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### Testimony in Support of **LB 276**

To: LEGISLATURE'S JUDICIARY COMMITTEE  
From: James R. Cunningham, Executive Director  
Subject: LB 276—Death Penalty Repeal  
Date: March 4, 2011

Senator Ashford and members of the committee, good afternoon. My name is Jim Cunningham, spelled C-U-double N-I-N-G-H-A-M. I am the executive director of the Nebraska Catholic Bishops' Conference, and testify on its behalf in **support of LB 276**.

The teaching of the Catholic Church, as presented in the Modern Catechism, does not condemn use of the death penalty in principle. It is not regarded as intrinsically immoral. The State has a legitimate purpose in punishing criminals and the right and duty to defend society from unjust aggressors; this does not in principle exclude recourse to the death penalty. Nevertheless, Catholic teaching also applies an extremely important condition to use of the death penalty; namely, if non-lethal means are sufficient to defend the innocent and preserve public order and safety, then public authority must limit itself to such means, as they are more in keeping with the common good and more in conformity with the inherent dignity of each human being. (The relevant paragraphs from The Catechism of the Catholic Church are attached to this testimony.)

In practical application, this teaching regarding the death penalty has become clearer and more relevant during the past quarter century; a new understanding has evolved. In his great and important encyclical, *"The Gospel of Life,"* the late Pope John Paul II articulated a standard for application of this teaching. In the view of the Nebraska Catholic Conference, it is a sound and justified public-policy test for the death penalty. We urge you to consider it and to reply upon it if you can see fit to do so. That test is this: is the death penalty, given its ultimate consequence and finality, **absolutely necessary**? That is, are there absolutely no other means by which to defend society from the unjust aggressor? In analyzing this question, Pope John Paul II himself responded from a global perspective that the cases of absolute necessity are extremely rare if not

practically nonexistent. If these cases are extremely rare on a global scale, then they can be presumed to be non-existent in a nation so highly developed and advanced as the United States.

The Nebraska Catholic Conference urges you as policy makers to consider LB 276 within this framework. We think the proper response to the test of whether the death penalty is absolutely necessary is unambiguously no; of course not. **The death penalty fails the test.** In this modern era, this technologically sophisticated age, in the developed nation and state in which you live, means of punishment and protection other than the death penalty are available and sufficient; the conditions necessary to justify using the means of last resort do not exist. While not absolute in principle, our opposition to the death penalty is absolute in practical reality. What's more, in this culture, which too frequently resorts to death and violence as a response to social problems—as evidenced by the killing of millions of innocent human beings through abortion on demand—imposing the death penalty when there is no absolute necessity for doing so diminishes society even more and contributes even more to the growing disrespect for the dignity and value of every human life. The death penalty, having failed the test of absolute necessity, offers the tragic illusion that society can defend life by taking life.

In their 1994 Pastoral Letter, “**Confronting a Culture of Violence**,” the Catholic Bishops of the United States stated, “*Increasingly, our society looks to violent measures to deal with some of our most difficult social problems. Violence is not the solution; it is the clearest sign of our failures.... We cannot teach that killing is wrong by killing.*”

We understand and respect the fact that many people have legitimate concerns and fears about violence and the frequency of heinous crimes in their communities. Legislators and society as a whole need to do all they can to deter and respond promptly to this violence that undermines a stable society. Moreover, the needs of victims and their loved ones must be addressed; society must strive for ways to support them, compensate them, and help them heal. Nonetheless, much of the support for capital punishment, we believe, stems from a desire for revenge or from a desperate attempt to balance the terrible damage wrought by a capital crime. And such feelings are understandable in the face of brutal and senseless violence inflicted upon innocent people. Just retribution is a legitimate desire. Nonetheless, it cannot be truly achieved under the veil of vengeance and its own form of violence.

In our view, all Nebraskans personally and collectively face the challenge of rejecting a culture of death and embracing a culture of life. This means overcoming all ways in which killing is proposed as a solution to a problem.

We urge this committee to advance LB 276 to General File so that the full Legislature can continue to debate this important issue.

Thank you for your attention and consideration.