IN THE SUPREME COURT
STATE OF NORTH DAKOTA

T.D., by and through his parents, Devon Dolney and Robert Dolney, DEVON DOLNEY, an individual, ROBERT DOLNEY, an individual, PAMELA ROE, by and through her parents, Peter Roe and Paula Roe, PETER ROE, an individual, PAULA ROE, an individual, JAMES DOE, by and through his parents, John Doe and Jane Doe, JOHN DOE, an individual, JANE DOE, an individual, and DR. LUIS CASAS, an individual, on behalf of himself and his patients,

Plaintiffs/Appellants,

vs.

DREW H. WRIGLEY, in his official capacity as Attorney General for the State of North Dakota, KIMBERLEE JO HEGVIK, in her official capacity as the State's Attorney for Cass County, JULIE LAWYER, in her official capacity as the State's Attorney for Burleigh County, and AMANDA ENGELSTAD, in her official capacity as the State's Attorney for Stark County,

Defendants/Appellees.

Supreme Court No. 20260075

District Court No. 08-2023-CV-02189

Appeal from Judgment Dated December 19, 2025
Burleigh County District Court, South Central Judicial District
Hon. Jackson J. Lofgren, District Court Judge

BRIEF OF NATIONAL WOMEN'S LAW CENTER AND LEGAL SCHOLARS AS *AMICI CURIAE* IN SUPPORT OF PLAINTIFF-APPELLANTS AND REVERSAL

Dane DeKrey (Bar No. 09524)
Ringstrom DeKrey
814 Center Ave. Ste. 5
Moorhead, MN 56560
(218) 284-0484
dane@ringstromlaw.com

Catherine E. Stetson (*pro hac vice*)
Jason A Mills (*pro hac vice*)
Hogan Lovells US LLP
555 Thirteenth St. NW
Washington, DC 20004
(202) 637-5600
cate.stetson@hoganlovells.com
jay.mills@hoganlovells.com

Michelle Banker (*pro hac vice*)
Alison Tanner (*pro hac vice*)
National Women's Law Center
1350 I St. NW
Washington, DC 20005
(202) 588-5180
mbanker@nwlc.org
atanner@nwlc.org

Counsel for Amici Curiae

TABLE OF CONTENTS

Page No.

TABLE OF AUTHORITIES

Paragraph No(s).

Cases

Statutes

Other Authorities

IDENTITY OF *AMICUS CURIAE* AND STATEMENT OF INTEREST

[¶1] *Amici curiae* are the National Women's Law Center (NWLC); Wendy Hess, Associate Professor at the University of South Dakota School of Law and a scholar of gender and the law; and Ann Tweedy, Professor of Law at the University of Mississippi School of Law and a scholar of gender and sexuality in the law.[1]

[¶2] NWLC is a non-profit legal advocacy organization that fights for gender justice in the courts, in public policy, and in our society. NWLC works across the issues that are central to the lives of women and girls—especially women of color, LGBTQIA+ people, and low-income women and families. This work has included participating in numerous federal and state cases as a party or amicus. NWLC has a particular interest in ensuring that discrimination against LGBTQIA+ individuals, including transgender women and girls, is not perpetuated in the name of women's rights.

[¶3] *Amici* submit this brief to explain the equal protection principles of the North Dakota constitution that support Plaintiffs-Appellants' position and warrant vacatur.

STATEMENT OF AUTHORSHIP AND SUPPORT

[¶4] This brief was authored by NWLC and its legal counsel. No party, or any other person, contributed money to fund, or intended to fund, preparing or submitting this brief.

INTRODUCTION AND SUMMARY OF ARGUMENT

[¶5] North Dakota H.B. 1254 facially classifies on the basis of sex and thus is an "inherently suspect" classification subject to strict scrutiny under the North Dakota Constitution. *State ex rel. Olson v. Maxwell*, 259 N.W.2d 621, 631 (N.D. 1977). In holding

[1] Professor Hess and Professor Tweedy contribute to this brief as legal scholar *amici* in their individual capacities and not on behalf of their institutions.

otherwise, the district court adopted an incorrect fundamental premise: That the North Dakota Supreme Court has aligned its equal protection analysis with the U.S. Supreme Court's approach and therefore, the district court was compelled to apply *United States v. Skrmetti*, 605 U.S. 495 (2025), to resolve this case. No such compulsion exists. The North Dakota Supreme Court "has repeatedly recognized it is not bound" by federal constitutional cases and, when interpreting North Dakota's Constitution, it "is open to de-coupling interpretations" of State provisions and federal analogues. Hon. Jerod Tufte, *The North Dakota Constitution: An Original Approach Since 1889*, 95 N.D. L. Rev. 417, 463 (2020).

[¶6] Not only did the district court erroneously defer to *Skrmetti*; *Skrmetti* itself departs from important and longstanding equal protection principles embraced by this Court. In particular, Article I, § 21 guarantees equal protection under the law to the *individual*, not only to a class. In practice, this means that even if a law purports to apply equally to men and women, North Dakota courts must still inquire whether the law denies a benefit or opportunity to an individual on the basis of that individual's sex. If the answer to that inquiry is yes, the law is subject to strict scrutiny by North Dakota courts.

[¶7] That Article I protects the individual, and not just a class, reflects the core constitutional tenet that "unrestrained legislation is inimical to *individual* rights." *Martin v. Tyler*, 60 N.W. 392, 395 (N.D. 1894) (emphasis added). Pursuant to this principle, government may not compel an individual to conform to traditional conceptions of appropriate roles, behaviors, or relationships based on the individual's sex. Whether any individual is the victim of sex discrimination does not turn on whether someone of another sex *also* suffers discrimination based on their sex. It matters only whether the government denies to any individual a benefit or opportunity on account of his or her sex.

[¶8] This Court should reverse the district court's judgment to preserve North Dakota's rigorous constitutional protections for individual rights.

ARGUMENT

I. NORTH DAKOTA DOES NOT INTERPRET ITS CONSTITUTION IN LOCKSTEP WITH THE FEDERAL CONSTITUTION.

A. North Dakota's Constitution Provides Greater Equality Protections than the Federal Constitution.

[¶9] This Court has long recognized that under our "dual constitutional system," North Dakota courts are "obliged to use different standards in considering federal constitutionality and state constitutionality." *Johnson v. Hassett*, 217 N.W.2d 771, 776–77 (N.D. 1974). Indeed, some laws declared unconstitutional under the state standard "might have passed the Federal constitutional screening." *Id.* at 776. This has repeatedly been the case under North Dakota's equal protection clause. *See, e.g.*, *Bismarck Pub. Sch. Dist. No. 1 v. State*, 511 N.W.2d 247, 255 (N.D. 1994). Although North Dakota cases refer to similar tiers of scrutiny—rational basis, intermediate, and strict, *Hanson v. Williams Cnty.*, 389 N.W.2d 319, 323 (N.D. 1986)—this Court has recognized "broader rights" under the North Dakota equal protection clause "than those granted under the equivalent provision of the federal constitution." *Bismarck*, 511 N.W.2d at 255.

[¶10] Accordingly, North Dakota regularly applies heightened review to statutes that would face lesser scrutiny under the federal constitution. For example, federal courts limit application of strict scrutiny to classifications based on race, ethnicity, or national origin. *Skrmetti*, 605 U.S. at 510. North Dakota, in contrast, applies strict scrutiny to all classifications based on "immutable characteristics determined solely by the accident of

birth." *Maxwell*, 259 N.W.2d at 627.[2] The federal equal protection clause has been interpreted to call for intermediate scrutiny only in narrow circumstances. *State v. Leppert*, 656 N.W.2d 718, 722 (N.D. 2003). North Dakota requires it whenever disparate treatment implicates "important substantive rights." *Bismarck*, 511 N.W.2d at 257 (right to education funding); *see also Bouchard v. Johnson*, 555 N.W.2d 81, 87 (N.D. 1996) (right to sue); *Hanson*, 389 N.W.2d at 325 ("life and safety"); *Mund v. Rambough*, 432 N.W.2d 50, 56 (N.D. 1988) ("homestead" rights). And most relevant here, federal courts apply intermediate scrutiny to classifications by sex; this Court has declared that "classification by sex" "require[s] strict judicial scrutiny to determine whether it is required by a compelling State interest." *Maxwell*, 259 N.W.2d at 631.

[¶11] The impact is not merely semantic. Laws scrutinized under an equal protection inquiry stand or fall based on whether they survive the relevant level of review. And North Dakota's Constitution provides more protections than its federal counterpart.

B. The District Court Erred in Concluding That North Dakota's Equal Protection Clause Must Be Interpreted in Accordance with Federal Equal Protection Precedent.

[¶12] The district court concluded that select caselaw from the 1970s and 80s "reflect[s] an intent by th[is] Supreme Court to align its equal protection analysis with that of the

[2] This Court also applies strict scrutiny to laws that restrict fundamental rights not yet federally recognized, like the "right to receive an abortion to preserve the life or health of the mother." *Access Indep. Health Servs., Inc. v. Wrigley*, 16 N.W.3d 902, 915–16 (N.D. 2025). In addition to Plaintiffs-Petitioners' equal protection claim, H.B. 1254 warrants strict scrutiny because it restricts the fundamental right to access treatment necessary to preserve life or health. *See Wrigley v. Romanick*, 988 N.W.2d 231, 242 (N.D. 2023).

United States Supreme Court." Findings of Fact, Conclusions of Law, and Order for Judgment at ¶ 66, *T.D. v. Wrigley*, No. 08-2023-CV-2189 (N.D. S. Cent. Dist. Ct. Oct. 8, 2025) (Order). The district court was wrong.

[¶13] First, the district court interpreted this Court's decision in *Snyder's Drug Stores, Inc. v. N.D. State Bd. of Pharmacy*, 219 N.W.2d 140, 150 (N.D. 1974) to require alignment with the federal constitution because the "objectives" of the two equal protection clauses are "similar." *See* Order ¶ 54. The district court's reading significantly overstates this Court's holding. *Snyder's* stands for the unremarkable proposition that when a challenged law survives under the equal protection provisions of both constitutions, it is unnecessary to explore any further analytical differences between the two. *See* 219 N.W.2d at 147, 150. Indeed, this Court specifically *recognized* North Dakota courts' prerogative to depart from Fourteenth Amendment case law. *Id.* at 146, 150. And following *Snyder's*, this Court has repeatedly deviated from the federal equal protection standard, including by applying strict scrutiny to sex-based classifications in *Maxwell*. *See Bismarck*, 511 N.W.2d at 256; *Bouchard*, 555 N.W.2d at 87; *Hanson*, 389 N.W.2d at 328; *Mund*, 432 N.W.2d at 56.

[¶14] Second, the district court erred in disregarding *Maxwell*'s determination that sex-based classifications are subject to strict scrutiny. Order ¶ 63, 67. The district court speculated that "*[i]f* the Supreme Court would have addressed sex-based classifications under section 21 following *Maxwell*, . . . it *would have* followed the United States Supreme Court" in applying only intermediate scrutiny. *Id.* at ¶ 67 (emphases added). But lower courts cannot take it upon themselves to rewrite this Court's precedent: "[A] district court is bound to follow [precedent], whether or not the district court has doubts about whether the appellate court may be inclined to correct it." *Van Chase v. State*, 966 N.W.2d 557,

561 (N.D. 2021). And where a "case exclusively arises under state law," courts "must decide [those] issues primarily under our established state precedent." *Access Indep. Health Servs., Inc.*, 16 N.W.3d at 908. This Court's post-*Maxwell* caselaw, moreover, continues to require a higher level of review for classifications that would only receive rational-basis review on the federal level. *See supra* ¶ 10. The district court thus was wrong to theorize that *Maxwell* applied an outdated framework. Rather, *Maxwell* reflects North Dakota courts' established tradition of recognizing broader individual rights under the state's own constitution.

II. THIS COURT SHOULD REJECT THE *SKRMETTI* ANALYSIS.

[¶15] In relying on the U.S. Supreme Court's decision in *Skrmetti* to subject H.B. 1254 to mere rational-basis review, the district court disregarded decades of North Dakota equal-protection jurisprudence protecting individuals against sex discrimination. *Skrmetti* is also an anomaly even under federal equal protection law, and this Court should reject it to give full effect to North Dakota's more protective guarantee of equal protection under the law.

A. The District Court Ignored Longstanding Equal Protection Principles in Holding H.B. 1254 Does Not Classify Based on Sex.

[¶16] Following *Skrmetti*, the district court reasoned that H.B. 1254 does not classify based on sex because it limits the medical treatment available "to all minors regardless of sex." Order ¶102. But this "equal application" reasoning—that a law cannot classify based on sex if it applies to all sexes—contravenes longstanding equal protection doctrine in this State requiring consideration of equal protection deprivations *as to each individual*. *See infra* ¶ 19–20. By its plain terms, as to each individual, H.B. 1254 denies access to treatment an individual would otherwise be able to receive but for their sex. H.B. 1254 thus denies that individual equal protection under the law. N.D. Const. art. I, § 21.

1. North Dakota Guarantees Equal Protection To Each Individual Citizen.

[¶17] The North Dakota Constitution guarantees equal protection of the laws to each of its citizens:

> No special privileges or immunities shall ever be granted which may not be altered, revoked or repealed by the legislative assembly; nor shall any citizen or class of citizens be granted privileges or immunities which upon the same terms shall not be granted to all citizens. [N.D. Const. art. I, § 21.]

[¶18] North Dakota thus may not grant to "any citizen" privileges not offered on the same terms to other similarly situated citizens; nor may it deny "any citizen" privileges granted to those others. *See, e.g.*, *In the Interest of G.H.*, 218 N.W.2d 441, 446–47 (N.D. 1974).

[¶19] By its plain language, then, Section 21 confers an individual right on North Dakotans: The State must treat "*any* citizen" on "the same terms" as "all citizens." N.D. Const. art. I, § 21 (emphasis added). Accordingly, when determining what level of scrutiny applies to legislative classifications, "the focus must be on the rights affected and the *individual* interests involved." *Bismarck*, 511 N.W.2d at 259 (emphasis added). The relevant inquiry is whether a challenged law imposes unjustifiable burdens on individuals based on irrelevant distinctions. *See, e.g.*, *Larimore Pub. Sch. Dist. No. 44 v. Aamodt*, 908 N.W.2d 442, 455 (N.D. 2018) ("[T]he equal protection clause prohibits the government from treating individuals differently who are alike in all relevant aspects.").

[¶20] This focus on individual injury is especially important when considering classifications based on sex. Sex characteristics are "determined solely by the accident of birth," and sex classifications violate the basic notion that "legal burdens should bear some relationship to individual responsibility." *Johnson*, 217 N.W.2d at 775 (quoting *Frontiero v. Richardson*, 411 U.S. 677, 686 (1973)) (internal quotation marks omitted). North Dakota courts therefore assess whether state classifications deny benefits to an individual based on

their sex. For example, in *Maxwell*, this Court addressed the State's policy of transferring all female prisoners out of state but transferring male prisoners only after an individualized consideration of the benefits and losses the transfer would cause. 259 N.W.2d at 628. Even though the State asserted that a blanket out-of-state transfer policy generally would offer female prisoners greater rehabilitative benefits, this Court rejected the State's approach, explaining that denying a female prisoner the same individualized assessment provided to men denied her equal protection on the basis of her sex. *Id.* at 631–32.

[¶21] The district court's "equal application" reasoning in this case—which relied exclusively on *Skrmetti*—is inconsistent with this longstanding principle. *See Bismarck*, 511 N.W.2d at 259 (holding that courts must look to "the individual interests involved" when determining what level of scrutiny to apply). Following *Skrmetti*, the district court concluded that H.B. 1254 does not classify by sex because the act applies "to all minors." Order ¶ 102. But state action that denies an individual a benefit or opportunity they otherwise would have enjoyed but for their sex classifies based on sex, regardless of whether all sexes are similarly harmed. *See City of Mandan v. Fern*, 501 N.W.2d 739, 744 (N.D. 1993) (holding that gender-based peremptory strikes—of male *or* female jurors—violate the Fourteenth Amendment of the U.S. Constitution because such gender-based discrimination "bear[s] no relationship to an *individual's* qualifications") (emphasis added); *see also Weber v. Weber*, 512 N.W.2d 723, 729 (N.D. 1994) (Levine, J., concurring) (rejecting expert's opinion that fathers should be given custody of boys and mothers given custody of girls). *Skrmetti*'s "equal application" reasoning has no basis in North Dakota law, and this Court should reject it.

2. H.B. 1254 is a Facial Sex Classification Subject to Strict Scrutiny.

[¶22] Applying these established North Dakota constitutional principles, H.B. 1254 facially classifies based on an individual's sex. The act defines "sex" as the "biological state of being female or male, based on the individual's nonambiguous sex organs, chromosomes, or endogenous hormone profiles at birth." N.D. Cent. Code § 12.1-36.1-01. The law then makes it a criminal offense for healthcare providers to perform certain medical procedures where the "minor's perception of the minor's sex is inconsistent with the minor's sex" and the procedure is performed for the "purpose of changing or affirming the minor's perception." *Id.* § 12.1-36.1-02(1).

[¶23] Whether a medical procedure is banned for an individual adolescent in North Dakota accordingly turns on that individual's sex. If a minor seeks to "affirm[ ]" an identity different than their sex (as defined by H.B. 1254), certain medical care is prohibited. *Id.* But that *same care* would be permitted for other minors so long as they sought to affirm an identity *consistent* with their sex. For example, the law would allow a minor classified as male to be prescribed testosterone as part of their medical care; but it would prohibit doctors from prescribing the same medication to a minor classified as female seeking to affirm an identity different from their statutorily defined sex. Thus, to determine whether a specified medical procedure may be provided, a healthcare provider must classify the patient as either male or female. Classification based on sex could not be plainer.

[¶24] The fact that H.B. 1254 may classify on bases *other* than sex does not mean that it does not *also* classify based on sex. Laws often classify on multiple bases, and one permissible classification, age for example, does not insulate an impermissible classification from scrutiny. *See Craig v. Boren*, 429 U.S. 190, 192 (1976) (striking down

as impermissibly sex-based a law setting a different age minimum for "males 18-20 years of age" to purchase low-alcohol beer). The same principle applies here: Even if H.B. 1254 also classifies by "age and medical use," Order ¶¶ 72, 101-102, it explicitly treats some minors differently from others based on their sex.

[¶25] Accordingly, H.B. 1254 may be upheld only if it "promotes a compelling governmental interest" and the "distinctions drawn . . . are necessary to further its purpose." *Maxwell*, 259 N.W.2d at 627. For all the reasons set forth in Appellants' opening brief, H.B. 1254 cannot survive this exacting standard.

3. *Skrmetti's* Analysis is an Anomaly in Federal Law.

[¶26] Not only does *Skrmetti*'s approach conflict with North Dakota jurisprudence; it diverges from longstanding federal precedent, rendering it a one-off anomaly.

[¶27] The U.S. Supreme Court for decades before *Skrmetti* had emphasized that the federal Equal Protection Clause protected the individual. In *Loving v. Virginia*, for example, the U.S. Supreme Court rejected Virginia's contention that "because its miscegenation statutes punish equally both the white and the Negro participants in an interracial marriage, these statutes . . . do not constitute an invidious discrimination based upon race." 388 U.S. 1, 8 (1967). And in *J.E.B. v. Alabama ex rel. T.B.*, the U.S. Supreme Court held that the use of sex-based peremptory strikes to exclude men from a jury violates the Equal Protection Clause—even though, as Justice Scalia observed in dissent, the opposite party could just as easily use sex-based strikes to exclude women. 511 U.S. 127, 133 (1994); *see also id.* at 159-60 (Scalia, J., dissenting).

[¶28] Indeed, the U.S. Supreme Court has previously recognized that impermissible "classifications do not become legitimate on the assumption that all persons suffer them in

equal degree." *Powers v. Ohio*, 499 U.S. 400, 410 (1991). Rather, "[a]t the heart of the Constitution's guarantee of equal protection lies the simple command that the Government must treat citizens as individuals, not as simply components of a racial, religious, sexual or national class." *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 223 (2023) (quoting *Miller v. Johnson*, 515 U.S. 900, 911 (1995)).

[¶29] The U.S. Supreme Court's *Skrmetti* decision abruptly departs from these decades-old principles, rendering it an anomaly even among federal equal protection precedents. This Court should decline to create the same anomalous result in North Dakota.

B. Rejecting *Skrmetti* is Critical to Ensuring the Full Scope of Protections for Individual Rights Under North Dakota's Equal Protection Clause.

[¶30] Rejecting *Skrmetti*'s erroneous analysis is essential to preserve North Dakota's longstanding, constitutionally guaranteed protections for individual rights, especially against laws that are based on an "inherently suspect classification" or that infringe on a "fundamental" or "important substantive right." *Larimore Pub. Sch. Dist. No. 44*, 908 N.W.2d at 455 (quotation omitted); *see also Matter of Adoption of K.A.S.*, 499 N.W.2d 558, 565 (N.D. 1993) (noting the purpose of strict scrutiny to "preserve substantive values of equality") (citation omitted). As this Court has explained, "[g]ender discrimination, like racial discrimination, stimulates community prejudice" and "impedes equal justice for men and women." *City of Mandan*, 501 N.W.2d at 744.

[¶31] Sex-based classifications have historically been used "to create or perpetuate the legal, social, and economic inferiority of women," *United States v. Virginia*, 518 U.S. 515, 534 (1996), including in North Dakota. In 1919, for example, North Dakota enacted a law limiting the number of hours women could work. *See* S.L. 1919, Ch. 170. As the district court noted, Order ¶ 38, this Court originally upheld that law on rational-basis review,

reasoning that "the physical structure and maternal functions of women place them at such a disadvantage in the struggle for existence as to form a substantial difference between the sexes." *State v. Ehr*, 221 N.W. 883, 884 (N.D. 1928). But such sex-based distinctions—founded on gender stereotypes—are no longer good law in North Dakota. *See Maxwell*, 259 N.W.2d at 627 (holding that sex-based classifications are inherently suspect and trigger strict scrutiny); *see also, e.g.*, N.D. Cent. Code § 14-02.4-01 ("It is the policy of this state to prohibit discrimination on the basis of . . . sex."). And the project of eradicating sex discrimination remains ongoing. *See, e.g.*, S.L. 2009, ch. 149, § 4 (amending North Dakota law so that "[b]etween the mother and the father, . . . there is no presumption as to whom will better promote the best interests and welfare of the child").

[¶32] Embracing *Skrmetti*'s faulty "equal application" reasoning would risk undoing this work and insulating many sex-based classifications from heightened review. Gender stereotypes are, by nature, "parallel," with separate and complimentary strictures for each sex. *Nev. Dep't of Hum. Res. v. Hibbs*, 538 U.S. 721, 736 (2003). Yet courts do not—and could not, consistent with state and federal equal protection principles—defer to the ideology of separate spheres. *See, e.g.*, *Dalin v. Dalin*, 512 N.W.2d 685, 689 (N.D. 1994) (rejecting the "damaging stereotype that a mother's role is one of caregiver, and the father's role is that of an apathetic, irresponsible, or unfit parent") (citation omitted); *Rustad v. Rustad*, 849 N.W.2d 607, 612 (N.D. 2014) (directing courts not to "subscribe to sex-based rules . . . based on sexual stereotypes" (Levine, J., concurring) (citation omitted)).

[¶33] There is no exception for laws that burden both sexes equally. A law that requires all employees to conform with traditional gender roles treats the sexes equally—but it indisputably classifies by sex. Likewise, a policy granting custody of boys to fathers and

girls to mothers would perpetuate "sexual stereotypes" and work a "great[ ] mischief." *Weber*, 512 N.W.2d at 729 (Levine, J., concurring). Just so here. A law that forbids certain medical treatments only for boys because they are "inconsistent" with their sex, while also forbidding different "inconsistent" medical treatments only for girls, necessarily classifies by sex, even though it applies to all minors. N.D. Cent Code § 12.1-36.1-02(1). In North Dakota, such classifications trigger strict scrutiny.

[¶34] Article I, § 21 of the North Dakota Constitution protects the right of any individual citizen to enjoy privileges and immunities "upon the same terms" as "all citizens." That right belongs to the individual. H.B. 1254 prevents an individual minor assigned female at birth from accessing the same medical care as a minor assigned male at birth simply because the minor's diagnosed need for accessing that care is to affirm their gender identity. This sex-based classification cannot withstand strict scrutiny under North Dakota's equal protection guarantee.

CONCLUSION

[¶35] For these reasons, and those in Appellants' opening brief, this Court should reverse.

Dated: April 13, 2026

Respectfully submitted,

/s/ Dane DeKrey

Dane DeKrey (Bar No. 09524)
Ringstrom DeKrey
814 Center Ave. Ste. 5
Moorhead, MN 56560
Telephone: (218) 284-0484
Email: dane@ringstromlaw.com

Michelle Banker (*pro hac vice*)
Alison Tanner (*pro hac vice*)
National Women's Law Center
1350 I St., NW
Washington, DC 20005
Telephone No.: (202) 588-5180
Email: mbaker@nwlc.org
Email: atanner@nwlc.org

Catherine E. Stetson (*pro hac vice*)
Jason A Mills (*pro hac vice*)
Hogan Lovells US LLP
555 Thirteenth Street, NW
Washington, D.C. 20004
Telephone: (202) 637-5600
Email: cate.stetson@hoganlovells.com
Email: jay.mills@hoganlovells.com

Attorneys for Amici Curiae

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 32(d) of the North Dakota Rules of Appellate Procedure, the undersigned, as counsel for the *amici curiae* in the above matter, hereby certify that the foregoing *Amici Curiae* Brief was prepared in a proportionally spaced, 12-point roman type and is 19 pages in length in compliance with Rule 29(a)(5).

/s/ Dane DeKrey

Dane DeKrey (Bar No. 09524)
Ringstrom DeKrey
814 Center Ave. Ste. 5
Moorhead, MN 56560
Telephone: (218) 284-0484
Email: dane@ringstromlaw.com

Catherine E. Stetson (pro hac vice pending)
Jason A Mills (pro hac vice pending)
Hogan Lovells US LLP
555 Thirteenth Street, NW
Washington, D.C. 20004
Telephone: (202) 637-5600
Facsimile: (202) 637-5910
Email: cate.stetson@hoganlovells.com
Email: jay.mills@hoganlovells.com

Counsel for Amici Curiae