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Statement Regarding Initiated Measure 11 The Most Rev. Paul J. Swain

Initiated Measure 11 will be on the election ballot on November 4. It seeks to enact into state law a prohibition on abortions except for those that are the result of rape or incest or certain dangers to the life or health of the mother. After prayerful discernment and consultation, I will vote yes on Initiated Measure 11 and encourage others to do so as well.

The proposed law does not include the fullness of Church teaching. Many of us remain deeply disappointed with the defeat of the Women's Health and Human Life Protection Act, known as Referred Law 6, in the 2006 state election. That would have been the boldest and most powerful statement for life possible. It remains what we must continue to work toward: respect for the sanctity of all human life from conception to natural death, including caring about all mothers and all children. That electoral defeat, however, creates the environment in which Initiated Measure 11 is offered. It is the judgment of those who have proposed this law that a total ban on abortions is not politically possible based on that result. It is not for me to not make judgments about political realities. We must, however, respond to what is before us.

Earlier in the year when the circulation in parishes of petitions to place this proposed law on the election ballot was authorized, I commented on the principle of gradualism or incrementalism in moral theology. The Bishops of the United States in the document adopted last November titled "Forming Consciences for Faithful Citizenship" discussed this principle: "Sometimes morally flawed laws already exist. In this situation, the process of framing legislation to protect life is subject to prudential judgment and 'the art of the possible'. At times this process may restore justice only partially or gradually. For example, Pope John Paul II taught that when a government official who fully opposes abortion cannot succeed in completely overturning a pro-abortion law, he or she may work to improve protection for unborn human life, 'limiting the harm done by such a law', and lessening its negative impact as much as possible (*Evangelium Vitae*, no. 73). Such incremental improvements in the law are acceptable as steps toward the full restoration of justice. However, Catholics must never abandon the moral requirement to seek full protection for all human life from the moment of conception until natural death". (32)

I have concluded that this is such a case. Current law essentially allows abortion on demand. We have an opportunity to do what we can to "limit the harm done by such a law." If this law is enacted, over 95 percent of abortions currently performed in South Dakota would be prohibited. And it would send a clear message to abortion providers that their culture of death is not the will of the people of South Dakota.

Abortion advocates oppose this law because they say that it allows government into the private decision-making of individuals. If that were the standard there would be few laws. Law by its definition intrudes into the lives of individuals for the common good. What can be more significant for the common good than the right to be born? The unborn have no private decision making freedom.

Some who have worked hard in the pro-life movement oppose this law because they do not accept the principle of gradualism and therefore cannot vote for any law with exceptions. I honor their work and respect their position.

Others oppose this law because of disagreements with the political or legal strategies that have been advanced for it, or the likelihood that courts will prevent it from taking effect. Still others oppose the law because in some states the health of the mother exception has been used as a loophole to continue to allow abortion on demand. The language in Initiated Measure 11 has been reviewed by noted moral theologians and experts in bioethics. I have been assured that the language in this law is carefully worded and closes this loophole. None of us can predict future decisions by those in the political or legal system. We can and must address what is before us.

The fact is that when we enter the voting booth on November 4, the question will be presented to us: yes or no, do you wish to replace the current law which allows abortion on demand with a law that would eliminate almost all abortions? My answer is yes. This law can be an important step forward in protecting the lives of the unborn and their mothers.

As we do so, we reaffirm the fullness of the Church's teaching, that all life is sacred, that the taking of life in abortion is a grave evil, and that no exceptions can be endorsed as a good in themselves.

Whatever the outcome on Election Day, let us also recommit ourselves to defending all life from conception to natural death, always with civility and charity, but always.

I would ask pastors to make this letter available to the faithful.