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Senator Ashford and members of the Judiciary Committee:

Good afternoon. My name is Jim Cunningham. I am the executive director of the Nebraska Catholic Conference, which represents the mutual interests and concerns of the Archdiocese of Omaha and the dioceses of Lincoln and Grand Island, under the direction of the Diocesan Bishops serving in Nebraska.

Thank you for the opportunity to present for the record the Conference's opposition to LB 48 and support for LR 39.

Our Conference has concluded that there are numerous reasons why LB 48 is ill-advised legislation, which should be indefinitely postponed and not leave this committee. You will hear a lot of those reasons today, from numerous valuable perspectives. But to be clear, the Catholic Conference's conclusions about LB 48 are not doctrinal, although certainly they are influenced by the teaching of the Church. We realize that there are different ways of looking at these difficult and complex issues involving immigration law and policy. We understand the frustration and anxiety that our nation's broken immigration policy engenders in the hearts of many Nebraskans. Nevertheless, our Conference strives to look at these issues through the lens of the common good, starting with fundamental premises of Catholic social teaching: that all human beings are made by God, in the image of God, with an innate human dignity; and that we all are social beings, who develop collectively as a community.

Our Conference's view of the common good finds fault with the idea that legislation should be designed and enacted to cause attrition of unauthorized immigrants in the state through the use of state and local enforcement actions, that the laws and policy of this state should make it so difficult and inhospitable to live in Nebraska that unauthorized immigrants will flee the state rather than risk the consequences of LB 48. The effect of this legislation, as we view it, is to cause some Nebraska residents, including

families with children, to live their daily lives, every waking moment, in even greater fear and anxiety than they already experience, fear and anxiety not just of being deported, but of being separated from their loved ones. Obviously, immigrants – and not necessarily just those whose presence in this country is unauthorized – experience the daily fear and anxiety much more than society around them does.

We understand the value of the rule of law and believe in it. We understand that illegal immigration is not good for our nation. It is not good to not know who is entering our country. We believe that all immigrants should come to the United States lawfully. We trust the well-regarded surveys that have found that the great majority of unauthorized immigrants would have preferred to enter this country lawfully if they could have given their economic and/or family circumstances. (They come to the United States for work to support their families.) But we also understand that the current legal framework for immigration is unrealistic, inadequate and largely dysfunctional; it does not adequately reunify families and is non-responsive to our country's need for labor, especially low-skilled labor.

Therefore, LB 48 is symptomatic of the absence of federal leadership – both Congressional and administrative – on the issues of immigration and it underscores the desperate need for multi-dimensional immigration policy reforms. By no means does this justify the flawed and deficient approach of LB 48, but it certainly does justify strong support for LR 39.

Within this overall context, the more specific reasons why the Nebraska Catholic Conference stands opposed to LB 48 – irrespective of the fact that significant aspects of the bill are at least constitutionally suspect – are as follows:

First, if enacted, this enforcement-only legislation would likely contribute to divisiveness within communities by further stigmatizing and marginalizing an already vulnerable population and isolating them from the greater community and reinforcing the negative and unproductive “us versus them” dichotomy which tears down rather than builds and strengthens communities.

Second, if enacted, this enforcement-only legislation would likely exacerbate the potential to disrupt and separate families.

Third, if enacted, this legislation could have a detrimental effect on public safety, not only by consuming scarce law enforcement resources to by creating five new crimes around what is first foremost, if not exclusively, a federal jurisdiction, but also by undermining the relationship between local police and the communities they serve, at least by discouraging victim and witness cooperation. Law enforcement officials in many jurisdictions have addressed these concerns in a compelling manner.

Fourth, its ambiguous, confusing disclaimer notwithstanding, this legislation could lead to racial profiling. It is likely to ensnare citizens and lawful residents in questioning and wrongful detention. The bill adopts a relatively low legal standard –

reasonable suspicion – that could trigger heightened police scrutiny of racial and ethnic minority residents. Moreover, law enforcement officers may base reasonable suspicion partly on race or ethnicity, but not solely. The Arizona Legislature, by the way, struck the word “solely” by means of its trailer legislation.

Fifth, but certainly not less troubling and worrisome for us, is section 6 of LB 48, which would criminalize, at the highest level of misdemeanor, in accord with some stated legal standards, not only concealing and harboring any unauthorized immigrant, but transporting or moving one or more as well. Without condoning unauthorized immigration, our church, and no doubt many others as well, supports the human rights of all people and offers pastoral care and social services regardless of the circumstances of their entry into this country. Doing so is essential to our mission and ministry. Those who engage in such ministry do not do so with intent to facilitate or cooperate in illegality, but we are nonetheless concerned about the possible reach and uncertain consequences of Section 6 and its potential to have a chilling effect on ministry to unauthorized immigrants and their children. Supporters of this provision might say that we have nothing to worry about, given the legal parameters, but in the climate of these controversial and divisive issues, we cannot help but be apprehensive about this as a matter of what would be a new state crime.

The problems with our nation’s immigration system are complex and politically charged. It is the prayer and hope of the Nebraska Catholic Conference that Congress will ultimately address this broken system with comprehensive immigration reform. In the meantime, we hold the view that state legislation should not create new problems for communities or families or have a negative impact on the common good.

Thank you for your attention and consideration.