislative assembly"

Page 1, line 4, remove "and"

Page 1, line 4, after "appropriation" insert "; and to declare an emergency"

Page 1, after line 5, insert:

"**SECTION 1. AMENDMENT.** Section 23-17.3-01 of the North Dakota Century Code is amended and reenacted as follows:

23-17.3-01. Definitions.

In this chapter, unless the context and subject matter otherwise require:

1. "Allowed practitioner" means a physician assistant or advanced practice registered nurse.

2. "Clinical record" means a written account which covers the services the agency provides directly and those provided through arrangements with another agency which account contains pertinent past and current medical, nursing, social, and other therapeutic information, including the plan of treatment.

~~2.~~3. "Department" means the department of health and human services.

~~3.~~4. "Home health agency" means a public or private agency, organization, facility, or subdivision thereof which is engaged in providing home health services to individuals and families where they are presently residing for the purpose of preventing disease and promoting, maintaining, or restoring health or minimizing the effects of illness or disability.

~~4.~~5. "Home health aide" means an individual who renders personal related service under the supervision of a registered professional nurse.

~~5.~~6. "Home health services" means a broad range of health and social services furnished to individuals and families by a home health agency or by others under arrangements with the agency, in the places where the recipients are presently residing. Services must include the services of a currently licensed registered professional nurse and at least one other therapeutic service and may include additional support services. These services may only be provided with the approval of a licensed physician or an allowed practitioner.

~~6.~~7. "Licensed practical nurse" means one who has met all legal requirements for licensure and holds a current license to practice in North Dakota pursuant to chapter 43-12.1.

~~7.~~8. "Nursing services" means those services pertaining to the preventive, curative, and restorative aspects of nursing care that are performed by or under the supervision of a registered professional nurse.

~~8.~~9. "Person" means an individual, firm, partnership, association, corporation, limited liability company, or any other entity, whether organized for profit or not.

~~9.~~10. "Physician" means any person currently licensed pursuant to chapter 43-17.

~~10.~~11. "Registered professional nurse" means a registered nurse as defined under chapter 43-12.1.

~~11.~~12. "Skilled nursing" means professional nursing services rendered by nurses licensed under chapter 43-12.1.

~~12.~~13. "Supportive services" includes the use of medical appliances; medical supplies, other than drugs and biologicals prescribed by a physician; the collection of blood and other samples for laboratory analysis; and nutritional guidance, homemaker, or companion services.

~~13.~~14. "Therapeutic services" means services which include:

a. Skilled nursing care.

b. Medical social services.

c. Home health aide services.

d. Physical, occupational, or speech therapy.

e. Respiratory therapy.

SECTION 2. AMENDMENT. Subdivision h of subsection 1 of section 23-17.3-05 of the North Dakota Century Code is amended and reenacted as follows:

h. The agency shall maintain clinical records on all patients to serve as documentation of the medical, nursing, and therapeutic care rendered to the patient and for communication between the physician or allowed practitioner and the agency."

Page 1, line 10, after "1." insert ""Community health representative" means an individual trained through the Indian health service to provide community-based and medically guided health care, which may include traditional native concepts.

2."

Page 1, line 10, after "chapter" insert "to provide preventative health services"

Page 1, line 11, replace "2." with "3."

Page 1, after line 11, insert:

"4. "Preventative services" means services to prevent a disease, disability, or other health condition or the progression of a disease, disability, or other health condition which are provided to an individual:

a. With a chronic condition;

b. At risk for a chronic condition who is unable to self-manage the chronic condition; or

c. With a documented barrier that affects the individual's health."

Page 1, line 16, remove "certification standards for an applicant seeking"

Page 1, line 17, replace "certification as a community health worker" with "and implement a method for certifying community health workers, including:

a. Community health representatives; and

b. Other qualified individuals"

Page 2, line 4, remove "appointed by the"

Page 2, line 5, replace "department of health and human services must include representatives of the" with "comprised of"

Page 2, line 6, remove "Department of health and human services, including the division of health equity"

Page 2, line 7, replace "and division of aging services" with "One representative of the medical services division of the department of health and human services, appointed by the department of health and human services"

Page 2, line 8, replace "Department of career and technical education" with "One representative of the public health division of the department of health and human services, appointed by the department of health and human services"

Page 2, line 9, replace "State board of higher education" with "One representative of the local public health units, appointed by the state association of city and county health officials"

Page 2, line 10, replace "Insurance department" with "One representative of the tribal nations in the state, appointed by the Indian affairs commissioner"

Page 2, line 11, remove "University of North Dakota school of medicine and health sciences center for"

Page 2, line 12, replace "rural health" with "One representative of the university of North Dakota school of medicine and health sciences center for rural health, appointed by the dean of the school of medicine and health sciences"

Page 2, line 13, remove "University of North Dakota and North Dakota state university schools of public"

Page 2, line 14, replace "health" with "One representative of the hospitals in this state, appointed the North Dakota hospital association"

Page 2, line 15, replace "Private health insurers operating in the state" with "One representative of the federally qualified health care centers, appointed by the community health care association of the Dakotas"

Page 2, line 15, after the semicolon insert "and"

Page 2, line 16, remove "Health care sector, including qualified service providers, community health"

Page 2, removes lines 17 through 21

Page 2, line 22, replace "m. North Dakota emergency medical services association" with "One representative of the emergency medical services profession, appointed by the North Dakota emergency medical services association"

Page 3, after line 6, insert:

"**SECTION 5. DEPARTMENT OF HEALTH AND HUMAN SERVICES - COMMUNITY HEALTH WORKERS - MEDICAID STATE PLAN AMENDMENT.** During the 2023-25 biennium, the department of health and human services shall seek a Medicaid state plan amendment to authorize the reimbursement of certified community health workers. Upon amendment of the Medicaid state plan, the commissioner of the department of health and human services shall certify this fact to legislative management."

Page 3, line 12, remove "July 1,"

Page 3, line 13, replace "2023" with "the effective date of this Act"

Page 3, after line 13, insert:

"**SECTION 7. EMERGENCY.** Sections 4 and 6 of this Act are declared to be emergency measures."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1095, as engrossed: Human Services Committee (Sen. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). Engrossed HB 1095 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 2, line 26, after the first "to" insert "eligible"

Page 2, line 26, after "enrollees" insert "who elect to participate in a comprehensive medication management program"

Page 2, line 30, after "provider" insert ", if applicable, and"

Page 3, line 2, remove "The enrollee had three or more hospital admissions in the preceding year;"

Page 3, line 3, remove "c."

Page 3, line 4, replace "Congestive heart" with "Heart"

Page 3, line 9, replace "d." with "c."

Page 3, line 11, remove "; and"

Page 3, line 12, remove "e. Additional criteria identified by the commissioner and adopted by rule"

Page 3, line 17, after "carrier" insert "network's or health carrier's affiliate'"

Page 3, line 21, replace "December 31, 2024" with "January 1, 2025"

Page 3, line 28, replace "medical" with "pharmacy"

Page 4, line 3, remove "The health carrier shall audit quarterly at least twenty-five percent of provider"

Page 4, remove lines 4 and 5

Page 4, line 6, remove "c."

Page 4, line 9, replace "d." with "c."

Page 4, line 11, replace "e." with "d."

Page 4, line 14, remove "Gender;"

Page 4, line 15, remove "(3)"

Page 4, line 16, replace "(4)" with "(3)"

Page 4, line 17, replace "(5)" with "(4)"

Page 4, line 18, replace "(6)" with "(5)"

Page 4, line 20, replace "December 31, 2024" with "January 1, 2025"

Page 4, line 24, after "recommendations" insert "for the implementation of comprehensive medication management and"

Page 4, line 28, after the first underscored comma insert "provider directories,"

Page 4, line 28, remove "and"

Page 4, line 28, after "requirements" insert ", billing standards, and potential cost-savings and cost increases to consumers"

Page 5, line 10, after "An" insert "organization representing"

Page 5, line 10, replace "nurse" with "nurses"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1111, as engrossed: Human Services Committee (Sen. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (3 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1111 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 7, remove ", either directly through the"

Page 1, line 8, remove "organization or indirectly through law or regulation"

Page 1, line 8, replace "on" with "in"

Page 1, line 8, after "state" insert "unless enacted through legislation or a signed executive order"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1116: State and Local Government Committee (Sen. K. Roers, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1116 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

REPORT OF STANDING COMMITTEE

HB 1165: Human Services Committee (Sen. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1165 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 2, line 11, remove "23-01-02, 23-01-03,"

Page 2, line 12, remove "state health council,"

Page 78, line 1, remove "23-01-02, 23-01-03,"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1200, as engrossed: Human Services Committee (Sen. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (3 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1200 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 1, remove "create and enact a new section to chapter 15-10 of the North Dakota"

Page 1, remove line 2

Page 1, line 3, remove "students at institutions of higher education; and to"

Page 1, line 3, remove "subsection 1 of section"

Page 1, line 4, remove "23-07-17.1 and"

Page 1, line 4, remove "school and day"

Page 1, line 5, remove "care immunizations and"

Page 1, remove lines 7 through 23

Page 2, remove lines 1 through 12

Page 2, line 31, after "status" insert "or vaccination status for a vaccine that is under emergency use authorization from the federal food and drug administration"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1205, as engrossed: Judiciary Committee (Sen. Larson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1205 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 9, remove "does not include works of art that, when taken as a"

Page 1, remove lines 10 through 13

Page 1, line 14, replace "computer video, or computer-generated image, showing" with "means any material which"

Page 1, line 15, replace "Human masturbation" with "Taken as a whole, appeals to the prurient interest of minors"

Page 1, line 16, replace "Deviant sexual intercourse" with "Is patently offensive to prevailing standards in the adult community in North Dakota as a whole with respect to what is suitable material for minors"

Page 1, line 16, after the underscored semicolon insert "and"

Page 1, line 17, remove "Sexual intercourse;"

Page 1, remove lines 18 through 21

Page 1, line 22, replace "(8) Sexual perversion" with "Taken as a whole, lacks serious literary, artistic, political, or scientific value for minors"

Page 2, line 1, remove "containing collections of books or periodicals for"

Page 2, remove line 2

Page 2, line 3, replace "derived from taxation" with "established under chapter 40-38"

Page 2, line 4, after "its" insert "children's collection"

Page 2, line 9, replace "and disposal" with "or relocation"

Page 2, line 9, replace "from" with "in"

Page 2, line 14, after "removal" insert "or relocation"

Page 2, line 17, after "material" insert "in the children's collection"

Page 2, line 19, remove "a policy and process for reviewing"

Page 2, line 20, replace "library collections" with "collection development and relocation of materials policies"

Page 2, line 22, after "any" insert "children's"

Page 2, line 22, remove "or library collection"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1265, as engrossed: Education Committee (Sen. Elkin, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1265 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 14, replace "life science" with "health"

Page 2, line 9, replace "science" with "health"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1345, as engrossed: Agriculture and Veterans Affairs Committee (Sen. Luick, Chairman) recommends **DO NOT PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1345 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

REPORT OF STANDING COMMITTEE

HB 1392, as engrossed: Education Committee (Sen. Elkin, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1392 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

REPORT OF STANDING COMMITTEE

HB 1413, as engrossed: Human Services Committee (Sen. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1413 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 10, after "c." insert ""Health benefit plan" has the same meaning as provided in section 26.1-36.3-01.

d."

Page 1, remove lines 13 and 14

Page 1, line 16, replace "policy" with "health benefit plan"

Page 1, line 17, replace "policy" with "health benefit plan"

Page 1, line 18, replace "policy" with "health benefit plan"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1455, as engrossed: Finance and Taxation Committee (Sen. Kannianen, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1455 was placed on the Sixth order on the calendar. This bill affects workforce development.

Page 1, line 1, after "enact" insert "a new subdivision to subsection 3 of section 54-35-26,"

Page 1, line 1, after "57-39.2" insert a comma

Page 1, line 2, replace "4" with "3"

Page 1, line 2, after "to" insert "evaluation of economic development tax incentives and"

Page 1, line 3, after "for" insert "raw"

Page 1, line 3, after "materials" insert ", single-use product contact systems, and reagents"

Page 1, line 3, remove "in the research and development of bioscience and"

Page 1, remove line 4

Page 1, line 5, remove "products"

Page 1, line 5, replace "use in the health care industry" with "biologic manufacturing"

Page 1, after line 6, insert:

"**SECTION 1.** A new subdivision to subsection 3 of section 54-35-26 of the North Dakota Century Code is created and enacted as follows:

Sales and use tax exemption for raw materials, single-use product contact systems, and reagents used for biologic manufacturing."

Page 1, line 9, after "**for**" insert "**raw**"

Page 1, line 9, after "**materials**" insert "**, single-use product contact systems, and reagents**"

Page 1, line 9, remove "**in the research and development of** "

Page 1, remove line 10

Page 1, line 11, replace "**and biotechnology products used in the health care industry**" with "**for biologic manufacturing**"

Page 1, line 12, remove "tangible personal property purchased for use, storage, or"

Page 1, remove line 13

Page 1, line 14, remove "bioscience and biotechnology in the health care industry and"

Page 1, line 14, remove "or"

Page 1, line 15, replace "consumables purchased" with ", single-use product contact systems, and reagents used directly for discovery, testing, screening, and production"

Page 1, line 15, remove "use, storage, or consumption which are critical to"

Page 1, line 16, replace "the health care industry" with "this state are exempt from taxes under this chapter"

Page 1, line 17, remove "qualified biotechnology taxpayer"

Page 1, line 18, remove "or qualified bioscience"

Page 1, line 19, remove "tangible personal property,"

Page 1, line 19, after the second underscored comma insert "single-use product contact systems,"

Page 1, line 19, replace "consumables" with "reagents"

Page 1, line 20, remove "If a certificate is not received before the purchase, the qualified"

Page 1, remove lines 21 and 22

Page 1, line 23, remove "If the tangible personal property, raw materials, or consumables are purchased or"

Page 1, remove line 24

Page 2, remove lines 1 and 2

Page 2, line 3, remove "4."

Page 2, line 4, replace "includes" with "means"

Page 2, line 5, after the first "product" insert "discovery, development,"

Page 2, line 6, after "in-process" insert "products"

Page 2, line 6, remove "in the"

Page 2, line 7, replace "health care industry" with "which exclusively occurs within this state"

Page 2, line 8, remove ""Bioscience" means the use of compositions, methods, and organisms in cellular"

Page 2, remove lines 9 through 11

Page 2, line 12, replace "microbiology" with ""Single-use product contact systems" means tubing, capsule filters, ion exchange membrane chromatography devices, mixers, bioreactors, sterile fluid containment bags, connection devices, and sampling receptacles"

Page 2, remove lines 13 through 30

Page 3, replace lines 1 through 10 with:

"**SECTION 3.** A new subdivision to subsection 3 of section 57-40.2-03.3 of the North Dakota Century Code is created and enacted as follows:"

Page 3, line 11, replace "Tangible personal property, raw" with "Raw"

Page 3, line 11, replace "or consumables" with "single-use product contact systems, and reagents used for biologic manufacturing"

Page 3, line 12, replace "1" with "2"

Page 3, line 13, replace "This" with "Sections 2 and 3 of this"

Page 3, line 13, replace "is" with "are"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1457, as engrossed: Human Services Committee (Sen. Lee, Chairman) recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1457 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

REPORT OF STANDING COMMITTEE

HB 1511, as engrossed: Finance and Taxation Committee (Sen. Kannianen, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1511 was placed on the Sixth order on the calendar. This bill affects workforce development.

Page 1, line 1, after "enact" insert "a new subdivision to subsection 3 of section 54-35-26,"

Page 1, line 3, after the first "to" insert "evaluation of economic development tax incentives,"

Page 1, line 4, after "feedstock" insert a comma

Page 1, after line 7, insert:

"**SECTION 1.** A new subdivision to subsection 3 of section 54-35-26 of the North Dakota Century Code is created and enacted as follows:

Sales and use tax exemption for materials used to construct or expand a coal processing facility that utilizes coal as a feedstock."

Page 2, line 16, replace "1" with "2"

Page 2, line 23, replace "1" with "2"

Page 3, line 10, replace "This" with "Sections 2, 3, and 4 of this"

Page 3, line 10, replace "is" with "are"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1530, as reengrossed: Human Services Committee (Sen. Lee, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Reengrossed HB 1530 was rereferred to the **Appropriations Committee**. This bill does not affect workforce development.

REPORT OF STANDING COMMITTEE

HB 1534, as engrossed: Human Services Committee (Sen. Lee, Chairman) recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1534 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

REPORT OF STANDING COMMITTEE

HB 1536, as engrossed: Human Services Committee (Sen. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1536 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 1, replace "a new subsection to section 27-20.3-19" with "sections 27-20.3-19.1, 27-20.3-19.2, 27-20.3-19.3, 27-20.3-19.4, and 27-20.3-19.5"

Page 1, line 2, after the first "to" insert "adopting a state"

Page 1, line 2, after "welfare" insert "act"

Page 1, line 2, after the semicolon insert "to amend and reenact section 27-20.3-19 of the North Dakota Century Code, relating to Indian child welfare;"

Page 1, replace lines 5 through 19 with:

"**SECTION 1. AMENDMENT.** Section 27-20.3-19 of the North Dakota Century Code is amended and reenacted as follows:

27-20.3-19. Indian child welfare - Active efforts and procedures.

1. As used in this section and sections 27-20.3-19.1 through 27-20.3-19.5:

   a. "Act" means this section and sections 27-20.3-19.2 through 27-20.3-19.5.

   b. "Active efforts" means affirmative, active, thorough, and timely efforts intended primarily to maintain or reunite an Indian child with the Indian child's family. ~~Active efforts required of the federal Indian Child~~

~~Welfare Act of 1978 [25 U.S.C. 1901 through 1963] apply or may apply, including during the verification process.~~ If an agency is involved in the child-custody proceeding, active efforts must involve assisting ~~the parent or parents~~a parent or Indian custodian ~~through~~with the steps of a case plan ~~and with~~including accessing or developing the resources necessary to satisfy the case plan. To the maximum extent possible, active efforts should be provided in a manner consistent with the prevailing social and cultural conditions and way of life of the Indian child's tribe and should be conducted in partnership with the Indian child and the Indian child's parents, extended family members, Indian custodians, and tribe. Active efforts are to be tailored to the facts and circumstances of the case. The term includes:

(1) Conducting a comprehensive assessment of the circumstances of the Indian child's family, with a focus on safe reunification as the most desirable goal, with ongoing timely assessment to determine when the threat is resolved and placement of the Indian child can be returned to the custodian.

(2) Identifying appropriate services and helping ~~the parents~~a parent or Indian custodian to overcome barriers, including actively assisting ~~the parents~~a parent or Indian custodian in obtaining such services.

(3) Identifying, notifying, and inviting representatives of the Indian child's tribe to participate in providing support and services to the Indian child's family and in family team meetings, permanency planning, and resolution of placement issues.

(4) Conducting or causing to be conducted a diligent search for the Indian child's extended family members, and contacting and consulting with extended family members to provide family structure and support for the Indian child and the Indian child's ~~parents~~parent or Indian custodian.

(5) Offering and employing available and culturally appropriate family preservation strategies and facilitating the use of remedial and rehabilitative services provided by the Indian child's tribe.

(6) Taking steps to keep siblings together, if possible.

(7) Supporting regular visits with ~~parents~~a parent or Indian ~~custodians~~custodian in the most natural setting possible as well as trial home visits of the Indian child during any period of removal, consistent with the need to ensure the health, safety, and welfare of the Indian child.

(8) Identifying community resources, including housing, financial, transportation, mental health, substance abuse, and peer support services and actively assisting the Indian child's ~~parents~~parent or Indian custodian or, as appropriate, the Indian child's family, in utilizing and accessing those resources.

(9) Monitoring progress and participation in services.

(10) Considering alternative ways to address the needs of the Indian child's ~~parents~~parent or Indian custodian and where appropriate, the family, if the optimum services do not exist or are not available.

(11) Providing post-reunification services and monitoring.

~~b.~~c. "Adoptive placement" means the permanent placement of an Indian child for adoption.

d. "Extended family member" means a relationship defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, means an individual who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.

~~c.~~e. "Foster care or non-foster care placement" means the removal of an Indian child from the home of his or her parent or Indian custodian for temporary placement in a foster home, qualified residential treatment program, residential care center for Indian children and youth, or certified shelter care facility, in the home of a relative other than a parent or Indian custodian, or in the home of a guardian, from which placement the parent or Indian custodian cannot have the Indian child returned upon demand. The term does not include an adoptive placement, a preadoptive placement, or emergency change in placement under section 27-20.3-06 or holding an Indian child in custody.

f. "Indian" means an individual who is a member of an Indian tribe, or who is a native and a member of a regional corporation as defined under 43 U.S.C. 1606.

~~d.~~g. "Indian child" means any unmarried individual who is under the age of eighteen and is either a member of an Indian tribe or is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

~~e.~~h. "Indian child custody proceeding" means a proceeding brought by the state involving:

(1) Foster care or non-foster care placement;

(2) A preadoptive placement;

(3) An adoptive placement; or

(4) A termination of parental rights under section 27-20.3-20 for an Indian child.

i. "Indian child's tribe" means the Indian tribe in which an Indian child is a member or eligible for membership or, in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts.

~~f.~~j "Indian custodian" means any Indian individual who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control has been transferred by the parent of the Indian child.

~~g.~~k. "Indian tribe" means an Indian tribe, band, nation, or other organized Indian group or community of Indians recognized as eligible for services provided to Indians by the United States secretary of the interior because of their status as Indians, including any Alaska native village as defined in 43 U.S.C. 1602(c).

~~h.~~l. "Parent" means ~~any~~a biological parent ~~or parents~~ of an Indian child or ~~any~~an Indian individual who has lawfully adopted an Indian child, including adoptions under tribal law or custom. The term does not include the unwed father if paternity has not been acknowledged or established.

~~i.~~m. "Preadoptive placement" means the temporary placement of an Indian child in a foster home, home of a relative other than a parent or Indian custodian, or home of a guardian after a termination of parental rights but before or in lieu of an adoptive placement, but does not include an emergency change in placement under section 27-20.3-06.

n. "Termination of parental rights" means any action resulting in the termination of the parent-child relationship. It does not include a placement based upon an act by an Indian child which, if committed by an adult, would be deemed a crime or a placement upon award of custody to one of the Indian child's parents in a divorce proceeding.

2. Before removal of an Indian child from the custody of a parent or Indian custodian for purposes of involuntary foster care placement or the termination of parental rights over an Indian child, the court shall find that active efforts have been made to provide remedial services and rehabilitative services designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful. The court may not order the removal unless evidence of active efforts shows there has been a vigorous and concerted level of casework beyond the level that would constitute reasonable efforts under section 27-20.3-26. Reasonable efforts may not be construed to be active efforts. Active efforts must be made in a manner that takes into account the prevailing social and cultural values, conditions, and way of life of the Indian child's tribe. Active efforts must utilize the available resources of the Indian child's extended family, tribe, tribal and other relevant social service agencies, and individual Indian caregivers.

3. The court may order the removal of the Indian child for involuntary foster care placement only if the court determines, by clear and convincing evidence, that continued custody of the Indian child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the Indian child. Evidence must show a causal relationship between the particular conditions in the home and the likelihood that continued custody of the Indian child will result in serious emotional or physical damage to the particular Indian child who is the subject of the proceeding. Poverty, isolation, custodian age, crowded or inadequate housing, substance use, or nonconforming social behavior does not by itself constitute clear and convincing evidence of imminent serious emotional or physical damage to the Indian child. As soon as the threat has been removed and the Indian child is no longer at risk, the state should terminate the removal, by returning the Indian child to the parent while offering a solution to mitigate the situation that gave rise to the need for emergency removal and placement.

4. The court may ~~only~~ order the termination of parental rights over the Indian child only if the court determines, by evidence beyond a reasonable doubt that continued custody of the Indian child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the Indian child.

5. In considering whether to involuntarily place an Indian child in foster care or to terminate the parental rights of the parent of an Indian child, the court shall require that a qualified expert witness must be qualified to testify regarding whether the Indian child's continued custody by the parent or Indian custodian is likely to result in serious emotional or physical damage to the Indian child and should be qualified to testify as to the prevailing social and cultural standards of the Indian child's tribe. An individual may be designated by the Indian child's tribe as being qualified to testify to the prevailing social and cultural standards of the Indian child's tribe. If the parties stipulate in writing and the court is satisfied the stipulation is made knowingly, intelligently, and voluntarily, the court may accept a declaration or affidavit from a qualified expert witness in lieu of testimony. The court or any party may request the

assistance of the Indian child's tribe or the bureau of Indian affairs office serving the Indian child's tribe in locating individuals qualified to serve as expert witnesses. The social worker regularly assigned to the Indian child may not serve as a qualified expert witness in child-custody proceedings concerning the Indian child. The qualified expert witness should be someone familiar with the particular Indian child and have contact with the ~~parents~~parent or Indian custodian to observe interaction between the ~~parents~~parent or Indian custodian, the Indian child, and extended family members. The child welfare agency and courts should facilitate access to the family and records to facilitate accurate testimony.

6. An emergency removal or placement of an Indian child under state law must terminate immediately when the removal or placement is no longer necessary to prevent imminent physical damage or harm to the Indian child.

7. To facilitate the intent of the act, the agency, in cooperation with the Indian child's tribe of affiliation, unless a parent objects, shall take steps to enroll the Indian child in the tribe with the goal of finalizing enrollment before termination.

SECTION 2. Section 27-20.3-19.1 of the North Dakota Century Code is created and enacted as follows:

27-20.3-19.1. Indian child welfare - Jurisdiction over custody proceedings.

1. The act includes requirements that apply if an Indian child is the subject of:

   a. A child-custody proceeding, including:

      (1) An involuntary proceeding; and

      (2) A voluntary proceeding that could prohibit the parent or Indian custodian from regaining custody of the Indian child upon demand.

   b. An emergency proceeding other than:

      (1) A tribal court proceeding; or

      (2) A proceeding regarding a delinquent act.

   c. An award of custody of the Indian child to one of the parents, including an award in a divorce proceeding; or

   d. A voluntary placement that either parent, both parents, or the Indian custodian has, of his or her or their free will, without a threat of removal by a state agency, chosen for the Indian child and that does not operate to prohibit the Indian child's parent or Indian custodian from regaining custody of the Indian child upon demand.

2. If a proceeding under subsection 1 concerns an Indian child, the act applies to that proceeding. In determining whether the act applies to a proceeding, the state court may not consider factors such as the participation of a parent or the Indian child in tribal cultural, social, religious, or political activities; the relationship between the Indian child and the Indian child's parent; whether the parent ever had custody of the Indian child; or the Indian child's blood quantum.

3. If the act applies at the commencement of a proceeding, the act does not cease to apply solely because the Indian child reaches age eighteen during the pendency of the proceeding.

4. In an Indian child custody proceeding under this chapter involving an Indian child who is not residing or domiciled within the reservation of the Indian child's tribe, the court assigned to exercise jurisdiction under this chapter, upon the petition of the Indian child's parent, Indian custodian, or tribe, shall transfer the proceeding to the jurisdiction of the tribe unless either of the following applies:

   a. A parent of the Indian child objects to the transfer.

   b. An Indian tribe has exclusive jurisdiction over an Indian child custody proceeding involving an Indian child who resides or is domiciled within the reservation of the tribe, except if that jurisdiction is otherwise vested in the state by federal law. If an Indian child is a ward of a tribal court, the Indian tribe retains exclusive jurisdiction regardless of the residence or domicile of the Indian child.

5. In an Indian child custody proceeding under this chapter involving an Indian child who is not residing or domiciled within the reservation of the Indian child's tribe, the court assigned to exercise jurisdiction under this chapter, upon the petition of the Indian child's parent, Indian custodian, or tribe, shall transfer the proceeding to the jurisdiction of the tribe unless any of the following apply:

   a. A parent of the Indian child objects to the transfer.

   b. The Indian child's tribe does not have a tribal court, or the tribal court of the Indian child's tribe declines jurisdiction.

   c. The court determines good cause exists to deny the transfer. In determining whether good cause exists to deny the transfer, the court may not consider any perceived inadequacy of the tribal social services department or the tribal court of the Indian child's tribe. The court may determine good cause exists to deny the transfer only if the person opposing the transfer shows by clear and convincing evidence that the evidence or testimony necessary to decide the case cannot be presented in tribal court without undue hardship to the parties or the witnesses and that the tribal court is unable to mitigate the hardship by making arrangements to receive the evidence or testimony by use of telephone or live audiovisual means, by hearing the evidence or testimony at a location that is convenient to the parties and witnesses, or by use of other means permissible under the tribal court's rules of evidence.

6. An Indian child's tribe may intervene at any point in an Indian child custody proceeding.

7. The state shall give full faith and credit to the public acts, records, and judicial proceedings of an Indian tribe which are applicable to an Indian child custody proceeding to the same extent that the state gives full faith and credit to the public acts, records, and judicial proceedings of any other governmental entity.

SECTION 3. Section 27-20.3-19.2 of the North Dakota Century Code is created and enacted as follows:

27-20.3-19.2. Indian child welfare - Court proceedings.

1. In a proceeding involving the foster care or non-foster care placement of or termination of parental rights to an Indian child whom the court knows or has reason to know may be an Indian child, the party seeking the foster care or non-foster care placement or termination of parental rights, for the first hearing of the proceeding, shall notify the Indian child's parent, Indian custodian, and tribe, by registered mail, return receipt requested, of the pending proceeding and of the parties' right to intervene in the proceeding and shall file the return receipt with the court.

Notice of subsequent hearings in a proceeding must be in writing and may be given by mail, personal delivery, facsimile transmission, or electronic mail. If the identity or location of the Indian child's parent, Indian custodian, or tribe cannot be determined, that notice shall be given to the United States secretary of the interior in like manner. The first hearing in the proceeding may not be held until at least ten days after receipt of the notice by the parent, Indian custodian, and tribe or at least fifteen days after receipt of the notice by the United States secretary of the interior. On request of the parent, Indian custodian, or tribe, the court shall grant a continuance of up to twenty additional days to enable the requester to prepare for that hearing.

2. Each party to a child custody proceeding of an Indian child has the right to examine all reports or other documents filed with the court upon which a decision with respect to the out-of-home care placement, termination of parental rights, or return of custody may be based.

SECTION 4. Section 27-20.3-19.3 of the North Dakota Century Code is created and enacted as follows:

27-20.3-19.3. Indian child welfare - Voluntary proceedings - Consent - Withdrawal.

1. A voluntary consent by a parent or Indian custodian to a foster care or non-foster care placement of an Indian child is not valid unless the consent or delegation is executed in writing, recorded before a judge, and accompanied by a written certification by the judge that the terms and consequences of the consent or delegation were fully explained in detail to and were fully understood by the parent or Indian custodian. The judge also shall certify the parent or Indian custodian fully understood the explanation in English or that the explanation was interpreted into a language the parent or Indian custodian understood. Any consent or delegation of powers given under this subsection before or within ten days after the birth of the Indian child is not valid. A parent or Indian custodian who has executed a consent or delegation of powers under this subsection may withdraw the consent or delegation for any reason at any time, and the Indian child must be returned to the parent or Indian custodian. A parent or Indian custodian who has executed a consent or delegation of powers under this subsection also may move to invalidate the out-of-home care placement.

2. A voluntary consent by a parent to a termination of parental rights under subdivision d of section 27-20.3-20 is not valid unless the consent is executed in writing, recorded before a judge, and accompanied by a written certification by the judge that the terms and consequences of the consent were fully explained in detail to and were fully understood by the parent. The judge also shall certify the parent fully understood the explanation in English or that the explanation was interpreted into a language that the parent understood. Consent given under this subsection before or within ten days after the birth of the Indian child is not valid. A parent who has executed a consent under this subsection may withdraw the consent for any reason at any time before the entry of a final order terminating parental rights, and the Indian child must be returned to the Indian child's parent.

SECTION 5. Section 27-20.3-19.4 of the North Dakota Century Code is created and enacted as follows:

27-20.3-19.4. Indian child welfare - Placements preferences.

1. Subject to subsections 3 and 4, in placing an Indian child for adoption or in delegating powers, as described in a lawful executed power of attorney regarding an Indian child, preference must be given, in the absence of good cause, as described in subsection 6, to the contrary, to a placement

with or delegation to one of the following, in the order of preference listed:

a. An extended family member of the Indian child;

b. Another member of the Indian child's tribe;

c. Another Indian family with whom the Indian child has a relationship or an Indian family from a tribe that is culturally similar to or linguistically connected to the Indian child's tribe; or

d. The tribe's statutory adopted placement preferences.

2. An Indian child who is accepted for a foster care or non-foster care placement or a preadoptive placement must be placed in the least restrictive setting that most approximates a family that meets the Indian child's special needs, if any, and which is within reasonable proximity to the Indian child's home, taking into account those special needs. Subject to subsections 4 and 6, in placing an Indian child in a foster care or non-foster care placement or a preadoptive placement, preference must be given, in the absence of good cause, as described in subsection 6, to the contrary, to a placement in one of the following, in the order of preference listed:

a. The home of an extended family member of the Indian child;

b. A foster home licensed, approved, or specified by the Indian child's tribe;

c. An Indian foster home licensed or approved by the department; or

d. A qualified residential treatment facility or residential care center for children and youth approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the needs of the Indian child.

3. An Indian child who is the subject of an emergency removal or placement under a child custody determination under section 27-20.3-06 must be placed in compliance with foster care or non-foster care placement or preadoptive placement preferences, unless the person responsible for determining the placement finds good cause, as described in subsection 6, for departing from the order of placement preference under subsection 2 or finds that emergency conditions necessitate departing from that order. When the reason for departing from that order is resolved, the Indian child must be placed in compliance with the order of placement preference under subsection 2.

4. In placing an Indian child under subsections 1 and 2 regarding an Indian child under subsection 1, if the Indian child's tribe has established, by resolution, an order of preference that is different from the order specified in subsection 1 or 2, the order of preference established by that tribe must be followed, in the absence of good cause, as described in subsection 6, to the contrary, so long as the placement under subsection 1 is appropriate for the Indian child's special needs, if any, and the placement under subsection 2 is the least restrictive setting appropriate for the Indian child's needs as specified in subsection 2.

5. The standards to be applied in meeting the placement preference requirements of this subsection must be the prevailing social and cultural standards of the Indian community in which the Indian child's parent, Indian custodian, or extended family members reside or with which the Indian child's parent, Indian custodian, or extended family members maintain social and cultural ties.

6. a. If a party asserts that good cause not to follow the placement preferences exists, the reasons for that belief or assertion must be stated orally on the record or provided in writing to the parties to the child-custody proceeding and the court.

b. The party seeking departure from the placement preferences bears the burden of proving by clear and convincing evidence that there is good cause to depart from the placement preferences.

c. A court's determination of good cause to depart from the placement preferences must be made on the record or in writing and must be based on one or more of the following considerations:

(1) The request of the Indian child's parent, if they attest that they have reviewed the placement options, if any, that comply with the order of preference.

(2) The request of the Indian child, if the Indian child is of sufficient age and capacity to understand the decision being made.

(3) The presence of a sibling attachment that can be maintained only through a particular placement.

(4) The extraordinary physical, mental, or emotional needs of the Indian child, such as specialized treatment services that may be unavailable in the community where families who meet the placement preferences live.

(5) The unavailability of a suitable placement after a determination by the court that a diligent search was conducted to find suitable placements meeting the preference criteria, but none has been located. For purposes of this analysis, the standards for determining whether a placement is unavailable must conform to the prevailing social and cultural standards of the Indian community in which the Indian child's parent, Indian custodian, or extended family resides or with which the Indian child's parent, Indian custodian, or extended family members maintain social and cultural ties.

d. A placement may not depart from the preferences based on the socioeconomic status of any placement relative to another placement.

e. A placement may not depart from the preferences based solely on ordinary bonding or attachment that flowed from time spent in a nonpreferred placement that was made in violation of the act.

f. The burden of establishing good cause to depart from the order of placement preference is on the party requesting that departure.

7. The department or a child welfare agency shall maintain a record of each adoptive placement, foster care or non-foster care placement, preadoptive placement, and delegation of powers, made of an Indian child, evidencing the efforts made to comply with the placement preference requirements specified in this section, and shall make that record available at any time on the request of the United States secretary of the interior or the Indian child's tribe.

SECTION 6. Section 27-20.3-19.5 of the North Dakota Century Code is created and enacted as follows:

27-20.3-19.5. Adoptee information.

1. The state court entering a final adoption decree or order in any voluntary or involuntary Indian child adoptive placement must furnish a copy of the

decree or order within thirty days to the Bureau of Indian Affairs, Chief, Division of Human Services, 1849 C Street NW, Mail Stop 3645 MIB, Washington, DC 20240, along with the following information, in an envelope marked "Confidential":

a. The birth name and birth date of the Indian child, and tribal affiliation and name of the Indian child after adoption;

b. The names and addresses of the biological parents;

c. The names and addresses of the adoptive parents;

d. The name and contact information for any agency having files or information relating to the adoption;

e. Any affidavit signed by the biological parent or parents requesting the parent's identity remain confidential; and

f. Any information relating to tribal membership or eligibility for tribal membership of the adopted Indian child.

2. The court shall give the birth parent of the Indian child the opportunity to file an affidavit indicating that the birth parent wishes the United States secretary of the interior to maintain the confidentiality of the birth parent's identity. If the birth parent files that affidavit, the court shall include the affidavit with the information provided to the United States secretary of the interior under subsection 1, and that secretary shall maintain the confidentiality of the birth parent's identity."

Page 1, line 20, after "**STUDY**" insert "**- INDIAN CHILD WELFARE**"

Page 1, line 21, remove "implications of codifying the Indian Child"

Page 1, line 22, replace "Welfare Act of 1978 [25 U.S.C. 1901 et seq.]" with "implementation of sections 27-20.3-19 through 27-20.3-19.5"

Page 1, line 22, remove "the Indian"

Page 1, line 23, replace "Child Welfare Act of 1978 [25 U.S.C. 1901 et seq.], section 27-20.3-19," with "federal statutes related to Indian child welfare,"

Page 1, line 23, replace "related" with "relevant"

Renumber accordingly

The Senate stood adjourned pursuant to Senator Klein's motion.

Shanda Morgan, Secretary