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Workforce Development Committee Chair Wobbema and members of the Committee:

House Bill 1291 bill is preempted by federal law, 8 U.S.C. § 1324a, which governs the employment of unauthorized workers in the United States. The federal statute establishes a comprehensive framework for prohibiting the hiring and continued employment of unauthorized noncitizens, including penalties and enforcement mechanisms. Under the Supremacy Clause of the U.S. Constitution, federal law overrides conflicting state laws in areas where Congress has expressed intent to occupy the field, such as immigration and employment verification.

Federal law already imposes penalties on employers who knowingly hire or continue to employ unauthorized noncitizens. Federal law also provides employability verification systems: I-9 Employment Eligibility Verification and E-Verify. Last, federal law includes an affirmative defense for employers who comply with employment verification in good faith.

House Bill 1291, by creating additional penalties and an enforcement mechanism through the state attorney general, is unnecessary. It conflicts with and is preempted by the federal framework, which exclusively governs employer sanctions related to unauthorized workers. The Supreme Court ruled in a similar case, *Arizona v. United States*, 567 U.S. 387 (2012), that state laws imposing their own employment-related sanctions on unauthorized workers are invalid due to federal preemption. Therefore, if enacted, the North Dakota bill would likely be struck down as unconstitutional.

Thank you.

Sincerely,

Megan Carranza
Attorney at Law

