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Government, Military and Veterans Affairs Committee
October 24, 2014

[LR527 LR581 LR582]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Friday, October 24, 2014, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR527, LR582, and LR581. Senators present: Bill Avery, Chairperson; John Murante, Vice Chairperson; Dave Bloomfield; Jim Scheer; and Norm Wallman. Senators absent: Tommy Garrett; Russ Karpisek; and Scott Lautenbaugh.

SENATOR AVERY: Good afternoon. Welcome to the hearing by the Government, Military and Veterans Affairs Committee. This is the first of two hearings that we're having during the interim. We will be taking up three resolutions today, and they will be taken up in the order that the agenda is arranged outside the room. It's posted at each door. We'll start with LR527 by Senator Bloomfield, and then proceed on to LR582 and LR581. Before we start, let me just say that this is a less formal setting than a hearing that you might attend in the regular session. We're not considering legislation at this point. We're simply discussing some issues of concern to some constituents and some of the senators. This is a preparation for possible legislation, but it is not a hearing in that traditional sense. So we're not going to have limits on how long you can talk, but don't take advantage of that privilege (laughter), don't abuse it because if you do, I'll have to remind you that we don't want to be here...this is Friday, you know, (laughter) we don't want to be here at 5:00 still discussing these issues. We have sign-in sheets available for you to sign if you are so inclined to do so. If you're planning to testify, please print your name for the record and indicate who you're representing. Spell your name for the record. Even if it's a simple name, we want to know how you spell it and get it right in our minutes. The green sheet is what I'm talking about for testifiers. And I don't believe we'll be bothering with other forms. That's all you need. Now if you have any documents that you would like to share with us, any handouts, we would appreciate it if you would give those to the intern or the page, right, to the page Reid Jensen from Omaha. And Reid will distribute them. If you do not have enough copies for everybody

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here, he will get them for you and will get them to all of us here. All right. Please, if you have a cell phone that makes noise, as they all do, please turn them off so that we don't get disturbed. If you have any other electronics that make noise, try to put them in a silent mode so as not to disturb the proceedings. All right. I think that's all we need to do. We'll start now with Senator Bloomfield.

SENATOR BLOOMFIELD: Did you want to introduce anybody?

SENATOR AVERY: Pardon?

SENATOR BLOOMFIELD: Did you want to do any introductions?

SENATOR AVERY: Oh, yeah. I forgot that. For those of you who don't know who we are, we're familiar with ourselves of course, we...I'll just tell you that Senator Garrett, we do not expect him to be here. Senator Murante, who is right now the only candidate to replace me as Chair next year, he is the Vice Chair at this time. Senator Murante is from Gretna. Senator Bloomfield is here and he will be introducing the first resolution. Christy Abraham on my immediate right is the committee counsel. And I am Bill Avery, Chair of the committee and represent District 28 here in Lincoln. Senator Russ Karpisek who usually is here is not here today. Senator Norm Wallman is, and Senator Wallman is from Cortland. Senator Jim Scheer is the last one there, and he is from Norfolk. Sherry Shaffer is the committee clerk, and she is the person to whom you should give the green sheet after you've filled it out. Now we're ready. Senator Bloomfield. [LR527]

SENATOR BLOOMFIELD: Good afternoon, Chairman Avery and members of the Government, Military and Veterans Affairs Committee. For the record, my name is Senator Dave Bloomfield, D-a-v-e B-l-o-o-m-f-i-e-l-d, and I represent the 17th Legislative District. I requested the hearing on LR527 to look into the process of emergency disaster payments by NEMA/FEMA being made in a timely manner. The request to look into this came to me from leaders in the South Sioux City community.

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Given the number of incidents that we've had in Nebraska over the last few years, I think the information that will come out of this and the South Sioux City hearing will be beneficial to the entire state. In the process of preparing for the hearing, my staff and committee staff were able to meet with members of NEMA and learn a great deal about the process. Let me say, NEMA is taxed with a great amount of responsibility. In my opinion, they do an excellent job with very limited resources. I wish to thank you, Senator Avery, and your dedicated staff, as well as the senators in attendance here today for your work on LR527. With that, I would try to answer any questions you have and let you know that I'm looking at this hearing as a mode of conversation. [LR527]

SENATOR AVERY: Thank you, Senator. Any questions from the committee? Observations? Thank you, sir. Anyone wish to address the issues contained in LR527? Just come forward, state your name, spell it for the record. Welcome, sir. [LR527]

ERVIN PORTIS: (Exhibit 1) Thank you, Senator Avery. I do appreciate the informality of the process. I don't feel guilty about not wearing a necktie. Senator Avery, Mr. Chairman, committee members, I'm Ervin, E-r-v-i-n, last name is Portis, P-o-r-t-i-s, the city administrator for Plattsmouth. Here in the spring and the summer of 2011, the now infamous Missouri River flood at Plattsmouth, for over a hundred days we were between eight and ten feet above flood stage. It was catastrophic for us. As the floodwaters receded, we found that we had extensive damage to wells, water mains, underground sewer pipes, both our drinking water and our waste water plants, roads, park property, and other damages. Our original estimates were that repairs would be near \$2 million. We were actually very close in that estimate. Just one month ago, we finally finished our final flood repair project, and we celebrated with joy on completion. I think the folks at NEMA were laughing when I called and said, we're done, we're done, we're done. The total cost on our emergency protective measures and the repairs was \$2.063 million. In the process, we submitted 16 applications for assistance. We amended four of those applications when the expenses exceeded the amounts approved in our applications. If there are time delays, I will suggest that in many cases that's exactly where there are

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delays. The amendments require the extensive review of cost overruns, if you will, and the reasons for them. Did you follow all the normal procurement processes or are you simply adding on? So that review process is time consuming and cumbersome. But eventually all of our applications and our amendments were approved for funding. Out of the FEMA share of \$1.5 million--we just certified completion several weeks ago, we have all but \$63,000 of the \$1.5 (million) FEMA in hand. The state's share is not in hand yet, and I'll come back to that in a moment. And I'll admit, to this day, I have very high praise for the NEMA staff, especially Donny Christensen, the state public assistance office. Donny has been exceptionally helpful to me and to Plattsburgh. But even with such high praise, I do offer a couple of suggestions. And I took note of Senator Bloomfield's NEMA staff operates with very limited resources. I will agree with him. So my suggestions will include increase NEMA staff levels. I encourage this panel to take a very hard look at that. NEMA is understaffed. While I expect NEMA is to help me through the process and make sure that Plattsburgh gets everything that it should get through the recovery process, and to keep up with my projects and my payment requests, Mother Nature just doesn't stop. There's new floods. There's droughts. There's winterized storms, snowstorms. The disasters continue to roll. There's tornados and so on. So that NEMA staff really has to put on a shelf or on a back burner or somehow put those existing projects off to the side and rush off to help with the new disaster. And that happens over and over again. NEMA has to be responsive with the right set of resources, including a well-trained staff, right-sized to the need. And I don't think they are. And contract...another suggestion might be to contract some project accounting to external accounting firms. Once you certify a project and you approve the subgrant applications, perhaps if you don't want to take on additional staffing, you simply subcontract accounting to that external accounting firm to manage that process thereon and to assure that people get their payments. By contracting with the others or outsiders to finish the previous disasters, the NEMA staff can continue moving on. And then the final suggestion I would make is it goes back to the \$2 million in damages we incurred and the expenses we've paid, we have \$1.5 million in FEMA funds, all but \$63,000 of that in hand. And certainly the local share has been picked up. But there is a

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serious cash flow issue in a small municipality. Frankly, there's a cash flow issue at every level of government. You got to make sure you have the right cash in hand to manage the resources on a day-to-day basis. So our suggestion would be we pay the state's share at the same time the federal share is paid to local governments. The current policy is to withhold that payment until all projects are certified complete by the local entity, and then NEMA verifies completion. Our suggestion would be, pay the state's share at the same time you pay the fed's share. When all projects are then certified complete, come out, audit, and if you find we didn't do something we were supposed to have done in the right way, then you demand the funds back. But pay them because everybody has cash flow questions, problems, and issues. Thank you, Senator. Any questions? [LR527]

SENATOR AVERY: Thank you, Mr. Portis. You have in your letter and in your comments, you didn't say much at all about FEMA. You did have some interaction with FEMA? [LR527]

ERVIN PORTIS: We had a lot of interaction with FEMA. [LR527]

SENATOR AVERY: And yet you didn't comment on it. [LR527]

ERVIN PORTIS: Well, as I read the legislative resolution, it is about NEMA. I will say that NEMA assisted us enormously in our interaction with FEMA. I have some frustration with FEMA and at one point had Congressman Fortenberry help me resolve that frustration. The biggest frustration we had was that FEMA staffing kept changing on us, and one time FEMA folks said, well, we got to start all over because we don't have the project files. I said, no, we're not going to start over, and Congressman Fortenberry helped me with that. [LR527]

SENATOR AVERY: Questions or comments from the committee? Thank you. [LR527]

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ERVIN PORTIS: Thank you. [LR527]

SENATOR AVERY: Anyone else wish to address the committee on LR527? Welcome, sir. [LR527]

BRYAN TUMA: (Exhibit 2) Thank you. Senators, good afternoon. My name is Bryan, B-r-y-a-n, Tuma, T-u-m-a. I'm the assistant director for NEMA. I'm here today to testify regarding the procedures associated with public assistance programs available to state and local governmental entities following disasters or declared emergencies. Nebraska state statutes outline the emergency management program for the state of Nebraska requires NEMA to engage in both response and recovery missions associated with any disaster event or emergency situation. Today, my comments will focus on the role NEMA plays during the recovery phase and event and specifically address those actions required to secure a federal and state assistance for jurisdictions that seek to recover costs associated with disasters. There are two sources of funding linked to disaster management and public assistance programming. First, there are the state dollars provided through the Governor's emergency fund, which was established in state statute 81-829.42 and administered by NEMA. Secondly, there are federal dollars available through the disaster relief fund specified by the Stafford Act with federal regulations identified in 44 CFR and administered by policies adopted by FEMA. The public assistance program established in the Stafford Act provides grants to state, territorial, local, and federally recognized tribal governments and certain not-profit entities to assist them with the response to and the recovery from disasters. And this program does not provide assistance to individuals. Generally speaking, the assistance grants are used for debris removal, emergency protective measures, and permanent restoration of infrastructure. The public assistance process must follow a federally prescribed series of procedural steps. And I've provided a handout to illustrate this process to you, and that would be this document. The process begins with the coordination of a disaster declaration request. If approved, NEMA will meet with eligible applicants to assist jurisdictions in making an informed decision on whether to apply for

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public assistance grants. The state of Nebraska is generally assigned to be the grantee and receives funds through FEMA for reimbursement of costs incurred by eligible applicants or the subgrantee. The public assistance program requires the federal share of assistance to be not less than 75 percent of the eligible cost for emergency measures and permanent restoration. In Nebraska, the subgrantee is responsible for 12.5 percent of the balance and the state will provide the remaining balance through the Governor's emergency fund. Projects require compliance with federal and state regulations linked to the environment, water use, property rights, and property acquisition laws, bidding and procurement requirements, code and building regulations, flood plain management assessments, historical preservation, and a whole host of other processes. It's important to understand that projects cannot be officially closed until a project closeout review validates all work has been completed, the project has been inspected, and the financial disbursements have been reviewed and approved. And, again, this is a federal requirement for receiving those federal funds. This final review process is needed to determine the actual reimbursement cost to the subgrantee to avoid situations where overpayment is made which would require the subgrantee to return dollars to FEMA or underpayment occurs which would result in a subgrantee having insufficient financial resources to finish a project. So I'd like to briefly offer a historical perspective on the public assistance program, and this is the spreadsheet that I have provided. One of the things that you will notice there that over a ten-year period, NEMA and FEMA have provided over \$522 million in public assistance projects. In closing, I wish to thank the committee for their time and consideration today, and I am prepared to answer any questions you might have. Thank you. [LR527]

SENATOR AVERY: Thank you, Mr. Tuma. Senator Scheer. [LR527]

SENATOR SCHEER: Thank you, Senator Avery. Where you've got the federal and the state/local, so specifically NEMA would be paying half of that amount. Is that what you're saying? [LR527]

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BRYAN TUMA: Technically what happens on a federal disaster, one of those projects, FEMA would provide 75 percent of those dollars. So those are 75 percent federal dollars. The local jurisdiction typically has a 12.5 percent contribution and the state matches that with a 12.5 percent contribution as well. So that's typically the funding formula that we follow. Now there are some exceptions based on some new programming after the Sandy Recovery (Improvement) Act, but by and large it's a 75-12.5-12.5 split. [LR527]

SENATOR SCHEER: Okay. What would happen, just out of curiosity, if a local entity did not have the funds? I mean, they were massive enough they did not have the funds for that contribution. [LR527]

BRYAN TUMA: Sure. Let's take Pilger, for instance. One of the things that we found with Pilger was their debris removal process, their project to get rid of that rather large debris pile. If you look at that project, and FEMA is willing to pay 75 percent of those costs, 12.5 percent of the cost to remove that debris pile is very significant. And quite honestly, Pilger probably would not have had the resources to do that, just a hard cash match. So there are some incentive programs where you can calculate volunteer hours, donated resources. Those can be calculated into a formula to help offset the cost for Pilger. So if you look at that particular situation, quite honestly I don't think Pilger is going to have to pay any hard cash dollars because of the tremendous response of volunteers and the donations that came in. [LR527]

SENATOR SCHEER: So they get value for all the volunteer labor and any other products that are donated at that time. [LR527]

BRYAN TUMA: Yes. [LR527]

SENATOR SCHEER: Okay. Thank you. Thanks, Senator. [LR527]

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SENATOR AVERY: Any other questions, comments? Thank you, Mr. Tuma. [LR527]

BRYAN TUMA: Thank you very much. [LR527]

SENATOR AVERY: Anyone else wish to address the committee on LR527? Good afternoon. [LR527]

DANIEL BERLOWITZ: (Exhibits 3, 4, and 5) Good afternoon. Good afternoon, Chairman Avery, members of the Government, Military and (Veterans) Affairs Committee. My name is Dan Berlowitz, the last name is spelled B-e-r-l-o-w-i-t-z. I'm the city administrator for the city of Bellevue. I thank you for the opportunity to testify this afternoon to the committee with the intent of presenting briefly some information on the city of Bellevue's lengthy and somewhat frustrating effort to recover funds due to the city as reimbursement costs associated with the 2011 flooding event. Erv Portis, who was up prior to me from the city of Plattsmouth, the same event. As you know, it was an event that started in early June of 2011, lasted into the fall. And so like Plattsmouth, we have been in the process of trying to obtain reimbursement from both FEMA and NEMA for the costs that the city of Bellevue incurred with that event. Like Plattsmouth, we were in a similar disaster declaration, and that was FEMA 40113 DR NE. The city of Bellevue has submitted a summary of costs and reimbursements related to the 2011 flooding event to NEMA and FEMA. The total cost, and you do have a couple exhibits. The first exhibit A is actually shows the list of specific projects that the city of Bellevue completed as part of our flood recovery. It also shows the total costs that were established in conjunction with FEMA. And then also FEMA's portion which is 75 percent that was just mentioned, and then the 25 percent local. In this case, it also shows what NEMA's share would be, 12.5 percent, in addition to the city of Bellevue's 12.5 percent. As you can see from that exhibit, the total cost associated with our cleanup and recovery due to this flooding event totaled approximately \$2.3 million. And that covered 13 eligible projects. The federal share of cleanup was slightly...was about \$1.7 million, which was the 75 percent that I mentioned before. The state's share, a little over \$283,000 or 12.5

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percent. As of today, Bellevue did receive reimbursement for what were considered to be small projects or projects \$60,000 or less. However, we have not received any reimbursement to date on what are considered to be the larger projects, which are over that threshold. The amount we've received from the small projects out of that \$1.7 million from FEMA, we've only received a little over \$358,000. As has been mentioned before, we have not received, similar to Plattsmouth, any reimbursement from NEMA. So...and we submitted our...completed our projects in November of 2013, submitted with the help of FEMA. And I know the question was asked a little bit in terms of with Plattsmouth what type of relationship we had with FEMA. That's not in my testimony. But I will indicate that FEMA did send representatives out to work with my staff to put together what are the project worksheets that we're required to submit to make sure that they were complete, provided all the information that FEMA needed in order to act upon them. The city of Bellevue has incurred net costs at this point that we've not been reimbursed of about \$1.3 million, and that's just the federal. Excuse me. That does not include NEMA's share. So we've incurred obviously all the up-front costs and paying the contractors and with the intent of being reimbursed at least in a reasonably timely manner from both FEMA and NEMA. I referred to earlier what we felt to be a lengthy and somewhat frustrating effort to receive reimbursement. And I can speak to in terms of our, you might say, interaction with NEMA. From the time we completed our projects, we've had 49 telephone and e-mail communications with NEMA staff. As Mr. Portis indicated, obviously NEMA appears to be understaffed. And so you also have as exhibit B a listing of some of the chronology of our efforts in terms of communicating with NEMA regarding reimbursement for these projects. So as of to date, the city of Bellevue is still owed a little over \$1.3 million and a little over \$283,000 from NEMA. Altogether for us, that's a little over \$1.6 million which we had to up-front. As you can imagine, that does place a significant financial strain upon the city of Bellevue's operating budget. A representative from NEMA, and this relates probably in regard to exhibit B where we've had the communication, Donny Christensen and this is not to criticize Mr. Christensen, but in March my finance department had communication with NEMA and we were told at that time that we could expect initial reimbursement for these large projects within

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several months. That was March. We're now almost at November of 2014. Unfortunately, again, we are still waiting for these payments from the time we submitted to now--seven months. Granted, that's not a huge length of time, but for us it is because again we're still waiting to be reimbursed a significant level of funding. So I guess my purpose of being here today representing the city of Bellevue before the committee would be hopefully to have something come out that the committee would support or there would be legislation or some appropriations that would serve as a catalyst to accelerate reimbursement to municipalities such as the city of Bellevue, obviously the city of Plattsmouth. I know in a hearing in South Sioux City you're going to hear from Nebraska City, you're going to hear from South Sioux City, all encountering similar issues. I would concur with several of Mr. Portis' suggestions in terms of possible ways to resolve this issue which would be to take a look at staffing. We do encounter at times because there is often a turnover in staff, that can create a problem. I know recently there was a turnover in staff with NEMA from someone we've been working with, and they've been there two months, and of course then they have to come up to speed. Or possibly if adding to the staffing of NEMA is not deemed to be the most appropriate way to address the issue, then possibly maybe outsourcing to bring in contractual assistance. Again, the big issue for us is it is a significant burden when we have to wait that long. Our biggest concern is do we get hit with another disaster before we are reimbursed from this disaster? We're all aware of the public mood in regard to taxation. Cities do rely on property taxes. And we don't want to be in a situation of getting in a fiscal crunch and then having to raise local revenues until we can be reimbursed for these dollars. So with that, I would be more than pleased to answer any questions that the committee may have. [LR527]

SENATOR AVERY: Are you required to pay these amounts due before you are reimbursed, before you get money from FEMA and NEMA? [LR527]

DANIEL BERLOWITZ: We are because we have to go out and contract with the companies or the contractors to come in and do the work. And that's why it's on a

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reimbursement basis. So we have to up-front everything. Now granted we receive fairly timely reimbursement on the small projects, but we're talking \$300,000 out of \$1.7 million from FEMA and nothing from NEMA. [LR527]

SENATOR AVERY: Often, we assume that the closer government is to the people being served by government, the better it works. You're suggesting that's not true. [LR527]

DANIEL BERLOWITZ: Well, I would agree. From the standpoint of recovering from a disaster, the fact that as municipalities we are there and we know, obviously we have citizens, we have a public that we have to be responsive to that we're able to initiate and complete the necessary restoration and recovery work much more expediently than if we were waiting for the state or federal government to come in and do it. The problem is, again, is the length of time and just as mentioned earlier in terms of even receiving the 12.5 percent local match that NEMA is to provide. I mean, our 12.5 percent comes up-front, plus up-fronting everything else. Unfortunately I understand there's the need to I guess you might say auditor or verify that payments are accurate. But audits are also done on a lot of federal and state grant programs and if there's an overpayment, then there's a refund, a reimbursement from the local government. I'd much rather use that avenue as opposed to wait until months and months, maybe it could be a year, before we're reimbursed because again that puts us in a financial burden. [LR527]

SENATOR AVERY: But my reading of just a quick overview of what you've submitted suggests that NEMA is following right along with FEMA in delayed payments. [LR527]

DANIEL BERLOWITZ: Well, it would appear to be so. I can understand that the state doesn't want to up-front FEMA's cost. Our problem is why should we? Okay. I mean, obviously we're the local government. As I would assume or understand, we receive FEMA dollars once they've funneled to NEMA, and then those dollars are funneled to us. So, yeah, obviously that's the process and that I would say that service is an

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impediment in terms of a timely reimbursement to the city. [LR527]

SENATOR AVERY: Do you have any suggestions on how the Legislature could respond to this in order to make your life easier? [LR527]

DANIEL BERLOWITZ: Well, again as Mr. Portis indicated, if in fact and I guess I'll say I cannot speak to it for certain, but if they...if NEMA is understaffed and due to the number of events that have happened, seem to happen every year, if that would serve to, you might say, facilitate a more timely payment. I can't speak to the, you might say the communication or the process between the state and the federal government. I would hope that if NEMA is, you might say, completing their responsibility to take the documentation that we provide to them and push it up to FEMA, that would be done in as prompt a manner as possible. And I don't know, obviously the federal government, as we all know, has its share of fiscal issues, and whether that slows FEMA based upon their budget shortfalls to fund the state of Nebraska for issues that we're dealing with versus other states within our Region VII, I don't know. But anything that would help facilitate a good relationship between state and federal and obviously allow us to be, I might say again, reimbursed in a reasonable time frame. We realize everything does have to be documented and substantiated, but again it seems like it's an extremely lengthy period. [LR527]

SENATOR AVERY: Any other? Senator Wallman. [LR527]

SENATOR WALLMAN: Yeah, thanks for coming. I've dealt with FEMA/NEMA in my district. So it's reams of paperwork to get some money, as you probably know. Is any of this money for dike repair or something like...? [LR527]

DANIEL BERLOWITZ: This has nothing to do with the levee system that we're dealing with, which has become really more of an NRD, natural resources district. But that's also an issue, too, because at this point we're having to look at in essence local dollars.

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You did pass legislation this last session to earmark some dollars as part of the water commission. But this does not involve that element. [LR527]

SENATOR WALLMAN: We had a congressman really help us with FEMA. And it used to be First District I was; now I'm in the Third. But he helped us. It takes some power...push. [LR527]

DANIEL BERLOWITZ: All right. I will say we avail ourselves of the opportunity to communicate with our congressman, Congressman Lee Terry, Congressman Fortenberry, Deb Fischer. So we...and they've tried to be very helpful. But...and obviously they only have so much ability in which to shepherd things along, but they've been very good and very communicative with us. [LR527]

SENATOR WALLMAN: Thank you. [LR527]

SENATOR AVERY: Anyone else? Senator Scheer. [LR527]

SENATOR SCHEER: Well, and I may have misunderstood some of the conversation, but it would appear to me that the state is not the problem. Looking at your numbers, the federal government has the big ticket that's still owed to you. And based on the testimony, it appears that the state doesn't fund its portion until the projects are closed. So we don't have the option as a state to send those monies until it is closed and paid, and it's not closed and paid until the federal government pays you I'm assuming. Is that a fair assessment? [LR527]

DANIEL BERLOWITZ: Well, you may have to ask the representative from NEMA. I guess that the lion's share is FEMA. When I mentioned earlier I can't speak to in terms of obviously everything flows up, flows from the municipal government to the state. So we rely on working with the state then to move that on up to FEMA so that way the dollars can flow back down. Our concern is though the fact that it takes until a project is

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audited and if they're short staffed, that audit doesn't happen immediately upon the completion of projects. So we could be waiting a substantial amount of time before we ever received the 12.5 percent local dollars from the state. [LR527]

SENATOR SCHEER: So are all these items completed? Is that what you're... [LR527]

DANIEL BERLOWITZ: All of those are completed, yes. [LR527]

SENATOR SCHEER: Those are completed? [LR527]

DANIEL BERLOWITZ: The numbers I've presented you are all for...we completed all work in November of 2013. So we're now November of 2014. [LR527]

SENATOR SCHEER: Okay. And has...to your knowledge, has NEMA provided the information to the federal government? [LR527]

DANIEL BERLOWITZ: Well, let's put it this way, I hope so. I have no way... [LR527]

SENATOR SCHEER: I'm being serious here. I'm asking you to your knowledge... [LR527]

DANIEL BERLOWITZ: Right. I'm not...yes, I understand. [LR527]

SENATOR SCHEER: ...has all the information been submitted to the federal government? [LR527]

DANIEL BERLOWITZ: We have made...this 49 communications we've had with the state has been in terms of is there information that we need to provide in addition to what we've already provided. And so we're assuming that NEMA is doing their job and they're moving what they need up to FEMA. But again I don't know the day-to-day inner

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workings of that agency. We've had a lot of communication. I think I mentioned there was a turnover in staff just a couple of months ago with a new person who was having to come up to speed in regard... [LR527]

SENATOR SCHEER: Well, that's going to happen in any organization. [LR527]

DANIEL BERLOWITZ: Oh, I understand that. [LR527]

SENATOR SCHEER: I understand that. I guess my concern is, is the problem within the NEMA organization or is the problem within the federal organization? [LR527]

DANIEL BERLOWITZ: Well, as I under...sure, sure. [LR527]

SENATOR SCHEER: And I don't think anyone has been very specific to what the problem is. We understand that the state hasn't paid, but we also see that the federal government hasn't paid. So I'm wondering if it's the chicken and the egg, and so until the federal government pays we can't pay and they're not going to pay until they get some money or whatever the case might be. So... [LR527]

DANIEL BERLOWITZ: Yeah... all I can...sure. All I could say, Senator Scheer, would be that I think it was indicated earlier and I think even when there was initial testimony on the LR to begin with as I understand Al Berndt, who was director for NEMA at that point in time, I think had indicated that that agency needed additional staff in order to be able to be more timely in completing their work. So if that is an issue, then that could very well be creating a delay in everything moving forward. [LR527]

SENATOR SCHEER: Okay. Well, that would get back to my comment then. To your knowledge, has the delay been on the part of the state getting the information to the federal government or is it the federal government the delay...they have the information but they're delaying the trek back down with the cash? [LR527]

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DANIEL BERLOWITZ: Again, I'd like to be able to give you a definitive on that. All I can say is, again, that's why I provided an exhibit with all the various communications we've had with the state, and hopefully that isn't reflective of the fact that the work is not getting done at the state level. [LR527]

SENATOR SCHEER: Well, I've looked, just very (inaudible) at... [LR527]

DANIEL BERLOWITZ: Sure. [LR527]

SENATOR SCHEER: ...at your exhibit. But part of that is also the reconstruction of a building in one of the parks that wasn't reconstructed back to its original purpose or use. [LR527]

DANIEL BERLOWITZ: Sure. [LR527]

SENATOR SCHEER: So that would be a red flag. I think that's exactly why those audits are there. I'm not saying that you did anything inappropriately. But when you do something differently with the money than was originally there, I think that causes a red flag in any project. And so if this is...this may be isolated or not, but when you present something that has a red flag in it I'm wondering if everything that would be on here has a red flag or if this is the only one. But in this I can't find fault in what you presented to us because you were actually doing some things differently than it was there originally. And so when you're asking for reconstruction funds for a project like that, I think that would probably have an expectation of having a longer period of time. [LR527]

DANIEL BERLOWITZ: Well, all I can tell you all of our projects were completed and we don't complete...didn't move forward with any projects with any changes until we had the approval because if we were to do that, that project might not be fully eligible for reimbursement. So all the projects that--even with any changes that were

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involved--were completed by November of 2013. [LR527]

SENATOR SCHEER: Okay. [LR527]

DANIEL BERLOWITZ: And again what I'm saying is we're a year down the road on that. [LR527]

SENATOR SCHEER: No question, I understand you're out the money. But...and I probably am asking the wrong question. I probably should have asked this earlier to a previous testifier as far as the workload going up versus coming down, because that really is to me the real crux of the problem is where the backlog is. I think what you're telling me is that it is staying too long in Nebraska before it starts to pipeline up, but you're not sure about that. And so now to find out if that is the case or if even though it may be longer than what you would like it to be, it has been presented to the federal government and they seem to be the bottleneck trying to get the information back down as well as the funding. So, you know... [LR527]

DANIEL BERLOWITZ: Yeah, Senator, I would hope that all the information for...to, you might say, justify reimbursement on these projects has been provided by the state to FEMA. But again that's why we...our primary communications in a disaster is with the county emergency manager, that goes obviously up to the state. We don't really communicate directly with FEMA. Yeah. [LR527]

SENATOR SCHEER: Well, and that's the concern because based on what I understand to be the way the system works, the state doesn't give...we're the last one to give the monies back. [LR527]

DANIEL BERLOWITZ: Correct. [LR527]

SENATOR SCHEER: And so until we can get the federal government to take care of its

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obligation, we can't by the rules fulfill our obligation. [LR527]

DANIEL BERLOWITZ: And I would agree and that's why hopefully as the study reaches conclusion that if there are some things that maybe do warrant, you might say, addressing with FEMA that those things get ironed out too. I guess the frustration is, is the fact it's a very involved process because it goes from...we deal with the county. It goes to the state. It goes to the federal government. Our difficulty is we're left hanging though. [LR527]

SENATOR SCHEER: Absolutely. You're out the cash. There's not question about that. [LR527]

DANIEL BERLOWITZ: Right. And all we're asking for is hopefully some things, efforts, that can be taken to improve the time frame in which it takes to be reimbursed so we're not sitting here for an inordinate amount of time, so. [LR527]

SENATOR SCHEER: And I can appreciate that. But my concern is even if we accelerated the state's involvement, we had more staff, if we had farmed things out, and we got it there 30 days earlier to the federal government, if they're the ones that are sitting on it for the six or eight months before they do anything, really have we as a state gained anything by the additional expense if it still sits there forever anyhow? I mean, is...do we have a problem within the state or do we have a problem within Washington? And I don't know. [LR527]

DANIEL BERLOWITZ: Right. And, I mean, I understand what you're saying too. I guess at that point we'd know where the problem definitely lies, that it would lie with the federal government. And I suppose at that point in time beyond the state Legislature, then we maybe have to lean even a little more on hopefully the help of our congressional representatives. [LR527]

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SENATOR SCHEER: Okay. Well, thank you very much. You've been very helpful. Thank you. [LR527]

DANIEL BERLOWITZ: Thank you. [LR527]

SENATOR AVERY: Any other comments, questions? I don't see any. Thank you, Mr. Berlowitz. [LR527]

DANIEL BERLOWITZ: Berlowitz, yes. Thank you. [LR527]

SENATOR AVERY: Anyone else wish to address the committee on LR527? Do you want to say anything else, Senator? Okay. [LR527]

SENATOR BLOOMFIELD: Thank you, Senator Avery. I had intended to waive closing. I just want to say that if Mr. Tuma or anybody else has any further information they'd like to enlighten us with, I will be glad to share that with the committee. They can just get it to me and I'll get it you folks. And that's it. [LR527]

SENATOR AVERY: Okay, thank you. All right, that closes the hearing on LR527. We'll now move to the hot topic, Senator Crawford and LR582. Welcome, Senator. [LR527]

SENATOR CRAWFORD: (Exhibit 1) Thank you. Good afternoon, Chairman Avery and members of the Government, Military and Veterans Affairs Committee. My name is Sue Crawford, C-r-a-w-f-o-r-d, and I represent District 45, of Bellevue, Offutt, and eastern Sarpy County. Thank you for the opportunity to appear before you today and share some of the results of our interim study, LR582, regarding unfunded mandates to counties. I've prepared two testimonies so you don't have to hear the same thing twice. (Laugh) Unfunded and underfunded mandates are familiar to most who work in the public sector. Simply put, unfunded mandates occur when one governmental body or agency requires another governmental body to perform a function or change policy

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without a funding mechanism attached. Over the years, the state has been subject of several unfunded mandates passed down from Congress. For example, one federal mandate familiar to my district is the required levy improvements around Offutt Air Force Base due to updated FEMA regulations. These are unfunded federal mandates that will not be paid for by FEMA. Here in the Legislature, when we pass unfunded mandates down to cities and counties, political subdivisions must rely on property tax revenue to cover the costs of these mandates. In tight budget times, the Legislature has in the past made cuts to balance the budget. These cuts have included: reducing the amount of sales tax retained by counties; eliminating aid to counties; and reducing or eliminating state reimbursement to counties for services that they provide for the state. With the economy stabilized, now is an opportune time to evaluate some of these unfunded and underfunded mandates more broadly. What's more, unfunded mandates to cities and counties often get passed one by one. Some of these mandates may not be very burdensome on their own; indeed, it's the totality of all these mandates that...all that we ask counties to do on our behalf that can cause an undue burden on counties and put additional pressure on our property tax revenue. Studies such as LR582 provide an opportunity for an examination of unfunded and underfunded mandates writ large, allowing the Legislature to assess how these individual mandates add up. My interest in unfunded mandates to counties grew following the Tax Modernization Committee hearings last summer. Property tax relief was one of the top issues mentioned throughout the hearings. Unless the state relieves pressure on counties created by unfunded and underfunded mandates, it will be difficult to see property tax relief on a large scale. Our interim study research began with the work of Government legal counsel Christy Abraham. And I thank you for your work helping us with this study. She combed through statutes and identified responsibilities and tasks the state assigns to counties. These lists served as a starting place for a series of conference calls that we held in July with county officials across the state regarding unfunded mandates. And Chairman Avery joined us for those calls, and I appreciate having you on those calls to talk with the county officials as well. We asked county officials to identify those mandates that were most burdensome and the ones that the state Legislature could

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most directly address. Some of the county officials who participated in those calls are here to testify today. These calls resulted in a list of 16 target actions for the state to address mandates to the counties, a copy of which the page is circulating now. This list, in addition to any unfunded mandates identified at these public hearings, will be submitted as part of our final report to the Legislature in December. Over the course of these two hearings, there will be testifiers who will address most, if not all, of the unfunded and underfunded mandates on this list. I'm not going to on a Friday afternoon go into detail on all 16, (laugh) which I'm sure you're glad to hear. Before I go...before I talk about just a few of them, I do want to say that, you know, bigger picture, part of our interim study research was also thinking about moving forward and what do we need to do to reduce the likelihood that we pass unfunded mandates in the future. So as part of that discussion, we met with the Legislative Fiscal Office to see if there might be a role for changes in the fiscal note to reduce the likelihood that we pass unfunded mandates in the future. And those conversations, though, affirmed that county officials are already able to submit fiscal notes for bills that have a budgetary impact on counties. And that information that counties present does get put in our fiscal notes that we can see when we debate those bills. And so, moving forward, I encourage counties to make sure to use that process so that they can bring unfunded mandates within proposed legislation to our attention during the debate. So going to just a few of the mandates that...the actions that are on your handout. One target mandate I would like to address briefly today revolves around reimbursements to counties for housing state prisoners or defendants in county jail facilities. In 1998, the Legislature passed LB695 as a property tax relief measure. The legislation reimbursed counties for expenditures they incurred while housing state prisoners and defendants who were charged and later found guilty of state crimes. LB695 set the reimbursement rate at \$35 per day up to \$6.9 million total. At the time, the cost to counties for housing these individuals ranged between \$50-100 per day. So LB695 set the rate at \$35 to meet the needs of the state budget, not necessarily...not the needs of the county. Today, these costs would range anywhere from \$90-140 a day. In 2001, the county jail reimbursement fund was fully funded. However, during the 2002 budget Special Session, this fund was cut to \$3.9 million in

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funding each year. Several counties, including my county, Sarpy County, had years where they did not receive their full reimbursement because the fund had run out. County jail reimbursement ended entirely in 2011. In Sarpy County, this loss of jail reimbursement means a loss of approximately \$200,000 a year. However, because the original funding in LB695 did not cover the real cost of housing these individuals, the actual cost...the actual loss to Sarpy County is in the \$800,000 range each year. In the current overcrowding environment, the state has contracted with some counties to house state prisoners at a negotiated rate. This program though is...operates separately from the mandate that I have just discussed here in terms of the mandate to house defendants charged with a state crime pretrial and to transport these individuals postadjudication. This is a major strain on counties' budgets, and we need to do a much better job at the state level to compensate counties for these expenses. I plan to introduce legislation next session to tackle the first four of the mandates that are listed on the document in front of you. And other senators have expressed interest in tackling a few others. Those are also marked on the sheet. And we hope other senators will pick up some of the other suggestions as well. The first on the list restores a one-half percent commission to counties across the state of Nebraska for all motor vehicle sales tax collections over \$3,000 per month. Prior to October 1, 2002, counties received a 2.5 percent commission on the first \$3,000 of motor vehicle sales taxes collected in the county during the previous month, as well as a .5 percent commission on tax collections over \$3,000. This .5 percent commission was eliminated as part of a larger budget package during the state budget crisis that year. You'll hear later this afternoon from Rich James, Sarpy County Treasurer, regarding the actual cost of this, to perform this state function, compared to the amount that counties receive in compensation. A second issue I plan to tackle is increasing user fees, such as marriage license permits and registrations, and indexing these fees to inflation in future years. Many of these user fees have not been increased for over 20 years. Marriage fees, for example, were last raised in 1995. As a result, these services cost counties more to perform than they can currently bill. In Lancaster County alone, the county clerk's office issues on average 2,100 marriage licenses a year and 3,000 certified copies of marriage licenses. The

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estimated cost for providing this service last year was approximately \$106,000, or cost of approximately \$54 per license. Currently, counties can only charge \$15 per license per state statute. This means that Lancaster County taxpayers subsidize the cost of providing marriage licenses to the tune of approximately \$84,000 a year. What's more, all of Nebraska's neighboring states charge more per marriage license. Colorado and Wyoming charge \$30 per marriage license, double Nebraska's current rate, while Iowa, Missouri and Kansas charge anywhere from \$40-85 per license. We've also learned there is a discrepancy between the amount of money counties and the state can charge for certified copies of marriage licenses. If you request a certified copy from a county clerk, you pay \$5 for that copy. If you request a certified copy from the state, however, you'll pay \$15 for the same thing. Our work to raise user fees will also address this issue. The third and fourth items on the list involve issues brought to us by clerks of the district court. Currently, a county court charges a county attorney's office for certified copies of convictions even though the counties currently provide the office space, security personnel, and office supplies for the county courts. Clerks of the district court also experience a shortfall when defendants fail to pay filing fees in criminal cases. If the defendant is sentenced, the judge can order the defendant to pay fees as part of his or her sentence. If the defendant is unable to pay or refuses to pay the fees, he or she can sit it out in jail with an approximate cost to the county of \$90 a day. Some of these costs are unavoidable. However, in situations where judges waive court-related fees, counties are still on the hook for other fees, such as the Judges Retirement Fund. We're still gathering data on the frequency with which this practice occurs, and we'll have more testimony on that front in our hearing in South Sioux City. As I mentioned earlier today, you will hear from county officials across the state regarding unfunded mandates within their jurisdictions. I appreciate the attendance and participation of all of the county officials with us today. However, I especially appreciate the county clerks and election commissioners for sharing their time with us so close to an election. Because this is a very busy time for them, I ask that we allow them to testify first so they can get back to their offices and continue to work on our elections as soon as possible. Thank you, and I'm happy to answer any questions you may have now, although there may very well be

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testimony after mine (inaudible)...questions. [LR582]

SENATOR AVERY: Thank you, Senator. Senator Bloomfield has a question. [LR582]

SENATOR BLOOMFIELD: Thank you, Senator Avery. Senator Crawford, you mentioned a cost on this certified copy. How much was that again, do you...? [LR582]

SENATOR CRAWFORD: Well, the...if you ask for a copy...if you ask a county for a copy, they must provide it for \$5. And if the state, if you ask the state for a copy, it costs \$15. So it's just different fees that are allowed. [LR582]

SENATOR BLOOMFIELD: I thought you said something about it cost the county \$54 to produce the certified copy. [LR582]

SENATOR CRAWFORD: Oh, of the actual marriage certificate (inaudible). So I...you can ask behind me, you may be able to talk to a county clerk, get more information about how that...where that cost came from. That was an estimate from the Lancaster County. [LR582]

SENATOR BLOOMFIELD: All right, that just sounded like a lot. [LR582]

SENATOR CRAWFORD: All right, thanks. [LR582]

SENATOR BLOOMFIELD: Okay. Thank you. [LR582]

SENATOR AVERY: But the point is that the fees don't come anywhere close to covering the real cost. [LR582]

SENATOR CRAWFORD: Right, right, so. [LR582]

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SENATOR AVERY: And that's in all the counties, all 93. [LR582]

SENATOR CRAWFORD: That is correct. And the fees are in statute. So anytime you need to increase them, it would take legislation to increase them, you know, over the years as we have inflation. [LR582]

SENATOR AVERY: Have you ever enjoyed the experience of trying to raise those fees? [LR582]

SENATOR CRAWFORD: No, I've not. (Laughter) [LR582]

SENATOR AVERY: Well, I have. We should talk. [LR582]

SENATOR CRAWFORD: I appreciate that. I don't doubt it's a heavy lift. [LR582]

SENATOR AVERY: It is. Senator Scheer. [LR582]

SENATOR CRAWFORD: That's why they haven't been increased, I'm sure. It's a tough job. [LR582]

SENATOR SCHEER: Thank you, Senator Avery. Senator, my thought is we're talking about dollars. Some of this I can see as user fees. If you're getting married, then you should be willing to pay more of the actual costs or the actual cost of...a number of these are not. They would be essentially a shift of who pays dollars. How important is this as we move forward, from a legislative standpoint, and for you personally, because we only have as a state so many dollars. So if there are some extra dollars, is this something that then has the highest priority, that we should look at first? Is this an also run that's five or six down the lines? So my question to you specifically is, how important are these things that the state would shift those funds and be paying them from the sales and income rather than the property taxes on a county basis? [LR582]

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SENATOR CRAWFORD: Good question. I believe one of the top priorities that we'll have in this next session is property tax relief because it has had so much attention, and that there's a sense that there's still more to be done on that front. So I think that bumps up addressing at least some of these to a very...to a high priority. I don't know that we'll be able to, you know, be able to afford to do all 16 in one, you know, one session. It may be the case that we work on it over time and try to address a few over time.

[LR582]

SENATOR SCHEER: Well, I guess... [LR582]

SENATOR CRAWFORD: But it's a long-term agenda of trying to get those addressed. And then the other issue is my own personal commitment to set a high priority on highlighting the importance of avoiding future unfunded or underfunded mandates that is something that we make sure that we discuss. [LR582]

SENATOR SCHEER: I appreciate that. But my question is more specific to you than that to the extent that each year, myself included, so I'm not trying to put any aspersions that I'm the unique one here. [LR582]

SENATOR CRAWFORD: Right. [LR582]

SENATOR SCHEER: But we all have priorities and we all find ways to spend state funds. And if we go back the last two years, you know, a few of these things on here did come up in front of the Government Committee, didn't catch much traction because it was a tax shift. And the priority of the Legislature seemed to be that of other things, of social issues and correctional and a lot of other things. So is it your opinion that these now have had the opportunity, because of time, to rise above those, because I think those issues are still out there and, for the most part, a lot of those weren't fully funded, as well, and education, a multitude of things. So where does this, where do these items

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fit into the scheme of the Legislature's (inaudible) calendar? [LR582]

SENATOR CRAWFORD: Sure. It will be my intent to make sure that these are considered as a high priority. I'm not going to give it a number or rank, but I think they are a high priority that we'd be considering. And it is the case that we as a body are going to have to make that choice, are going to have to balance education funding and addressing these and new Corrections funding or other issues that are brought forward. So it's something that we're going to have to decide together, and I'm going to...it's going to be a high priority for me, and I'm going to push that as an important priority for all of us to address. But I can't answer right now how many...you know, where it will land in terms of a rank order. But I would put it as a high priority, and it is the case that we have to...I think the pressure to address property taxes helps to push it up in the priority, and I think that the fact that several of these have gone on for multiple years and have put added pressure on the counties helps to add to that pressure. [LR582]

SENATOR SCHEER: Do you perceive the problems listed to be equal among all counties? [LR582]

SENATOR CRAWFORD: Well, the different counties are of different sizes. And one of the issues that we discussed on our calls was that some things hit more counties, hit some counties differently than others. And the larger counties, some of the expenses are much larger, but then they also have a larger base, so. [LR582]

SENATOR SCHEER: Right. [LR582]

SENATOR CRAWFORD: So...and I think that's part of why the issues that hit multiple counties will probably rise to a higher level of priority because all of you will hear about them from your counties as well. [LR582]

SENATOR SCHEER: I mean, I guess, you know, looking at much...very small counties,

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if somebody comes in for a marriage license, indeed, it may technically be \$54. But I don't know that that person in that office isn't going to get done what they're going to get done during the day as well as issue that. Conversely, in Sarpy or Douglas County, you know, they actually have people dedicated to that, and that's (inaudible) and it's not covering the expenses of the people involved. So I'm just wondering how equitable even these are among the counties throughout the state, if we're looking at equitability from both large counties to the very small counties as well. [LR582]

SENATOR CRAWFORD: Right, right, that's an interesting point. That's one thing that is...that I find very attractive about the reimbursement commission component on the motor vehicle sales tax, because it is a percentage, you know, so the counties that have the larger load on that get, you know, more of a compensation. But even on the marriage license you still have...it varies by county because the ones that have a lot, you know, obviously, it's a...get more compensation than the others. But figuring out...and that's one of the challenges that really counties faced as we were trying to estimate how much it costs per county or come up with a total cost is that it does vary quite a bit by county. And so that's why I think that will be part of the discussion is how do we come up with a fair discussion. [LR582]

SENATOR SCHEER: Well, and I guess that was my final question. Through any of your studies or research, any idea...you know, you're talking about this as an avenue for property tax relief. What type of relief are we talking about? I mean, yeah, a dollar is still a dollar in property. But, I mean, are we talking about major dollars that would...I mean, somebody is going to look at their tax bill from last year versus the next year and see an appreciable difference, or is it a lot of the things that are not a lot of dollars or not a large percent of dollars of any county's organization? [LR582]

SENATOR CRAWFORD: Good question. In some of our discussions we had asked counties to try to estimate what it...what difference it would make in their property tax. So I don't know if you'll hear that today or not in terms of how that dollar figure actually

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converts to a property tax levy level issue. In those discussions, both Chairman Avery and I both talked about the importance of making sure that, if we were moving forward on this, there was a discussion on the part of the counties, as well, as how this would really translate into appreciable property tax relief that would be important for us to see what that would look like, important for voters to see that, in terms of seeing how these changes translate into property tax changes. And I think that's also part of what will determine priorities in which things get passed, is which ones are ones that are...we think are high enough priorities and also we see will actually make a substantial difference to the average property taxpayer. Thanks. [LR582]

SENATOR SCHEER: Okay, thank you very much. I appreciate that conversation. [LR582]

SENATOR CRAWFORD: Um-hum, yeah. You're welcome. [LR582]

SENATOR AVERY: Senator Wallman. [LR582]

SENATOR WALLMAN: Thank you, Chairman Avery. Welcome. [LR582]

SENATOR CRAWFORD: Thank you. [LR582]

SENATOR WALLMAN: Good to hear your testimony. [LR582]

SENATOR CRAWFORD: Thank you. [LR582]

SENATOR WALLMAN: It's good to be a champion for the counties. [LR582]

SENATOR CRAWFORD: Thank you. [LR582]

SENATOR WALLMAN: And I think when we had those severe budget cuts, we literally

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threw counties under the bus. And Senator Avery and I, I think, are the only two on here that did this. I didn't vote for this, you know that. But... [LR582]

SENATOR AVERY: Wait a minute. [LR582]

SENATOR WALLMAN: And I think they're loosely promised to get that (inaudible) (laughter)... [LR582]

SENATOR CRAWFORD: So you're saying you didn't throw them under the bus. [LR582]

SENATOR BLOOMFIELD: (Inaudible.) [LR582]

SENATOR AVERY: I'm going to exercise executive privilege and not comment on that last...Senator Murante. [LR582]

SENATOR MURANTE: Thank you, Senator Crawford. Getting back a little bit to what Senator Scheer was talking about, do you have a concept of, if we were to implement all 16 of these ideas, what the aggregate fiscal note would be? [LR582]

SENATOR CRAWFORD: No, we do not. We do not have an overall total cost. [LR582]

SENATOR MURANTE: If you had...a million dollars? Ten million? [LR582]

SENATOR CRAWFORD: And, no, I'm not even going to guess. (Laugh) [LR582]

SENATOR MURANTE: Hundred million? [LR582]

SENATOR CRAWFORD: Maybe I'll work on a guess... [LR582]

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SENATOR MURANTE: Okay. [LR582]

SENATOR CRAWFORD: ...for South Sioux City, so. [LR582]

SENATOR MURANTE: Okay. All right, well, I'll look forward to that. And... [LR582]

SENATOR CRAWFORD: But we were originally, and I think this is part of the challenge of really identifying those costs in the county, because that was our initial plan was to really come to you with, boy, this is a total number. But it is challenging, and obviously the counties are also busy. And so we didn't want to mandate them to take time to come up with all of these costs. (Laugh) So for some counties it was easier than others, so we tried to get estimates for the pieces that we could that...where we were able to get that number. But I don't...I...even by the next time, I don't think we'll have a really good sense of the total cost. [LR582]

SENATOR MURANTE: Okay. And I recall...I wasn't a member of the Legislature when we had the economic downturn and stopped giving state aid to counties, but I was actively listening to that discussion. And I think part of the rationale, if I recall debate correctly, was that we gave...we as a Legislature in years past gave aid to the counties with the understanding that it would lower property taxes; and then we gave aid to the counties and they did not lower their levies, especially when land values increase at the same time. So I think the discussion is going to happen as we have a discussion on these. What assurances do we have that if we take this burden away from the counties and put it back on us and rely more heavily on sales and income tax dollars that they aren't just going to find other things in the county to spend the money on? [LR582]

SENATOR CRAWFORD: Right. That's a very good question, and it's one that I encourage you to ask all the county people who come up after me. (Laugh) [LR582]

SENATOR MURANTE: Okay. (Laugh) [LR582]

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SENATOR AVERY: Senator Bloomfield. [LR582]

SENATOR BLOOMFIELD: Thank you, Senator Avery. Your items number 3 and 4 on here allow counties to waive requirement to pay for filing fee if the judge has waived the fees for defendants and require that county courts cannot charge counties for certified copies of convictions. Do we have the counties charging themselves? Is that what we're looking at here? Particularly, number 4. [LR582]

SENATOR CRAWFORD: I think it's the counties are having to pay for those even though they are actually, yes, they are actually, like, doing the work but then having to pay as well. [LR582]

SENATOR BLOOMFIELD: They're billing themselves? [LR582]

SENATOR CRAWFORD: Yeah, yes. So I believe somebody... [LR582]

SENATOR BLOOMFIELD: There would be a little money saving as soon as they cut that out. [LR582]

SENATOR AVERY: Any other comments or questions? Thank you. [LR582]

SENATOR CRAWFORD: All right, thanks. Thanks. Thank you. Kaitlin will be here taking notes. I'm going to go across the hall to the Health and Human Services hearing for a bit and I'll hopefully be back before the end. Thank you. [LR582]

SENATOR AVERY: Okay, thank you. All right, I presume you people who are going to address the committee have figured out who goes first. Dave, it looks like you're the one. Are you going to make the case for election commissioners? [LR582]

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DAVID SHIVELY: (Exhibit 2) Yes. [LR582]

SENATOR AVERY: And Mr. Bena is going to do what? [LR582]

DAVID SHIVELY: Yeah, he's going to...we're kind of tag-teaming this a little bit, so I'll try not to take too much of your time. Thank you, Senator Avery and members of the Government Committee. My name is David Shively, D-a-v-i-d S-h-i-v-e-l-y. I'm the Lancaster County Election Commissioner, and I'm just here basically to talk about election costs. And you know counties are required by state law to conduct elections at all levels of government, from federal, state, down to our local level. And state law does allow us to prorate those costs out and bill to the local level and below, but it doesn't allow us to prorate those costs out and bill the other direction--up--to the state and federal government, of course. Lancaster County, and I gave you a handout here, for the 2010 general and the 2012 general, if you look at that, it was our billable costs. If I would break it down per item or items that are on the ballot, what we would have billed out to...for each of those races and that we...what...and then if you look in the next column over, it's what we actually billed out to political subdivisions and included the county in that because the county pays our...is general fund county pays for the little...for those costs. So if you can see, in 2010 it was about a third of our cost and that we were able to recoup back from the political subdivisions. And in 2012, it was about a fourth of those costs, so we don't...able to recoup much back because the political subdivisions, what the law says is that you go in and you basically measure the ballot ink space that each race on the ballot takes, and then you divide your total cost by the number of precincts. And then you take the percentage of what they add in that...on each ballot precinct, and that's what you're able to bill back to the political subdivisions, and with a minimum charge of \$50. And that's why if you look down to the villages, we can't even...with that, I bill all the villages \$50, they don't even meet the minimum of \$50. And I will tell you that, even with that, it costs us probably between \$350 and \$500 for each race we put on the ballot from our coding costs, costs of the sample ballot, programming the AutoMARK that assists voters with disabilities, it's going to cost us

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much more than \$50 but we can't get that recouped. So it kind of goes both ways there. In addition, we place on the ballot when the Legislature puts on constitutional amendments or if there are initiatives that might be placed on the ballot. Those come into play with us. And when you start doing percent of ballot space, some of the language on that is very lengthy, so it takes up a big percentage of the ballot space, so then it reduces the amount that the rest of the political subdivisions might pay. So another thing, and I brought this up when we were on the telephone calls, is judges' retentions. In 2010, we had 16 judges on the ballot here in Lancaster County for retention that took up the back page of a ballot, almost the entire back page. So again, that was...they take up a good percentage of the ballot. We'll have that again in 2016 because about...that...most of those judges will be back up for retention at the same time. The last thing that I wanted to bring up is this summer we did petition verification of the minimum wage petition. And if there would have been any others, we would have done that as well. But for our office, in order to get that done in the 40 days that we were allocated to get that done, we did have to bring in some temporary staff in to assist us on that, and that cost the county an additional \$5,000 approximately. We paid that, those temporary employees to come in. My staff worked on it as well, my permanent staff did. But if we would have had permanent staff do all of the work, then their regular work wouldn't have gotten done, so we would have been backtracking when got closer to the end of...middle...to the end of August. So there are issues that, you know, that are reimbursement that we do not get back, we're required to do. And we are not able to get that recouped in any way. It becomes a county expense. And with that, I know Commissioner Bena is going to have a few other items that he wanted to talk about, but I'd be happy to answer any questions. [LR582]

SENATOR AVERY: Thank you, Mr. Shively. Senator Scheer. [LR582]

SENATOR SCHEER: I understand where you're coming from--you know, the cost and so forth, but, as well, I mean, somebody has got to pay for it. [LR582]

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DAVID SHIVELY: Right, it's all out of taxpayers' dollars, I understand that. [LR582]

SENATOR SCHEER: Yeah. Voting for the president is as much the responsibility of the people that live within your county versus the people that live within the state. I mean it's sort of a shared responsibility, would you not say? [LR582]

DAVID SHIVELY: Oh, it certainly is. But there's still a cost. There's a cost somewhere. [LR582]

SENATOR SCHEER: I understand, but you're...I guess are you saying you don't expect all of it but maybe just part of it? Is that what you're... [LR582]

DAVID SHIVELY: You know, yeah, I think that would be...I think the one thing, and I think the thing that election commissioners and county clerks talk about a lot, is not so much the statewide offices that may be on the ballots when we get the initiatives and the constitutional amendments that will get added on the ballot and then do take up an enormous amount of space on the ballot. Those are probably the areas where we would like to see some consideration of some reimbursement back probably more than anything else. I was just trying to show you, if we billed out the way state law allows us to bill the villages and the cities, the same way that those costs would go up, it would...the way would be a lot upward. So we're allowed to go downwards, but we're not allowed to go upwards. And that's what I was trying to show. But if you do look on there, you know, I have the initiatives or the state amendments on there. I mean in 2012 that was, of our costs, it was almost \$125,000 of our cost if you billed out exactly the same way as we do as what the state law, which 32-1203 allows us to do. [LR582]

SENATOR SCHEER: Just out of curiosity, you're showing all the billable expenses for 2012 and it's \$380,000. How much would be the cost of the ballot printing itself? [LR582]

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DAVID SHIVELY: Ballot printing, it... [LR582]

SENATOR SCHEER: And if you don't know, that...you can get back to us, that's fine.
[LR582]

DAVID SHIVELY: I don't know the answer. [LR582]

SENATOR SCHEER: I'm just curious on that, how much... [LR582]

DAVID SHIVELY: I can get back to the committee on it, on what we actually did on that.
[LR582]

SENATOR SCHEER: Okay. [LR582]

DAVID SHIVELY: It costs us approximately I think what we're paying right now is 9 cents a ballot (inaudible)...20...26 cents a ballot. It's 9 cents if you get blank ballot stock. It's 20...about 22-25 cents a ballot that we pay for printing. [LR582]

SENATOR SCHEER: Print it. Okay. [LR582]

DAVID SHIVELY: And that depends on whether it's front and back. [LR582]

SENATOR SCHEER: Okay. [LR582]

DAVID SHIVELY: And if you have a second ballot page, you know, it could add to that as well. [LR582]

SENATOR SCHEER: Okay, thank you. [LR582]

DAVID SHIVELY: You bet. [LR582]

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SENATOR SCHEER: Thank you, Senator. [LR582]

SENATOR AVERY: Any other questions, comments? Senator Wallman. [LR582]

SENATOR WALLMAN: Thank you, Chairman Avery. Yeah, thanks for coming. How come they're so tremendous difference in cost, like Freeman is \$6.85, Malcolm is \$172, you know, and then Milford... [LR582]

DAVID SHIVELY: Freeman School District only has about 9 voters in Lancaster County, and so they're a very small part of...on the ballot portion in Panama Precinct, so. [LR582]

SENATOR WALLMAN: That explains it. Thanks. [LR582]

DAVID SHIVELY: Yeah, yep. [LR582]

SENATOR AVERY: Any other questions or comments? Thank you, Mr. Shively. [LR582]

DAVID SHIVELY: Thank you. [LR582]

SENATOR AVERY: Next testifier. Welcome, Mr. Bena. [LR582]

WAYNE BENA: Good morning, Chairman Avery and the members of the committee. For the record, my name is Wayne Bena, W-a-y-n-e B-e-n-a, and I serve as election commissioner for Sarpy County. The purpose of both Commissioner Shively and I, as we were under the assumption that there was going to be a time limit as normal and this is quite the surprise that there is not a time limit...so for future Chairmen of this committee, not having a time limit would be very nice in future legislative bills, just

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putting it out there. [LR582]

SENATOR AVERY: All the candidates follow my lead. (Laugh) [LR582]

WAYNE BENA: (Laugh) Okay. So I'm going to really not try to duplicate what Commissioner Shively did because I want...but I will talk about my primary, which is a majority of where the state races lie. But I also want to kind of talk just a few minutes about how the future of how we pay for elections because I'm under no thoughts of grandeur that in the next legislative session the state is going to pay for election costs. But I want to at least have this committee take a look at in the future how we relook at election costs so maybe the state doesn't necessarily have to pay election costs if we change the way that elections are done or how reimbursements could be made in different areas. So I know this isn't the most biggest thing on the priority list, but I thought it was very...important enough that this bill was coming before this committee because elections come before this committee, that these type of things we talk about in a larger, comprehensive package of how elections are run and paid for in the state of Nebraska. In the 2000...before I get into my costs in 2014, I do want to appreciate and say thank you to the state for the things that they do pay for. You're going to hear a lot of things on what the state doesn't pay for, and I want to know that there are some things that I do appreciate. The state does pay for the statewide voter registration program, which I think is a valuable resource to make sure that all of our books are clean throughout not only in the county but in the whole state as well. Having a statewide voter registration comprehensive system allows us to have some of the cleanest books in the entire state or country, and I appreciate the state paying for that. I appreciate the state paying for the maintenance of the county...the counting equipment, as well as the AutoMARKs for the disabled. They negotiate on behalf of all of the counties of the state to have that equipment paid for, as well as paying for Secretary of State staff to help us answer the questions and keep us all on the right track. So for as many things that we wish are paid for, I do appreciate the things that the state does pay for. However, the state pays for that, basically, mainly, on Help America Vote Act funds

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that they got from the federal government. And as we heard in testimony last year, that money is pretty much all the way gone. And some of the funds from the Secretary of State's Office to pay for statewide voter registration and the maintenance of the equipment is now coming from General Funds. And Senator Avery worked on a bill which transferred some of the money from the NADC that was sitting there that didn't need to be used anymore and what have you and got us through the next two years. Well, that money isn't available, so now more costs to the General Fund are going to have to happen, the stuff that's already here. For the costs that are not here, in the 2014 primary election my recoverable costs were \$87,000, which is approximately 20 percent of my overall budget for last...for that year. Thirty-one percent were billable to cities, schools, MUD, OPPD, community college, and NRDs, approximately \$27,000. Seven percent, or \$6,000, were county expenses which the county pays from my full budget. Sixty-two percent, approximately \$54,000, were state or federal races that I am not allowed to be reimbursed for, for being able to have onto the ballot. I will say that in legislation that was passed by this body last year, by not having county races on the ballot that did not have to be on the ballot, that did lower the county expense but did raise the expenses of the 31 percent but it would have been lower had we not done that. So one idea and solution is, is that the more things that we can take off of the ballot that don't need to be on the ballot is the less that anyone has to pay for. So while 62 percent of my ballot costs were the state, many of the races that we had on the ballot did not have opponents in the primary. So especially in primaries there's a lot of cost savings that could be had all over the course of the board if we follow the same procedures that we do for schools, cities, and now county races as well. In regards to petitions, it's a little different for us because we handled all the petitions in-house mainly because, since I knew I couldn't get reimbursed, we did everything ourselves, staff. But as Commissioner Shively mentioned, because we were working all summer on petitions, we weren't working on some of the things that we normally would have done during the summer, such as supply boxes, getting...recruiting more subs for poll workers or what have you. So a lot of that was delayed because I knew I couldn't be reimbursed and I didn't want to go over budget, so we handled it in-house, even me personally

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verifying petition signatures, as many county commissioner...as many county clerks in their offices would do. So again, that's a little bit about how the costs affect my office. But again, we're not under...there are many things that I believe that are on Senator Crawford's list that's probably a little bit higher priority than election reimbursement costs, and I fully recognize that. But why I'm here is because I think, as we have seen how the money is gone and more things are going to be pushed to the counties possibly because that money is not there, either the state is going to have to pick up some costs or it's going to go more to the county. So the discussion about how elections are going to be run due to the fact that most of the equipment that was purchased in 2006 is starting to reach the end of its life cycle, it's probably important not to figure out how the state could reimburse costs, which would be great if they could reimburse some costs, but how do we go forward in conducting elections in Nebraska that can be of a fiscally responsible matter that the state wouldn't necessarily have to worry about paying as much of the 62 percent of the costs that were afforded to my office because I could not be reimbursed. So it is my hope, as this committee's work in elections moves forward, we can have a conversation of how elections move forward with how the money being gone, as well as the life cycle of the equipment that we have coming to an end. So with that, I will maintain or stop my testimony, which I believe was under five minutes, still, and answer any questions that you may have. [LR582]

SENATOR AVERY: You're well trained. (Laugh) Questions? Comments? Mr. Murante. [LR582]

SENATOR MURANTE: A lot of the discussion on these unfunded mandates is...gets down to the fundamental question of who is responsible for these costs. And in the question of the conduct of elections in the state of Nebraska, who, at the end of the day, is fundamentally responsible for ensuring the accuracy and fairness of the conduct of elections in Nebraska? [LR582]

WAYNE BENA: Ultimately, the Secretary of State, ultimately. But theoretically, the

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Secretary of State but ultimately it's our job to make sure it's done correctly. I guess what I would say is, is that, you know, when a city wants to put their mayor on the ballot, they have to pay for it. If the school wants to put a bond issue on, they have to think about how much that cost is. When a city wants to raise their sales tax, they have to think about how it's going to impact their budget. The state does not have to worry about putting any constitutional amendment or putting any initiative on it's going to cost the state anything. If you would add an A bill to a constitutional amendment or an A bill to a legislative resolution that has to be voted on by the people, you might think twice about whether or not that is going to be passed or not based upon the overall cost of that. So for the state to want to elect its Governor or its Treasurer or its State Legislature, a legislative member, I believe that the thought is, is that they should have to pay for putting that on the ballot, as would any other political subdivision would have to, as well. But again, I don't think...I don't truly believe that that's the highest maybe priority, but I think the priority is how do we figure out how to reduce the cost of elections going forward statewide, instead of worrying about who pays for what. And I think there can be some significant cost savings as we move forward with elections in the state of Nebraska. [LR582]

SENATOR MURANTE: Thank you. [LR582]

SENATOR AVERY: Any other comments? Questions? Thank you, Mr. Bena. [LR582]

WAYNE BENA: Thank you. [LR582]

SENATOR AVERY: Next testifier. [LR582]

MARK YOUNG: Good afternoon. [LR582]

SENATOR AVERY: Good afternoon, sir. [LR582]

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MARK YOUNG: My name is Mark Young, M-a-r-k Y-o-u-n-g. I have the privilege of serving as the Hall County Attorney and am here today on behalf of that office and with general comments on behalf of the county. I appreciate the opportunity to discuss the issue of unfunded mandates. Probably in the criminal and juvenile areas are the areas where they are the biggest. And I want to emphasize that I'm not criticizing the policy decisions the Unicameral has made. I'm talking about some of the unintended consequences. Before I get into the bulk of that testimony, Senator Bloomfield, you were asking some questions about the paying for the certified copies. What happens is the county pays for the office equipment, the office supplies for the county court. And then if my office requests a certified copy of, say, a DUI prior conviction so we can show somebody is a DUI, third, we're charged by county court to buy our own copy because the county court is a state entity even though, you know, the supplies are paid for by (recorder malfunction). Similarly on the court costs, the problem we have is, is that if the court chooses to waive the court costs, and there may very well be times where that's the equitable, just thing to do, a significant portion of those court costs by statute are not waivable. Instead, they're paid by the state and I have to sign and claim every month, you know, certifying to the county board they've got to pay this. That's for judges' retirement, for the Commission on Public Advocacy. I think there are at least two other areas, so a significant portion. Three areas I think that have been identified in terms of unfunded mandates in the criminal and juvenile area are ripe for I think review. The first is the cost of housing Probation in the Department of Health and Human Services. Years ago, there was a decision made to consolidate services that had been run on the county level onto a state level, and the Unicameral said, well, we're going to have the county go ahead and pay for what they're furnishing now, basically. What's happened, of course, is, is over time, the Unicameral has looked at the problems in the juvenile world and said, well, we got to get more help on the ground, we got to make things more probation oriented, we got to get more people out there. So what happened was, on a very short time line, bills were passed mandating a lot of spending on probation. In Hall County it about doubled the size of the probation. So my county board was placed in the situation where they were...they've been scrambling for two years to find places

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for these new probation officers (recorder malfunction). Recently, they--by recently I mean Tuesday--they voted to spend approximately \$600,000 to buy an office building which they hope they can get all of probation (recorder malfunction). By way of a contrast, \$600,000 is roughly half of my office's criminal budget for an entire year. And the real fear from the county point of view is with the new push to look at corrections alternatives and justice reinvention type alternatives, there's...the push is going to be the keep people in the community (recorder malfunction)...and do things on a community level. That probably means more probation officers, more space. And with Health and Human Services, every time something new happens, some new initiative is taken by Health and Human Services, the county is asked to find new space for those offices (recorder malfunction). I would ask you to take a hard look at that. It is a significant burden to the county, particularly since policy can move a lot faster than the budgetary process. You know, if my board had three years to find new space, it sure would have been a lot better than if they had about 18 (recorder malfunction). Similarly, in the juvenile cases and to an extent in court-appointed cases in general, right now counties are responsible for paying the cost of court-appointed counsel. But the state has, particularly in juvenile cases, placed more and more requirements on what those court-appointed counsel are supposed to do in terms of extra educational requirements and then having to make visits. And my wife is in private practice and does quite a bit of juvenile work and she agonizes over what to do. She's required to go visit kids that are in foster care or in an out-of-home placement. Well, a child in Grand Island may be in South Sioux City; a child placed from Grand Island might actually be in Phoenix. So you've got to figure out some way to reimburse the counties for those kinds of costs if the counties are going to...the attorneys involved in the case are going to have specific requirements. The third area is county attorneys are required to have specialized training every year in child abuse--great idea. Unfortunately, what's defined as training for child abuse by the Crime Commission (inaudible) is really quite limited and often means I have to send my new deputy out of state or to statewide conferences to get that training just to meet the statutory requirement. I'm here to tell you, as a practitioner of about 28 years, I'm very proud of the work we've done in my office on child abuse,

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sexual assaults. It would make absolute sense to say that going to trial advocacy schools in general or evidentiary schools in general would (inaudible) or qualify for that child abuse training. Because if you don't have your A game for your rules of evidence, you'll never get through that child abuse trial. You don't have your A game for your child advocacy, it takes so much work to prep the child to testify. You've got to have your A game to get (recorder malfunction). Those were the three areas I'd been asked to discuss. I'd be happy to answer any questions. [LR582]

SENATOR AVERY: Thank you, Mr. Young. Senator Scheer. [LR582]

SENATOR SCHEER: Your comment that there was a trade-off that the counties would provide office space and the state would take over the services, that was the only part of the agreement? Because my understanding, it was much broader and entailed many more facets of recovery from the state versus the county. So if that's...if I'm in error, I'm in error. But I think there might be a little bit more to it than that simplistic approach. [LR582]

MARK YOUNG: Senator Scheer, I...you may very well be right. I think the law about HHS at least took place sometime in the '80s when I was a baby lawyer. Okay? [LR582]

SENATOR SCHEER: Um-hum, yeah. [LR582]

MARK YOUNG: What I can you now is, is basically, you may very well be right about what county. I know the state took over and improved a lot of the welfare services in the county back in the '80s. But right now, particularly on the probation end of it, the county is being asked to fund and just being told to fund without any input. And really, down the road, hopefully, these are...reform initiatives are going to pay off for the county. But it's awful hard if you're on the county board or you're writing your check for your property taxes to pay up-front. [LR582]

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SENATOR SCHEER: And just because we had talked earlier, the dollars that you're talking about in relationship to your county, what percent or amount would be available then for property tax relief if the state did assume some of the things that you're talking about? Or assuming that they assumed all of them, you know, that's... [LR582]

MARK YOUNG: Sure. [LR582]

SENATOR SCHEER: ...you know, if we're in "la-la" land, we're going to go ahead and go there. [LR582]

MARK YOUNG: Right. [LR582]

SENATOR SCHEER: But if they were...you were so fortunate that they picked up everything that we've just talked about in the last five minutes, what impact would it have? [LR582]

MARK YOUNG: Well, I want to be careful answering that because I'm writing a check for the county board to cash. But I would think... [LR582]

SENATOR SCHEER: And this is a guesstimate, so I'm not holding you to that. [LR582]

MARK YOUNG: Sure, sure. I would think that a significant portion, and I'd say probably 60 percent of that, would be (inaudible)...the real fear in a county like Hall County is we keep pumping into the lid. And so now we're making choices: Park or jail, you know, park or probation, things like that. But I would think a significant portion of that would be available. I'd say probably, I'd guess, 60 percent, maybe more. [LR582]

SENATOR SCHEER: Okay. Okay, thank you. Thank you, Senator. [LR582]

SENATOR AVERY: Any other questions or comments? Thank you, sir. [LR582]

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MARK YOUNG: Thank you. [LR582]

SENATOR AVERY: Mr. Hudkins, welcome. [LR582]

LARRY HUDKINS: (Exhibit 3) Good afternoon, Senator Avery and members of the Government, Military and Veterans Affairs Committee. My name is Larry Hudkins, spelled L-a-r-r-y H-u-d-k-i-n-s, and I currently serve as Chair of the Lancaster County Board of Commissioners. It is my privilege to present the following testimony on behalf of Lancaster County today. The relationship between the Nebraska Legislature and county government is defined by mandates. All government services, which counties are obligated to provide and fund, are set forth in state statute. Some mandates go to the core responsibilities of county government. These functions generally provide a direct benefit to our constituents and funding them, most likely, and we feel appropriately, are the local county tax provider. We feel that method is appropriate. Other unfunded mandates, however, primarily benefit state government. In this situation, shifting these costs to counties places an unreasonable burden on our local property taxpayers. LR582 provides an opportunity to identify these unfunded mandates, which hopefully will lead to a more equitable and efficient way to pay for state and county government. Included in this testimony is a list of those county services that the county provides to the state. All of these mandated services are either unfunded and in some cases grossly underfunded. For the current budget year, Lancaster County has budgeted \$20.3 million just to cover these unfunded mandates. For example, in the fiscal year 2012-2013, the Lancaster County Treasurer collected and remitted to the state over \$30.6 million in sales tax for motor vehicles. In exchange, the county received a collection fee of only \$1,800, not \$18,000, \$1,800. Providing this service to the state requires approximately 10 percent of the staff time in the Treasurer's Motor Vehicle Division at a cost to the county, just basic cost, \$116,500. In contrast, under Section 77-1250 of the Nebraska Statutes, the state charges a 3 percent collection fee for centrally assessed and collected air carrier equipment taxes which is

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paid to the counties. Another mandate which directly benefits the state is the county obligation to maintain facilities for the Department of Health and Human Services, HHS. As they existed on April 1, 1983...and we've had some discussion about that 1983 agreement that was there, I've only been a county commissioner for 27 years and I've fought with HHS for 25 of those 27 years about this provision. A 2011 amendment relieved many counties of this responsibility, but not Lancaster. We are still obligated to pay \$300,000 for rent of HHS facilities. The county board believes this obligation should be eliminated for all counties, especially in light of the state's total elimination of state aid. This, I'm going to give you a prime example of this. We housed our division of HHS in the old Lincoln Post Office building. We leased that from the city. It was good enough for a veteran service officer. It was good enough for our entire 13 county attorneys and child support division, and many of our other offices were housed in there. Our cost to operate that building was \$6.75 an hour...a square foot, \$6.75 a square foot. HHS, without any input from us, decided that this wasn't good enough space for them. So they went catty-cornered across the street. The location didn't virtually change. Went into Gold's Galleria and rented space for \$13 a square foot and sent us a bill for it on the same square footage basis. We had no input into that. Good enough for our offices, but it wasn't good enough for HHS. That's one of the things that I've testified on repeatedly and we're still doing it. Cost us \$300,000 last year for a bill that we have no control over. Additionally, new unfunded mandates are being imposed on counties. The most recent example is the passage of the juvenile justice reform act under LB561 in 2013. While unanimously all five of us county commissioners in Lancaster County believe that many positive changes to the juvenile justice system are being made, and LB561 was a step in the right direction, the county is already feeling the effects of additional financial burdens created by this law. As a result of LB561, we had 43 new juvenile probation officers have been hired in Lancaster County. By statute, the county is responsible for providing office space and supplies for these new employees, which more than doubles our previous rental for the state juvenile probation office. This budget last year cost Lancaster County an additional \$302,000 just to cover these mandated costs. So the mandate to do it was there, but the money didn't come with it. Another concern is that if

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the state fails to adequately fund these new programs and services under LB561, then the counties are statutorily obligated to annually appropriate a fund which will pay for those programs and services until suitable funding can be found. And we ran into this over the years with jail reimbursement for state prisoners which we held in the county jails. Only about 40 percent of the total cost was appropriated, and the counties that got their bills in first got a percentage of it; but very rarely were any of us counties fully reimbursed for the prisoners which we held for the state. Another example of a newly created mandate is the responsibility of county sheriffs to register sex offenders under the Sex Offender Registration Act. Lancaster County Sheriff devotes a full-time employee to perform this mandated function, and he's here today and he's going to give you more of the details. The problem is aggravated in Lancaster County because all sex offenders are transferred to the Lincoln Regional Center prior to release from state custody. This policy results in a disproportionate number of sex offenders in our county. Because they're discharged in Lancaster County, oftentimes, they remain here instead of going back to their original community. The counties are also facing the potential for adding additional unfunded mandates with adult corrections reform. Possible solutions for prison overcrowding include housing more state prisoners in county jails, thereby--we hope not--just shifting the financial burden to the counties. In conclusion, property tax growth cannot be controlled without a well-designed and reliable state plan for funding programs and services which counties are mandated to provide. The default funding source for new and existing mandates should not be the property tax. Funding sources for mandated services should be diversely...should be divided by reinstated...the state aid to counties and the state prisoner reimbursement program. Also, the state should take advantage of other funding sources, such as federal money available under expanded Medicaid. Finally, the government is more effective when the different levels of government work together. While many state functions can be provided more efficiently at the local level, adequate state funding is required to maximize the efficiency of state and local cooperation. And my constituents, they're not worried about the sales tax, they're not worried about the income tax. They are worried about the property tax. I'm a farmer. I don't mind paying state income tax because that

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means I made some money and I've got a liability and I have some money to pay for it. But when I have three years of drought and have to go to the bank and borrow \$20,000 to pay my property tax and it's an out-and-out loan, a deficit against future earnings, that's what really hurts. So we're just asking for fairness. And we do not have access to sales tax or income tax. We only have the property tax. And in my 27 years, I've seen a tremendous shift in the state for more reliance on the property tax. And we're just asking for your consideration to help us to find a way. We'd like to see a three-legged stool where each of those funding...tax fundings would carry an equal part of the weight. But it will take us years to get there but (recorder malfunction) get started. Any questions, please. [LR582]

SENATOR AVERY: Thank you. Thank you. Yeah. Medicaid expansion, the Lancaster County Board of Commissioners has endorsed that, right? [LR582]

LARRY HUDKINS: Correct. [LR582]

SENATOR AVERY: About how much money are we talking about in federal dollars that we leave on the table by not expanding it? [LR582]

LARRY HUDKINS: That's a nebulous figure that we don't actually know because we're providing at least \$3 million through county general assistance. And depending on what the guidelines were due, a major portion of that, if not all of that, would come out of the federal coffers and the state coffers if it didn't come out of the property tax. [LR582]

SENATOR AVERY: So it potentially could be close to \$3 million. [LR582]

LARRY HUDKINS: (Recorder malfunction.) [LR582]

SENATOR AVERY: That's what I was thinking. Thank you. Questions? Senator Scheer. [LR582]

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SENATOR SCHEER: You talked about sales and income tax. Then would one of those considerations you would like us to have is to allow counties to have a county income and sales tax? [LR582]

LARRY HUDKINS: We need some help. People can't stand to pay the property tax, particularly our elderly people. The homestead exemption is a help, but many people are mortgaging their homes just to stay on because the property tax bill has risen so dramatically. And for economic viability in our state, I think it's almost a crime that you can have a piece of farmland on the Nebraska-Kansas border, we're paying three times more taxes on that same piece of ground, without even a fence through it, just because it's county line, because that farmer happens to live in Nebraska instead of Kansas. [LR582]

SENATOR SCHEER: Um-hum. [LR582]

LARRY HUDKINS: We can't compete economically with that type of inequity. [LR582]

SENATOR SCHEER: So the answer was yes? [LR582]

LARRY HUDKINS: Pardon? [LR582]

SENATOR SCHEER: So the answer was yes? [LR582]

LARRY HUDKINS: Yes. [LR582]

SENATOR SCHEER: Okay. [LR582]

SENATOR AVERY: And then you were going to look at the sheriff's budget and take the money, the rest of the money you need there. (Laugh) [LR582]

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LARRY HUDKINS: We have a great sheriff and I wouldn't say that when he's got a gun to my back. (Laughter) Thank you for conducting this hearing today. [LR582]

SENATOR AVERY: All right, thank you. I thought you were getting tired of waiting. [LR582]

TERRY WAGNER: (Laugh) Thank you. Good afternoon, Senator Avery, members of the committee. My name is Terry Wagner, T-e-r-r-y W-a-g-n-e-r, and I'm the sheriff for Lancaster County. And I'm here today on behalf of my office and the Nebraska Sheriffs Association to talk a little bit about unfunded and underfunded services that sheriffs are required to provide. I believe Commissioner Hudkins alluded a little bit to the sex offender registration issue. But we have seen a 33 percent increase in sex offender registrations in the last four years. It was a statute change by the Legislature. Before that time, we had quite a reduction or not nearly as many sex offenders showing up at our office as we do now. The change in 2010 or '11 when the sex offender registration sought to comply with the Megan's Law increased our sex offender registration visits dramatically. And we did add one FTE just to handle the sex offender registrations coming into our office. Our court security, that's another issue that we have tried to address before in the Legislature. A bill was submitted a number of years ago to have the state pay for the security of the courts. Sheriffs are required to attend the district courts in their counties and to county courts when requested by the judge. And we spend about \$1.5 million in Lancaster County on court security for the 20 courtrooms in our building, as well as that front door security checkpoint to make sure to secure the entire building. It just seems like when someone doesn't pay for a service, they're not cognizant of the degree that that service, it's provided for them. The other issues I think are service fees that we talked about a little bit earlier. Senator Crawford alluded to it with marriage license fees. But we have a number of services we provide--civil process service, handgun purchase permits and motor vehicle title inspections--all required by the state of Nebraska and reimbursed by the users. But those fees have not kept up

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with the times. Our civil process fees, and we have tried a number of times, and Senator Avery mentioned this earlier, that to increase fee bills is a huge uphill battle. But our civil process fees for the most part haven't increased since 1981. And we actually can serve papers in Lancaster County much cheaper than, say, Cherry County or one of the outlying counties because of the economy of scale. You know, we receive about 20,000 documents a year for service. We have a staff of about five deputies, four deputies, a sergeant, a captain, and several clerical personnel who handle that process. But because that's all they do, we have been able to achieve some efficiencies in that program where other counties may not. Handgun purchase permits, that law was established in 1991. So a good 25 years ago, the fee was set at \$5 and has never increased. And handgun purchase permits have increased dramatically. That's...it's one of those issues that ebbs and flows with the political winds. But when President Obama...since President Obama's election, our handgun purchase permits have increased dramatically to the point where simply in the last four years our handgun purchase permits have increased over 108 percent. And we're still collecting the \$5 fee that we did back in 1991. Motor vehicle title inspections, that law was established in 1987, that any vehicle brought into this county from another state, or any county, is brought in from another state must be inspected by the sheriff. We inspect about 13,000 cars a year in Lancaster County brought in from other states. We still charge \$10 per vehicle inspection, just like we did in 1987. I think that's one of the big issues that needs to be addressed is that when a bill is passed that does allow for fee collection from the user, that those fees be indexed to some degree either to the CPI or some other inflationary factor so that they can increase incrementally. Now, to go back and raise some of these fees that haven't been raised in 25 years, you know it's a 500-percent increase in fees, which is a huge sticker shock and really makes people think twice when it's really only a \$5 increase. But it's \$5 over \$5. So those are a couple of the unfunded state tasks that we perform, or underfunded. And then I think the third area that need to be concerned with are the unintended consequences of state actions. Several years ago, the State Patrol was reduced about 17 troopers. It didn't affect us a great deal in Lancaster County; but I can tell you, my colleagues in the western part of

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the state felt the loss of 17 troopers greatly. And so when there aren't state troopers to assist them in their areas, cities, villages, and counties have to take up the slack in law enforcement services with those troopers not being there. And you know, another unintended consequence are no fees for protection order service. We do not charge fees to serve protection orders for respondents when they file them with the court. On its face, that's a very good idea. Usually, the respondents in these cases are women who are in dire straits at the time and don't have the income source and the financial means to get those papers served. But what that does is then puts that burden back on the counties. On all of these fee services that we perform, when the fees do not cover the cost of services, then those costs are covered over the rest of the taxpayers in this county that may or may not even desire those services. So there are a lot of people in this county that have never, ever filed any kind of court document, subpoena, or protection order with our office, but they help pay for the service of those papers to those people that we serve simply because the fees do not cover the cost of the service. So with that, I will stop my testimony and answer any questions the committee might have. [LR582]

SENATOR AVERY: Thank you. Senator Scheer. [LR582]

SENATOR SCHEER: Just out of curiosity, the \$5 or \$10 that you get for the title inspection, does the county or your office get to keep that or is part of that (inaudible)... [LR582]

TERRY WAGNER: No, it all goes...actually it goes to the county treasurer for inclusion back into the county's general fund. [LR582]

SENATOR SCHEER: Okay, but the state doesn't receive any of it; that all stays within the county itself then? [LR582]

TERRY WAGNER: Correct. [LR582]

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SENATOR SCHEER: Okay, thank you. [LR582]

TERRY WAGNER: Same with the \$5 handgun registration fee. That stays with the county. [LR582]

SENATOR SCHEER: Okay, thank you. [LR582]

SENATOR AVERY: Senator Bloomfield. [LR582]

SENATOR BLOOMFIELD: Thank you, Senator Avery. I recently had to renew my little \$5 certificate. [LR582]

TERRY WAGNER: Okay. [LR582]

SENATOR BLOOMFIELD: It takes three days to get that back. What is the process? Do you guys send it somewhere and it comes back? [LR582]

TERRY WAGNER: No, it just...it depends, Senator, on...we do a background check on every applicant for a handgun purchase permit. And if everything is okey-doke, hunky-dory, it doesn't take very long at all. We'll retype it up and then get that into the mail as soon as possible. And generally, the three days has really to do with the mail service. But if there's any...if there are any red flags, if there's any out-of-state convictions that we need to verify or check on and make sure they're not federal disqualifiers, then it takes us the extra time to check with those jurisdictions where those convictions occurred to ensure that they're not a federal disqualifier. [LR582]

SENATOR BLOOMFIELD: What would you guess it costs you just to do one that's clean? [LR582]

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TERRY WAGNER: Oh. Oh, that's clean? [LR582]

SENATOR BLOOMFIELD: (Inaudible)...yeah, a renewal where it's... [LR582]

TERRY WAGNER: You know, I'll bet it doesn't take us more than 30 minutes to do checks and so forth and do all the paperwork involved. I would imagine 30 minutes for a straightforward, no-problems handgun purchase permit. That would be about right. [LR582]

SENATOR BLOOMFIELD: Okay, thank you. [LR582]

SENATOR AVERY: I'm noticing here that this comes under Corrections, so you may not actually be the right person for me to talk to. But there is a line here that says that 859 DNA tests for the state were conducted over the past two and a half years. That piece of legislation required the inmate to pay for the cost of the DNA. So did you have anything to do with coming up with this number? [LR582]

TERRY WAGNER: You know what, I did not, Senator. But I'm thinking off the top of my head. I know that we are doing those DNA collections for those people sentenced to probation that are convicted and sentenced to probation. [LR582]

SENATOR AVERY: Um-hum, right. [LR582]

TERRY WAGNER: But I don't think that they pay for it. I don't think that the inmates pay for that. And in many cases, they're indigent and don't have the means anyway. But I would imagine somebody on probation might certainly have the means, but I don't believe we collect anything for DNA analysis or for DNA collection. [LR582]

SENATOR AVERY: Well, that was my bill. [LR582]

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TERRY WAGNER: I remember. [LR582]

SENATOR AVERY: So I should look into that, because that was in the bill. [LR582]

TERRY WAGNER: You can do that in January. [LR582]

SENATOR AVERY: (Laugh) Any other questions for Sheriff Wagner? [LR582]

TERRY WAGNER: Thank you for your time. I appreciate it. [LR582]

SENATOR AVERY: Okay, thank you. Good afternoon, sir. [LR582]

JOE HEWGLEY: (Exhibit 4) Good afternoon, Mr. Chairman. My name is Joe Hewgley. That's J-o-e H-e-w-g-l-e-y. First of all, I want to thank you, Mr. Chairman, and members of the committee, also Senator Crawford, for--and your staffs--for having this hearing. It's I think something very timely and it's important to counties. On my testimony, I have to start out by telling you there are a couple typos in there because I, like yourself, have another job, and I did this after hours last night, so there's a typo on the first page, the second paragraph, last sentence. You'll notice there's not a period at the end of that. I got so carried away in patting myself on the back how great I was, I forgot to...when I move this around, it should say, "I believe this is the only time this has occurred since 1941," as that was the information I received in the NACO reference that I used. So what I was trying to tell you is basically I've been a Lincoln County commissioner since 1985. That's a lot of reelections. I was there during some of the things you had talked about earlier, Senator Scheer, on some of the changes that were made in HHS and some of those things. So hopefully we can talk, have that dialogue as well. I say in there a couple things. I've been a member of the NACO board of directors for 18 years, along with holding the office of president a couple times and some other deals. Not that that's important, I just want you to know this isn't the first time I've...you know, I do have some...they say with age comes wisdom. Well, I ought to be pretty doggone wise, even

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if I'm a slow learner. When I first came on in the county government in 1985, I think we were receiving something like roughly \$500,000 in federal revenue sharing at that time, and another \$300,000 in aid from the state, along with the things that we're currently receiving, which were highway dollars, etcetera. Today, we receive federal highway dollars, some child support incentive funds that I think in our area runs \$20,000 or \$30,000 a year--I'm not sure what it really is--and a few miscellaneous other grant funds to help offset local property tax. I was very pleased that during my first term as president, and I remember this well, we had Senator Don Pederson from North Platte introduce LB695, and I worked on behalf of NACO and with the senator and NACO staff to have that introduced. And as a starting point and as a compromise with the senator, because the senator was rather conservative in trying to get something like this passed, we did not use actual costs for jail reimbursement at the time. We came up with an arbitrary number of \$35, and that was the senator, a compromise with Senator Pederson on behalf of introducing this. At the time, I said the costs were somewhere between \$55 and \$85. I heard testimony earlier of \$55 and \$100, whatever the numbers were, and it's significantly higher today. I'll address that a little bit later. I'd like to talk a little bit about LB561. I thought LB561 was interesting because we talk about fiscal notes. If you'll notice, I don't think there was a fiscal note as it related to cost to counties on LB561; in fact, I'm sure there wasn't, although I understand in some dicta that they realized there might be some minor cost to counties that was hard to determine at the time, okay? In Lincoln County, for example, in the last two years we've increased that probation staff by seven individuals. That made us...we were tight in the space we had. We purchased an additional building and renovated that building. That cost was over a half a million dollars. It was right across the street in the courthouse. Rather than receiving the four people that he thought he was going to receive, he had seven. We just this last year rented an additional space, an office space adjacent to the building that we purchased for the additional staff, and that annual rent comes to \$13,380 for these new positions. That's significant when you take a county that has a lid and it's pretty hard to generate additional dollars. And those, in fact, were additional dollars. Our probation system is part of District 11 and would serve as a pilot program for LB561.

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That's also a typo. I have "LB61." And I can tell you, in speaking with our chief probation officer, we'd been mentioned and, I'm guessing, probably will become a reporting center. I spoke with the chief probation officer by phone last night. That probably will make an additional six new staff. We don't have space for that, nor do we have the funds to take care of that. That is a major, major cost to a county the size of Lincoln, as it would be to any county proportionate to their population. Juvenile funding, including transportation, I know that we don't have a facility in North Platte any longer for juveniles. We did have a facility but, as you may know, the state, I think, had some funding issues a few years ago with some things. And so obviously, some of those people are no longer in business. And so we have to take our people to Gering. That's an eight-hour round trip. If it's a female, we have to have two deputies, a female deputy and a male deputy. That's an eight-hour round trip and no small cost to the county. That can run as high as \$600 for that transportation. Now I know that LB464 came out and said, well, Probation is responsible for that transportation cost. That was postadjudication. Most of those visits are preadjudication. That's the county responsibility and those trips are at the county expense. And it's no small cost to the county. Now to my favorite issue: jail reimbursement. As I had mentioned, I was pretty intimately involved with that legislation. And the word "reimbursement" is on there for a reason. It's not aid to counties; it's not jail aid. It's reimbursement for services provided to the state of Nebraska, clear and simple. And the Legislature in their wisdom at that time understood that, and through testimony understood that. A prisoner that is convicted and sentenced as an adult or could be sentenced as an adult to a Department of Corrections facility is a state prisoner. That's by definition. The county jails were holding those prisoners and we said we just cannot continue to do that. They're not a county prisoner. If it's a misdemeanor, if it's something, we take care of those people. The state agreed that they were actually incarcerating state prisoners in county facilities and should pay for that, and the intent was to fund that fully. The first year, maybe two years I think, that it was funded fully. I can tell you in 2002...and that was also a typo. I put since...I'm getting ahead of myself. I ought to read what I have. I have a lot of things on my mind, and I apologize. I know I talked to our sheriff last evening, and I had him go

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back with his staff and look through the records. Since 2007 through 2012, the state short...we didn't receive payment for services due in the amount of \$560,000. We billed for them. But as you're well aware, Appropriations would appropriate a certain amount that they felt they wanted to do--\$3 million, \$4 million, whatever it was a year--and when that ran out, it ran out. If it was halfway through the year, it ran out halfway through the year. And I could go on as to why that happened and have some conversations about Corrections and the Governor, of some meetings that I had. That's another time unless you have those questions. But so it was sort of an arbitrary number that appropriations would appropriate each year, and when that was done, it was done. So if the counties were halfway through the year with...but that didn't mean we'd let the state prisoners out. We still kept the prisoners in there. That was roughly about \$100,000 a year that we were shorted. I said since 1999. That's incorrect. That's 2002, so you, please, do make that correction. It's not 1999. That number should be 2002. I'd mentioned earlier about the \$35 a day and how that came about. Talk a little bit about court costs. Court costs are something that I've seen change tremendously in my time on the board. When I came on, I think there were either three or four items that, if you looked, we get a billing every month from the courts that we were paying for. And I don't even remember what they were. That went up to five items. I think that it's either 11 or 13 items now. There was computer systems for the state corrections, I mean, all kinds of things on there. And you would be surprised to see the number of cases each month, as somebody testified earlier, that come down that the counties end up paying for those. Now the court does take off about eight of those items, which I can't tell you what they are, but we still are stuck with four or five items, one of which I think is the Judges Retirement Fund, which I would ask a question to this body. Those judges are state employees, not county employees. I'm not sure why we're paying for the judges' retirement. You know, we pay for county retirement. I totally get that. So that's...I'm being a little bit rhetorical, but that's something to think about. I would like to see those...if the judge decides to waive those fees, please, waive them so the county doesn't have to pick those up. I think I'd mentioned the possible six new staffing if we are a reporting agency, and I appreciate our chief probation officer. He's tried to do everything he can, but there's only

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so much one person can do. Talk a little bit about...well, let me continue on with the court costs a little bit. We've seen a tremendous amount of change in not only the way the indigent costs have changed, but when LB561...this is sort of an offshoot of that. Our court-appointed attorneys, we've seen a huge jump in the last two years. I went back to our 2012 budget and we had \$97,000 is what we paid in 2012; 2014, it was over \$200,000. That's just a big jump. Guardian ad litem costs for juvenile cases, 3a cases only, only 3a's went from zero in '12 to \$74,000 this year. That is...that's part...that should have been part of that fiscal note of LB561 that wasn't there. And I'm not blaming anyone. Those things happen. But please, be aware there are costs to counties. I wanted to close a little bit in saying that I could go on about mandates forever. We're unable to, in Lincoln County at least, raise sufficient funds, even though our mill levy is only 30 mills, as you're well aware of, we were allowed 50 mills because we were very frugal pre-lid days. And by the way, I've seen three lids in my time through there. This is our third lid. But be that as it may, pre-lid days, we were very conservative and we held our mill levy down, and I feel good about that and the property taxpayers feel good about that. But it does make it tough when you try to generate funds and your mill levy is still so low. I know that I think that we're able to raise about \$250,000-300,000 a year with the percentage, the 1.5 percent plus the 1 super override. Our insurance costs go up more than that every year. So in a way, our fixed costs go up just as a state. I think the state is somewhere between 5 and 6 percent, if I'm not mistaken, is where yours go up. And I don't believe you're under a lid. And I'm not trying to be curt, I'm just trying to point some facts out, that we are under a lid and it makes it difficult. I'll tell you the ones that suffered is our road department because they're the easiest ones for the board to cut. And I would think that every commissioner here would agree with that. Our equipment budget is less than it was ten years ago, and we were really trying to get our fleet built up of some really antiquated equipment. Our road maintenance is down from what it was because that's the easiest areas to cut and, unfortunately, that's one of the those things that probably the citizens in our county use as many as others. So I know that Senator Scheer asked if the courts could have all of those things, how much property tax would you see, how much relief. I'd like to answer: probably none, Senator,

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I'll be very honest with you, because the first thing I would do is I would take our roads system that's falling apart and I'd put the sufficient amount of money in there to get that deferred maintenance back up to where it is. I'd fix our rural roads that are falling all to heck and have potholes in it and get a call three times a night on. I appreciate you allowing me this impassioned time in front of you. I believe strongly in what I do. I love serving the citizens of Lincoln County, and I again want to thank you so much for taking the time to hear us and to look at this issue. Thank you very much, and I'd entertain any questions that you might have. [LR582]

SENATOR AVERY: Thank you. Questions for Mr. Hewgley? I don't see any. [LR582]

JOE HEWGLEY: You're going to let me off easy so I can get home. [LR582]

SENATOR AVERY: Yeah. [LR582]

JOE HEWGLEY: Thank you so very much. [LR582]

SENATOR AVERY: Thank you. Welcome, sir. [LR582]

RICH JAMES: (Exhibit 5) Good afternoon, Senators. I'm Rich James. That's R-i-c-h J-a-m-e-s. And I'm the Sarpy County Treasurer, here today to talk about the collection fee on motor vehicle sales tax. You've heard some figures thrown out, and I'm just going to give you some succinct figures and it won't take too long of your time. Back when I started in this business, the collections at Sarpy County were about \$90,000 a year in fees for the collection of sales tax. When the county started collecting sales tax way back when, I presume that's when they came up with the fee structure so that the county would be reimbursed for the work that they were doing. Currently, we get 2.5 percent of the first \$3,000 of sales tax collected per month. Now if you bought a new vehicle lately, that means the first car in Sarpy County that's registered I get a fee for, and the rest of the time we're collecting the sales tax for free, if you will. We collect

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\$1,800 a month usually because that's fees on boats and vehicles. And what we used to get, using the scale we used to use, we'd be getting \$109,000 a year for collections instead of the \$1,800 we currently get. The sales tax, entire tax that we collect, represents \$21 million a year out of a total of \$49 million and change that we collect totally for DMV. That means 44 percent of what I collect is collections for sales tax and tire tax. And if I was to allocate that percentage to the salaries that are committed by DMV and the Treasurer, that would be a fee of \$436,000 a year. Now I'm not prepared to argue that \$436,000 is the right number, but I now \$1,800 is not even close to what we should be getting collected, what we should collect for the fees for what we collect in sales tax. And that's really all I have. I passed out that chart, or it was passed out. I just put all the numbers on there. If you like numbers, great, but if you have any questions, I'd be happy to answer them. [LR582]

SENATOR AVERY: Maybe I missed it, but how does this...how did this develop?
[LR582]

RICH JAMES: It was in the early 2000s when the tech bubble burst or...if I'm answering your question. [LR582]

SENATOR AVERY: 2002. [LR582]

RICH JAMES: And the state had some difficulty with their budgeting, so they took away the fee. That's one of the fees they took away from the county... [LR582]

SENATOR AVERY: Okay. [LR582]

RICH JAMES: ...because it used to be that we got that fee. [LR582]

SENATOR AVERY: So we are not the only bad guys. [LR582]

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RICH JAMES: Well, I don't know who did it, but... [LR582]

SENATOR AVERY: You can go back to 2002. [LR582]

RICH JAMES: 2002, exactly. [LR582]

SENATOR AVERY: I remember that, yeah. Questions? [LR582]

RICH JAMES: I was thrown under the bus, I guess, when you referred to being thrown under the bus, so. [LR582]

SENATOR AVERY: (Laugh) Questions for...or comments? Thank you, Mr. James. [LR582]

RICH JAMES: Thank you very much. [LR582]

SENATOR AVERY: Next. Good afternoon. [LR582]

RENEE FRY: (Exhibit 6) Good afternoon, Senator Avery and members of the committee. My name is Renee Fry, R-e-n-e-e F-r-y. I'm the executive director of OpenSky Policy Institute. My testimony will be very brief today and very narrowly focused. I wanted to testify just to share some information on the property tax side that we've heard so much about today. You'll see before you in the handout that's being passed around counties have become more reliant on property taxes over the last 12-13 years or so. We go back to FY '01, as this is how far back the data goes on-line with the Auditor's site. So that's why we have '01 as a starting point. But you can see here that counties have become over 5.5 percent more reliant on property taxes. And you see the graph here. It would actually take us \$88 million to get back to that FY '01 level. I also want to mention a couple of the other things that have come up today. We are 43rd in state aid to local government, so we rank very (inaudible) in terms relative to

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other states in how much state support we provide our cities, counties, and school districts. Also, there was a question raised about spending. I will tell you that spending has fluctuated for counties quite a bit over the last decade. But if you were to look back where we were a decade ago, we're at the same level as the share of the economy than we are today. So spending, as a share of the economy, is not any greater. Counties aren't spending more today than they were (inaudible) as a share of the (inaudible). And that's really all I have today, but I'd be happy to answer any questions (inaudible).

[LR582]

SENATOR AVERY: What are some of the implications of this? Are we getting better government or not? [LR582]

RENEE FRY: That's a great question. I think, you know, as we've cut back in state aid and have passed more unfunded mandates, it really limits counties' ability to spend money, to spend those tax dollars where they feel that they're best suited. So as you heard the previous testifier indicated that the roads are really in disrepair and this is an issue I know a lot of counties struggle with. So certainly it's tying the hands of county officials and, you know, I was just out in North Platte and Lexington and Scottsbluff last week. Property taxes continue to be a concern for citizens of Nebraska. I think, you know, we talk a lot about local control, and I think that's sort of the way that we excuse lower state aid for our local governments. But the reality is that Nebraska residents really would like to see lower property taxes. It's been a real concern since ag land valuations have skyrocketed so much. But that happened at sort of a convenient time as we were going through the recession, and so it was really easier, I think, to put more cost on our local governments and have that then funded by ag land. And I think we're now getting to a point where, you know, corn prices are down. And so those incomes aren't as high. They're coming back down. And so now it's really...it has been creating a lot of problems for ag land producers but now is at a critical juncture. And that will impact, you know, as their incomes go down, if property taxes do go down, then we're going to have a real difficulty in funding our (inaudible). So I think we need to be aware

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of the correlation between loss of state aid and unfunded and underfunded mandates and what that is doing, the relationship there with property taxes, if this is an issue that we're really going to try to address. [LR582]

SENATOR AVERY: We're in the season in Nebraska, as other states are, where we hear a lot about less government is better government and cutting spending is good public policy, cutting taxes is good public policy. But I haven't heard any testimony here today that suggested that the results of cutting aid to counties, for example, has been good. It hasn't made for better county government. So I'm raising a question about the political rhetoric and what the consequences are when that political rhetoric actually starts becoming public policy. [LR582]

RENEE FRY: Right. You know, there's a great example in Kansas going on right now where taxes were cut pretty significantly. They have a real education funding crisis going on. They actually haven't seen job growth that was promised, and there's a pretty tight election going on as a result. People aren't happy with...the promises weren't met there that tax cuts would create jobs, and that's consistent with the research. National research does not find that cutting taxes, in and of itself, creates new jobs. And there's also some...there are...can be a lot of difficulties in terms of cutting spending, in terms of job growth, because if it comes at the expense of things that employers need, such as (inaudible) and a quality work force, you can tax cut yourself into a place where you're not really all that desirable for (inaudible) because they don't have good public schools, they don't have access to good roads and transportation (inaudible) often those things that are important to their bottom line. So I think we need to be really careful. Would I say that we can't find any inefficiency and we shouldn't look for efficiency? Absolutely not. I think we can always try to be...we should be the best stewards that we can of those taxpayer dollars. But cutting for the sake of cutting doesn't seem to be a very successful strategy. It seems to be better off when it's paired with (inaudible) attempts to reform different services that maybe aren't performing or providing the return on investment that they (inaudible) cutting for the sake of cutting. [LR582]

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SENATOR AVERY: And everything cannot be had on the cheap. [LR582]

RENEE FRY: That's true, yeah. [LR582]

SENATOR AVERY: I mean, at some point, you just have to say, we're going to pay for this, it's going to hurt but we're going to have to pay for it. [LR582]

RENEE FRY: Yeah, and I think that there have been some lessons over the last few years that the state has been having to address. [LR582]

SENATOR AVERY: Well, when we start having bridge failures, it...then our conversation will change. And we might see that in Lancaster County. Senator Bloomfield. [LR582]

SENATOR BLOOMFIELD: Thank you, Senator Avery. Ms. Fry, I'm going to ask you a question just because you talked about cutting a little bit, thanks to a little assist from Senator Avery over there. I happen to farm. My property tax has been insane the last five years. Where has all that money gone? [LR582]

RENEE FRY: Yeah, so it's going to... [LR582]

SENATOR BLOOMFIELD: Where has the county spent all this money? I have tripled. [LR582]

RENEE FRY: So 60 percent of property taxes go to (inaudible) counties, cities... [LR582]

SENATOR BLOOMFIELD: If I talk to the schools, they tell me that, we're not getting any increase (inaudible). [LR582]

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RENEE FRY: No, I think that's true. So what's happening, I mean, the biggest issue is really in the K-12 (inaudible). But certainly, you can see the numbers here with counties. Counties actually have the biggest percentage increase as the share of (inaudible) budget. (Inaudible) property tax (inaudible). But what we're seeing happening is that your property taxes are going up because the rising ag land valuations are reducing...are increasing the resources of your local district, and so they're not getting as much state aid. That's what you're seeing happen. So...and that's what's happened with counties as well, is that the property tax is offsetting the loss of state aid to the counties and to other (inaudible). So property tax has become the replacement funding. We are not seeing any (inaudible) share of the economy. We are not seeing increases in spending by local (inaudible). We're just very, very low in terms of state support of local governments, 49th in the country in terms of our state support for (inaudible). So ag land valuation increases have really been supplementing--or supplanting, I should say--reductions in state aid. [LR582]

SENATOR BLOOMFIELD: Okay, thank you. I still got questions (inaudible). [LR582]

SENATOR AVERY: Any other...Senator Scheer. [LR582]

SENATOR SCHEER: Thank you. Renee, thanks for coming, by the way. You made a couple comments in relationship to rating third for a county investment, or 49th. Can you be more specific? Because we can make numbers say whatever we want. So, for example, in the counties, are you talking about the percentage is based on the total of the county budgets, percentage of the county budgets or the county revenue or state revenues? You know, where are your rankings coming from? What statistical numbers are you using? [LR582]

RENEE FRY: Yeah, come from census data looking at amount of state support as a percentage of the total budget, state by state. [LR582]

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SENATOR SCHEER: Okay, percentage of what though? [LR582]

RENEE FRY: So it would be a percentage of the total county budget, what percentage is coming from state sources versus what percentage is coming from other sources. So as a percentage of the county budget, as a percent of county, cities, you know, school district budget, what percentage of that total budget is coming from state sources versus local sources or other sources. [LR582]

SENATOR SCHEER: Well, I understand, but I think sometimes you may be comparing apples and oranges, too, because different states...don't shake your head yet. You don't even know what I've said...to the extent that in some states the counties are paying for the probation officers and other things that the state or the counties pay for, the judiciary. So it's really hard to make those broader comparisons when not every state pays for the same thing or not all counties pay for the same things or receive the same services. [LR582]

RENEE FRY: I mean... [LR582]

SENATOR SCHEER: So I think to a certain extent, you know, we may be underfunding (inaudible) counties. I'm not saying we don't. We're not saying that we don't necessarily underfund education. But I certainly would take exception that we are the worst in the nation as far as funding K-12 education, and I don't think we're in the lower 20 percent of the nation in funding counties. But I'm sure that you'll be able to find numbers that would say that, and I'm sure I could probably find numbers presented a different way that don't. So I... [LR582]

RENEE FRY: Yeah, I would love...if you have different numbers, I would love to see them. We looked at census data, which is the best way to compare across the country, and certainly other states are funding different county services. [LR582]

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SENATOR SCHEER: Um-hum. [LR582]

RENEE FRY: But those are just a flat comparison, and I would encourage you to talk to Senator Hadley. I have heard him speak before in hearings. This is an issue, obviously, that comes up quite a bit in the Revenue Committee hearings. And I remember pretty vividly, after an NCSL conference, that he came back, had talked with a number of senators from other states, and was really surprised at how low we fund county government and other local governments relative to our counterparts in other states. And those were based on conversations. I would...I mean obviously this is just something I heard him say. [LR582]

SENATOR SCHEER: Well, (inaudible)... [LR582]

RENEE FRY: But I would encourage you to talk to him about that. [LR582]

SENATOR SCHEER: I understand, but conversations are conversations. They aren't necessarily facts. So I'm... [LR582]

RENEE FRY: Yeah. [LR582]

SENATOR SCHEER: I appreciate that, but I, you know, I can say a lot of stuff and may not necessarily be true, it's just conversation, so I... [LR582]

RENEE FRY: Yeah, and this is the census data, the, you know, best source that we have for an unbiased number-to-number comparison. [LR582]

SENATOR SCHEER: Okay, thank you. [LR582]

SENATOR AVERY: How much of that ranking, the 49 ranking...that was what you were

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talking about, right? [LR582]

RENEE FRY: Forty-ninth is... [LR582]

SENATOR AVERY: We're 49th in terms of state support for counties. [LR582]

RENEE FRY: No, no, no. [LR582]

SENATOR SCHEER: No, 43rd; 49th for education. [LR582]

RENEE FRY: Forty-third for local governments total,... [LR582]

SENATOR AVERY: It's 49 for... [LR582]

RENEE FRY: ...49th for state aid for school districts. [LR582]

SENATOR AVERY: For schools, okay, yeah. Can you look at watershed years, maybe when we ended state aid to counties? Did that account for a big change? [LR582]

RENEE FRY: We haven't looked at that. We haven't looked at that. We certainly could go back and look at the census data and see whether there has been a significant shift. We can do that. We haven't but it's a great question. [LR582]

SENATOR AVERY: Yeah, it would be good to know what... [LR582]

RENEE FRY: Yeah. [LR582]

SENATOR AVERY: ...what the cause is. We're talking about effects... [LR582]

RENEE FRY: Right. [LR582]

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SENATOR AVERY: ...of something. [LR582]

RENEE FRY: Right. [LR582]

SENATOR AVERY: And if you can say, well, it was cutting county aid, that's where you really saw your rankings change,... [LR582]

RENEE FRY: Yeah, we can sure do that. [LR582]

SENATOR AVERY: ...because that's a policy decision that could be changed. Now that I'm leaving and don't have a vote on it, you guys get to take care of it. [LR582]

RENEE FRY: Yeah. I'll get back to you. I'll send... [LR582]

SENATOR AVERY: All right. [LR582]

RENEE FRY: We'll share that...send that information (inaudible). [LR582]

SENATOR AVERY: Thank you. Senator Bloomfield. [LR582]

SENATOR BLOOMFIELD: Thank you, Senator Avery. This is kind of just to get this on the record more than it is a question. My home county, if you wonder why we don't have all the confidence we should have in the commission is doing the right things with the money, they were real proud of the fact that they rolled the mill levy back 3 cents, but in the smaller print it said that every county employee got a \$1,500 cost-of-living increase. That's a pretty nice little (inaudible), and I just kind of wanted to get that in the books. Thank you. [LR582]

SENATOR AVERY: Is that your county? [LR582]

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SENATOR BLOOMFIELD: Um-hum. [LR582]

SENATOR AVERY: Any other comments or questions? Thank you, Ms. Fry. [LR582]

RENEE FRY: Okay, thank you. [LR582]

SENATOR AVERY: Anyone else? [LR582]

J.D. SCHLUNTZ: (Exhibit 7) I'm J.D. Schluntz, S-c-h-l-u-n-t-z. I supervise our District 1 in Harlan County. I knew it was bad, but even I didn't know it was bad as I'm hearing today. But we go through the bills, and I feel like I should have maybe an influence, either through the budgets or a question: Why this and why that? But when those bills from the defense attorneys come through, don't ask any questions. We had a chairman before I was on the board that asked a judge and the judge says, pay it or be in contempt of court. And I do think that is one thing that the state could do cheaper than we can, as they could hire and get a salary or something like that. We are just at the mercy of whatever the judge says. We don't have no idea how much time he puts in, how much they charge. It's just pay the bill. I passed out something that the county attorney sent me about juveniles, and you can read that. And something else that was brought up was maybe sales tax for the counties. Well, that won't work in a lot of counties because a lot of our money is not spent in our county. If you can figure out a way to use our ZIP code or something like that when you collect it, it'd be great. But we go to Kearney or something like that. And my wife is pretty good at that. I'm not but she is. So that would...so I don't think that really helped too much. But this court-appointed attorneys, I've figured it out. It's costing us \$61,000, and I think that's about 4 percent of our budget. And I do think that's something the state could do cheaper than I could, than we can. And I thank you and I won't take any more of your time. [LR582]

SENATOR AVERY: Thank you for your testimony. Questions? [LR582]

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J.D. SCHLUNTZ: Oh, come on. [LR582]

SENATOR AVERY: Haven't seen you around here for awhile. Nobody's been rattling your cage lately. [LR582]

J. D. SCHLUNTZ: I'm not even opposed. Probably get reelected if I behave. (Laughter)
Thank you. [LR582]

SENATOR AVERY: Thank you. Anyone else? Good afternoon, sir. [LR582]

TERRY KEEBLER: (Exhibit 8) Good afternoon. Senator Avery, committee, I'm Terry Keebler, Johnson County Commissioner. That's T-e-r-r-y K-e-e-b-l-e-r. I have been county commissioner since 2002. I'm also current NACO president. I'm here today as a county commissioner. One of them that, as Senator Scheer has pointed out, has different effects to different people. We are the home of the newest state prison down at Tecumseh. Since that's opened--the handout you have in front of you is...our county clerk has put the numbers together for me; she does a lot of stuff for us and we appreciate that--that's cost Johnson County \$150,000, a little over, in those 12 years, and those are the expenses we've tracked. As she points out in her letter, we've also had increase in expense to our clerk of the district court, which is our clerk's office. When that prison opened, court filings went up to district court. And in order to handle the extra workload, we hired a part-time office person in her office. Haven't figured that out lately. I know we were running these numbers after the prison opened. At that time, we came up with about \$60,000 extra, which doesn't sound like much for a larger county. For us at that point, it was over a penny and a half of our levy going to support costs from the state prison. We don't have the high valuations, didn't at that time. They've increased. Still, those are a significant portion of our budgets. As you see on the spreadsheet attached, some of the expense that we have with those is autopsy/coroner tests and grand jury hearings. By state statute, anyone that dies in

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custody has to have an autopsy/coroner test done and a grand jury hearing. For those that are in sheriff's custody, that's well within reason that the county pays for that. In our case, we're paying for autopsies and grand jury hearings on state prisoners that happen to die in our county. And I'm sure we've got Lancaster County Commissioner or Douglas County Commissioner behind me. They have the same thing, probably even bigger. The difference is ours is a new prison. We've tracked it since it opened, so we know what those numbers are. Those autopsies are transported to Omaha for the autopsy performed. We get a bill for that. Some of the larger counties may just be part of their overall salaries. It's harder to track, but we have been able to track that. There was discussion earlier about court fees and those that are waived. As you can see in the clerk's letter, she has all those listed out, what goes into the court fee, which ones can be waived and which ones can't, pretty good list of different fees attached to those filings. So that's the main thing I wanted to touch on. We've heard a lot of testimony about other unfunded mandates. The HHS office, we were a part of the 2011 bill that Senator Heidemann helped get through the Legislature that meant we did not have to provide space anymore for HHS. With ACCESSNebraska starting up, they took all of the HHS employees out of our county and were telling us we still needed to provide space for them. When we asked what was going to happen with that space, they said they did not know; but if they ever wanted to bring anyone back, they need to have it there. And they put a table and, I think, a printer in there and walked away from it. We went through Senator Heidemann to get some of that corrected, at least in our case and some other small counties, that they'd walked away from. But that's also...would have been a big cost for us just to provide space that they weren't using, and we were renting that space. So I guess in closing I'd ask that you look at these costs. Again, these are probably pretty specific to a few of our...a few counties. Some of the costs we've heard about, bills have been passed in the last few years to have changed funding, sometimes promoted as saving state dollars. In the end, they've cost the counties dollars. I guess as we move forward with...the Legislature has several issues that are coming up in the next year with prison reform and HHS. I guess I'd ask those of you that will be here to look at those and make sure that when costs are being changed, that they're not just

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being just put onto the county and no longer state funding. Thank you. I'd answer any questions. [LR582]

SENATOR AVERY: Thank you, sir. I remember when Tecumseh prison was being built. There was a lot of talk about job creation and economic development stimulus. Have you had second thoughts about that, given that you've incurred some expenses that you didn't anticipate? [LR582]

TERRY KEEBLER: Senator...good question, and we've been careful when we've asked for some of these costs to be reimbursed over the years. It is economic development. We've kept our population fairly steady. We haven't...we did grow in the last census, but it's because they counted the prisoners, added about 800-900 to our census but didn't actually grow the population in the county. So while it showed we had one of the largest percentage increases, it didn't amount to much. But those...that has helped the communities, our communities, the counties surrounding us, that people are working there. They have good insurance. It has helped their hospital, which is a county facility. It's helped medical centers I think in the area with people having insurance. But as county government, all we see is property tax dollars. And unless those employees build new houses in the county, we don't see extra dollars. And what we've found is some of the higher-ups in the prison have built new houses. But it's been in Syracuse, which is Otoe County, so we don't see those dollars either. [LR582]

SENATOR AVERY: Senator Bloomfield. [LR582]

SENATOR BLOOMFIELD: Thank you, Senator Avery. I'm going to ask a little more direct question than Senator Avery did. If you had it to do over again, would you work as hard to get the prison as you did? [LR582]

TERRY KEEBLER: That's a little hard to answer, Senator Bloomfield, because I wasn't part of the push to bring the prison in. I came into office as it was opening. So I really

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can't answer that because I didn't push to get it. [LR582]

SENATOR BLOOMFIELD: In your mind, has it been a plus or a minus to have it there for the county? [LR582]

TERRY KEEBLER: I think it's been a plus for the area. It's cost the county government. [LR582]

SENATOR BLOOMFIELD: Thank you. [LR582]

SENATOR AVERY: Any other comments or questions? Thank you, sir. [LR582]

TERRY KEEBLER: Thank you. [LR582]

SENATOR AVERY: Anyone else wish to address the resolution we are talking about? It is LR582. Good afternoon. [LR582]

MARY ANN BORGESON: (Exhibit 9) Good afternoon, Senator. My name is Mary Ann Borgeson, M-a-r-y A-n-n B-o-r-g-e-s-o-n. I am the chair of the Douglas County Board of Commissioners. And first and foremost, on behalf of the board, I would like to thank you for the interim study and this hearing on the county unfunded mandates. We very much appreciate your attention and willingness to work with us on this issue. There are many unfunded mandates that we have discussed with Senator Crawford during a phone conversation, so I will highlight just a few. And I apologize, Senator Avery, you were also on that phone conference with us as counties. State office costs: We are mandated to bear the cost of offices and equipment leased by the county for state use, which you have heard throughout different county testimony. Douglas County leases various location spaces used by HHS, Social Services, juvenile and adult probation, and the Department of Motor Vehicles at an annual cost to Douglas County taxpayers of over \$500,000. The cost of the guardian ad litem program: Douglas County taxpayers are

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burdened with over a million-dollar annual cost of this program, and we have no authority or true oversight of this function or these services. The cost of the district and juvenile court is \$7.7 million in what it costs Douglas County taxpayers in the operation of the district and the juvenile court. Cost of behavioral health regional facilities: Douglas County makes an annual payment totaling over \$350,000 for the state regional facilities. Cost of criminal filing fees: In district court, the cost of filing fees incurred by the county attorney's office to prosecute crimes is approximately \$235,000 annually. State statute 77-1311 mandated county assessor, our county assessor, to hold January through March pre-Board of Equalization meeting requirement requiring the county assessor and the property taxpayers directly to have a hearing prior to the board, and that was directly resulting in additional cost to the Douglas County taxpayers of \$500,000 per year. These are just a few, but I thank you for your time and energy that you're spending on this issue and bringing the issue to the forefront for a discussion. Douglas County is, as well as all the other 92 counties that you've actually heard from a few of them today, are ready and willing to work with you on this issue. After all, bottom line is we're truly in this together and look forward to working with...working out a solution that is best for all taxpayers. Questions? [LR582]

SENATOR AVERY: It's fair to say that virtually all counties deal with most of these issues, but these issues hit you harder than any other county. Your numbers are bigger. [LR582]

MARY ANN BORGESON: Yeah, they're...in different areas, as we talked about, there's probably, if you categorize counties into small, medium, and large, you would see that all of these affect counties in some way, but it'll be different. Some of the smaller counties have a bigger issue than we do on some issues, so. But all in all, we're mandated by state to do these. [LR582]

SENATOR AVERY: And a lot of changes came about when Douglas County topped 300,000 population, right, because I believe Lancaster County is about to do that any

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day. [LR582]

MARY ANN BORGESON: Yeah, they'll start coming, like they can add...they can have seven commissioners, they have to have a civil service,... [LR582]

SENATOR AVERY: Yeah. [LR582]

MARY ANN BORGESON: ...they have to have a sheriff's mayor commission (inaudible)... [LR582]

SENATOR AVERY: But you...that occurred in Douglas County many years ago or...? [LR582]

MARY ANN BORGESON: Oh, yeah, yeah. We've been doing it (inaudible). But each year, you know, I guess there's a couple of things. So, Senator Bloomfield, you have a good question as to where does your money go. Basically, counties are mandated to take care of the poor and the indigent, as you well know. And our biggest expenditure in the county is about--43 percent of our budget is--under law enforcement and legal, so all of the courts, all of the juvenile, adult, sheriff, county attorney, public defender, and then about 24 percent of it is for the Health and Human Services. [LR582]

SENATOR BLOOMFIELD: I think that varies so much given the size and the makeup of the county. [LR582]

MARY ANN BORGESON: Size of the county, yep, absolutely. [LR582]

SENATOR BLOOMFIELD: The cities haven't seen the valuation jump like we out in the country have, and that has really taken a bite out of us. [LR582]

MARY ANN BORGESON: Well, even in Douglas County, in my district, I actually have

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both rural and urban, and so I can...I know the farmers out there definitely had calls into me because their property taxes were going up double digit, whereas those that live in the urban areas, their residential property wasn't going up at that rate. [LR582]

SENATOR BLOOMFIELD: It wasn't going up at all, probably. [LR582]

MARY ANN BORGESON: No, no, for a lot of...for a couple of years, we actually were decreasing property values. But one thing I wanted to add was, is, you know, how Douglas County, you know, we...I brought a chart along that just shows you when...in good times we have reduced the mill levy, and then there are times when we've increased the mill levy. And there's a lot of variables that make that up. It could be the unfunded mandates. It's the cost of business with health insurance. It's bad times, no...you know, the housing market being bad. But I think counties are resilient. We're the closest government to the people, and I think we do what we have to do in order to provide those services and keep the high quality of services going. In Douglas County, for instance, we have come up with a lot of alternatives, both at the juvenile and the adult facilities of our detention and correction facilities just because some of those are cheaper. So instead of just incarcerating everyone, we begin programs that keep them out of the jails at a less cost but still at a high-quality service. So we are by no means here trying to point fingers. What we're here to do is say that we're in this together and we would really like to work on how we can resolve some of the burden that we do bear on the unfunded mandate portions of what we're responsible for. [LR582]

SENATOR AVERY: Do you have any idea how much it costs you in Douglas County not to participate in expanded Medicaid? [LR582]

MARY ANN BORGESON: Just shy of \$4 million. [LR582]

SENATOR AVERY: Just shy of \$4 million, and Lancaster is about \$2.8 million. [LR582]

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MARY ANN BORGESON: About \$2 million. [LR582]

SENATOR AVERY: And has your board supported expansion of Medicaid? [LR582]

MARY ANN BORGESON: Yes. [LR582]

SENATOR AVERY: Senator Scheer. [LR582]

SENATOR SCHEER: One of the problems that I have with...we can consider them unfunded mandates and I understand that part of it. But realistically, we're talking about people and where they reside, either in a rural area but we'll say within a city, so it's within a county, within a state. How do we distinguish which one of those entities ought to be responsible for which services? I mean there's no manual to that. [LR582]

MARY ANN BORGESON: Well, I think there could be better discussion on...we just pay the bills on a lot of these, but we don't have the... [LR582]

SENATOR SCHEER: But I'm... [LR582]

MARY ANN BORGESON: ...oversight or authority to kind of make decisions. [LR582]

SENATOR SCHEER: I get that. I get that. So you're saying you would be more comfortable paying if you had control of those services? [LR582]

MARY ANN BORGESON: On some, yes. [LR582]

SENATOR SCHEER: Okay, okay. Well, it's good to know. I mean... [LR582]

MARY ANN BORGESON: Yeah. Yeah, no, that's...absolutely. I mean, again, a good example that some of us used is the courts and the guardian ad litem, the

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court-appointed attorneys. I mean we're told. And the transparency and accountability of what services, we can't audit those. [LR582]

SENATOR SCHEER: They're nil. [LR582]

MARY ANN BORGESON: I mean it's just that's what it is. And so as commissioners who are responsible for paying that, it's kind of ironic that we are just to pay it and...but we can't tell the taxpayers where they're actually being spent or how they're being spent. [LR582]

SENATOR SCHEER: So if I'm understanding conversation with you folks, some of this isn't necessarily about dollars, it's about controlling how the dollars...you're spending the dollars without the control of that expenditure. [LR582]

MARY ANN BORGESON: Um-hum, that goes along with it, yes, sir, yes. [LR582]

SENATOR SCHEER: So, you know, but some of this is resolvable not necessarily by having to come up with dollars but coming up with different procedural manners on how things are handled. Is that a fair assessment? [LR582]

MARY ANN BORGESON: Well, I guess I would ask the question back on, like, the space. [LR582]

SENATOR SCHEER: No, no, no, you have to answer my question first. [LR582]

MARY ANN BORGESON: Well, I...that's what I'm trying to do...on space, you know for state offices. And I guess I don't really understand why that would be a county responsibility to pay when we have nothing to do with it. [LR582]

SENATOR SCHEER: Well, I mean, you know, you have to...well, not necessarily true.

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You have to go back historically. [LR582]

MARY ANN BORGESON: Okay. [LR582]

SENATOR SCHEER: And if you go back historically, some of those trade-offs were made when the counties were relieved of their ability for essentially a lot of the healthcare and so forth. [LR582]

MARY ANN BORGESON: Um-hum. [LR582]

SENATOR SCHEER: If you take those dollars forward now, those are huge, huge numbers that the state absorbed. And I would venture to say they are much larger than what you are paying in rent. [LR582]

MARY ANN BORGESON: Sure. [LR582]

SENATOR SCHEER: I'm not saying anything is right or wrong. [LR582]

MARY ANN BORGESON: No, true. [LR582]

SENATOR SCHEER: But you can't just say, well, how come we have to do that? Well, you do it because you made an agreement 30 years ago to do it. Now we can change the rules, but we have to be honest with why we're doing it. And we're doing it because we struck a deal. And so if we want to change the deal, fair enough, but we've got to be honest and up-front and just say, well, gosh, how come we keep paying all this money? Well, we pay the money from a county perspective because of a deal, which probably none of you were involved with, but a deal was struck and that's where it came from. [LR582]

MARY ANN BORGESON: Right. [LR582]

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SENATOR SCHEER: So, you know, a lot of things should probably be on the table. But, you know, I don't have illusions of having, you know, millions and millions of dollars out there to start absorbing a lot of the expenses. I mean, they're still expenses. Somebody has got to pay for them. But if there are ways that we can reformat the system that makes more accountable for counties to work within the realms of what they are currently paying for and perhaps can do it in a much more efficient and effective manner, you know, God bless you, I don't see why we wouldn't want to do that, I mean, so, you know, but... [LR582]

MARY ANN BORGESON: And each one of them, I mean, I agree. I mean, each one of those, that's why I think that bringing the full list and having a look, because you're right, we do have to look back on history because I don't know all the history. I've been here for 20 years, but I wasn't here when all of the deals were struck. [LR582]

SENATOR SCHEER: Well, I was here when dirt started, so you know. [LR582]

MARY ANN BORGESON: When what? [LR582]

SENATOR SCHEER: When dirt was invented, so. [LR582]

MARY ANN BORGESON: Oh. (Laugh) So, I mean, I...you...very good point is that. But again, I think the bottom line is, is if we don't sit down and take each one and try to walk through--you know, what was the history, why was it there, why is it still there and, now, how do we make it better for both--where is the compromise, where is the working together? That's all we're asking. [LR582]

SENATOR SCHEER: I (inaudible). I don't disagree. I think there's got to be some compromise somewhere, and there has to be some flexibility certainly on areas that certainly are more than past due. And I think that's what I would like to see between the

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counties and the state. There might be just a ton of stuff that we do agree upon, and, you know, so why don't we get those out of the way before we start worrying about the stuff that we're going to argue about, you know, keep the conversation positive until it has to get negative, because there very well might be some things that can be restructured very easily statutorily that makes your lives a lot simpler and it's no skin off us. I mean it's just...it helps you out. So I thank all of you folks for your testimony. [LR582]

MARY ANN BORGESON: Oh, I appreciate that. It will be...again, we're here willing to work, not to fight. [LR582]

SENATOR AVERY: Senator Bloomfield. [LR582]

SENATOR BLOOMFIELD: Thank you. Ms. Borgeson, you said you had a chart there of your mill levies and whatnot. [LR582]

MARY ANN BORGESON: Yes, sir. [LR582]

SENATOR BLOOMFIELD: Would you provide me with a copy of that, please? [LR582]

MARY ANN BORGESON: I sure will, yes. [LR582]

SENATOR BLOOMFIELD: Thank you. [LR582]

SENATOR AVERY: I don't see any more hands up. Thank you very much for your testimony. [LR582]

MARY ANN BORGESON: Thank you. [LR582]

SENATOR AVERY: Anyone else wish to address LR582? Good afternoon. [LR582]

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BETH BAZYN FERRELL: Good afternoon, Chairman Avery, members of the committee. For the record, my name is Beth Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials. And I'd like to start my testimony by thanking Senator Crawford for introducing LR582, and I'd also like to thank Senator Avery and Senator Crawford and their staffs for all the work that they did with the conference calls and the discussions with county officials on this issue. We not only identified unfunded mandates, but we had a really good discussion about what counties do, what our functions are, what services we provide, and I think it was very beneficial for all of us. The issues that we identified were unfunded mandates, as you've heard, that were either passed down from the state or things that were funded at one time and then the funding was reduced or eliminated over the years. We've heard a lot of good discussion about that today, and some options. And I think, Senator Scheer, you have some very good ideas about looking at things that we can work together on and maybe look at procedural issues that don't involve dollars. And we'd be happy to work with you on those and work with the committee. We've heard a lot of testimony today. I won't elaborate on any of those issues. But I do appreciate the work that's gone into this, and I would be happy to try to answer questions. [LR582]

SENATOR AVERY: Thank you. Any questions? I think you guys are winning. We're just about ready to drop here. Thank you very much. Any other of you who wish to speak on this issue, LR582? Senator Crawford, do you want to offer some benediction? (Laughter) [LR582]

SENATOR CRAWFORD: I'm just going to say thank you for your patience and your excellent questions. We've been writing them down. And so rather than respond to them now, we'll use that as we come back to South Sioux City to address some of the questions that have been raised because I know it's late in the afternoon. Appreciate your patience (inaudible). [LR582]

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SENATOR SCHEER: You just want to go home. [LR582]

SENATOR CRAWFORD: Yeah, (laugh) so do you. (Laughter) Thank you. [LR582]

SENATOR AVERY: All right, that will end the discussion of LR582. We have on our agenda LR581, which is an interim study to examine issues broadly defined under the jurisdiction of this committee. So I will open up the conversation for any discussion of LR581. I think we do have...Mr. Adam, right? [LR581]

ADAM HALL: Yes, sir. [LR581]

SENATOR AVERY: We do have one. Mr. Hall, how are you? [LR581]

ADAM HALL: I'm fine, sir. Thank you very much for your time. [LR581]

SENATOR AVERY: Maybe I should give some background to why Mr. Hall is here. We had a request to take a look at handicap parking around the Capitol. And we conducted a survey of Capitol employees and we discovered that there is a need and that there is not much being done about it. So this might be something for next year, but Mr. Hall wanted to address the committee on this issue and we're happy to have you here, sir. [LR581]

ADAM HALL: (Exhibit 1) Thank you very much. Once again my name is, for the record, Adam Hall, A-d-a-m H-a-l-l, and I've just come here today to talk about accessible parking for employees at the Capitol. As an employee since 2007 here at the Capitol, I can tell you from my experience parking at the Capitol with a physical disability is a challenge. I was born with cerebral palsy, so I use forearm crutches 100 percent of the time. And one of the major issues that I've dealt with parking in this building is the employee lot on the...would be the south side of the building, and there's only one real accessible entrance for the Capitol, which is on the opposite side of that building. So I

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was in a situation where when I parked in that lot I had to take four flights of steps I think to get up to that main door, and that was before the railings were put into place. And so that being said, I know that this is an historical building and...but at the same time there has to be something done for people, especially employees here with disabilities, even a temporary disability that work here at the Capitol. And that was the gist of this form letter that I wrote. I can also tell you that in the wintertime it's not very accommodating here at this building just from the fact that, like I said, there's one accessible entrance in this entire building and I believe this building covers, what, four blocks to that nature. So that's about all I have. If anyone has questions, I'm here to answer. I have experience, over 40 years of experience dealing with this, so. [LR581]

SENATOR AVERY: Let me ask you, do you know if this building is in compliance with the ADA, the Americans with Disabilities Act? [LR581]

ADAM HALL: I do not know, sir. [LR581]

SENATOR AVERY: It would strike me as if it is, it must just be squeaking under the door. [LR581]

ADAM HALL: Yeah, I don't know that for. I'm sure I could find some information out in regards to that. [LR581]

SENATOR AVERY: And it might be...I don't know if anybody on the committee knows, but it might be that you get some exemptions in some... [LR581]

SENATOR SCHEER: I think from the historical portion. [LR581]

SENATOR AVERY: ...yeah, because it's historical. [LR581]

ADAM HALL: Right. That is the... [LR581]

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SENATOR AVERY: But the only way you can get in this building is in the north entrance, right? [LR581]

ADAM HALL: The simplest way or the easiest way for me to get into this building is to go through the north side. Now I'm very fortunate where I'm not wheelchair-bound, so I can navigate steps here and there. But for someone else let's say that's in a wheelchair, they would have to go only one spot in the entire building. [LR581]

SENATOR AVERY: The east entrance has too many steps, right? I mean the south one. [LR581]

SENATOR SCHEER: They all do. [LR581]

SENATOR AVERY: I mean, the south one. [LR581]

SENATOR BLOOMFIELD: Yeah. South is too many. The east one wouldn't be quite as bad. [LR581]

ADAM HALL: And even, you know, on the speaking of accessibility, even in the employee lot and you go into that...the south entrance, I mean, have you gone through those doors? I mean... [LR581]

SENATOR AVERY: Every day. [LR581]

ADAM HALL: I mean, those doors by themselves... [LR581]

SENATOR AVERY: They are heavy. [LR581]

ADAM HALL: ...I mean, they're heavy but they're not very wide. So then again where

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we've got ourselves in a corner where you've got one accessible entrance. Now this is...that study wasn't about that particularly. It was about parking. So there still needs to be...if the situation is, well, we can only have one accessible entrance in the entire building, then we need to solve the problem where a person has to go around the entire building in order to get to work. That is the main issue at hand here. [LR581]

SENATOR AVERY: Well, we did discover from this mini study that there is some dispute about who has authority over what. And some agencies claim they've got authority over all of it and others say, no, you don't. You don't have authority over this. The city of Lincoln is involved because they have handicap parking on the street. But then that's not particularly suitable for people who have to get from the street to the inside of the building. Senator Wallman has a question. [LR581]

SENATOR WALLMAN: And the south side, you know, that ramp, is that too steep if you're going to basement? The elevator goes down there to go upstairs. [LR581]

ADAM HALL: You know, I've never tried that myself, but I... [LR581]

SENATOR WALLMAN: I mean, if we put a separate thing there. [LR581]

ADAM HALL: But I was told that... [LR581]

SENATOR WALLMAN: The state got their trucks there and stuff. [LR581]

ADAM HALL: ...right, that we're not supposed to use that entrance... [LR581]

SENATOR WALLMAN: You know, I've been down there. Yeah. [LR581]

SENATOR AVERY: That could be hazardous I would think, especially in the winter. [LR581]

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SENATOR SCHEER: Well, first of all, thank you for coming. And I've been aware of it for the last couple of months because I ran into a few other ladies that were in the same situation as far as needing assistive parking. And I think we're sort of all walking around the egg here. I mean, the obvious answer is to move the constitutional officers away from the circle drive, which is by where the only handicapped accessible entrance is at, and that would provide, you know, eight, ten spots. And honestly I would assume there might be a higher demand than eight or ten with the amount of employees that are housed here. But I think it certainly would be a good-faith effort at least to encourage that. Now whose turf that falls into, Senator, I have no idea. [LR581]

SENATOR AVERY: See, that's been one of our problems. [LR581]

SENATOR SCHEER: But that just seems like too logical of an answer that can't be done with a limited amount of work. I mean, I get it if you want to leave one for the Governor. [LR581]

SENATOR AVERY: And it has to be a permanent solution. It cannot depend upon the goodwill of somebody giving up a... [LR581]

SENATOR SCHEER: Yeah. You can't...yeah, it's not up to one of the officers to say, well, you can have my parking spot while I'm in office. That's...it needs to be dedicated. [LR581]

SENATOR BLOOMFIELD: I would think, you know, this needs in my mind to become a priority. And I think Norm's suggestion of that south side, maybe we have to do a little modification, but if we go down to the basement with an approved ramp or a ramp that will actually work, we don't take anything away from the building if there's an elevator down there they can actually use, come back up, that I think might be a good solution. And I think maybe a quick solution is either what Senator Scheer suggested or the

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possibility we go to the city and see about parking more of them along the street all day instead of for the two-hour limit. [LR581]

SENATOR SCHEER: Well, but even if you go on the street you're still...I mean, that's roughly a block away, and especially in inclement weather. [LR581]

SENATOR BLOOMFIELD: It's not good but it gives...it's better than over here until we do get something squared away permanent. And I do think that's something we better be looking at. [LR581]

SENATOR AVERY: Probably the toughest issue would be establishing jurisdiction. [LR581]

SENATOR BLOOMFIELD: Pecking order. [LR581]

SENATOR AVERY: That's really an issue that when you have competing offices saying I'm responsible, the other one's saying, no, I'm responsible... [LR581]

SENATOR BLOOMFIELD: Pecking order. [LR581]

SENATOR AVERY: ...and in effect nobody's responsible. [LR581]

SENATOR SCHEER: Well, if everybody agrees, what difference does it make? [LR581]

SENATOR AVERY: Any questions for Adam, Mr. Hall? Thank you very much. [LR581]

ADAM HALL: All right. Thank you very much. [LR581]

SENATOR AVERY: We have another person wanting to testify. Other testimony? [LR581]

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LYNN REX: (Exhibit 2) Senator Avery, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. I was going to testify as it applied to the county mandate issue because that also applies to us and the resolution is broad enough to include us. I'm just going to incorporate by reference a piece that has been missing this afternoon. And if this was the beginning of the afternoon I would actually spend some time reviewing it with you. But my testimony of LB383 in 2011 when state aid was totally eliminated outlines, and I'm going to incorporate that by reference, basically to respond to Senator Avery, when was the real decline in terms of when did we really drop fundamentally in terms of ratings of being one of the states that is one of the lowest in the country in providing aid to local governments. And that occurred over a period of two or three different bills starting in 1967 when the Legislature exempted households and intangibles, put together a reimbursement fund; 1977 passed LB518 which removed the last three portions of the livestock, farm equipment, and business inventory. Those three exemptions alone represented the largest, the largest gap, in financing for local governments in the history of the state of Nebraska and represented at that time local governments lost \$250 million in actual dollars, not just valuation. And they did that over a period of two or three years, as you may remember. Basically 1972 passing LB1241 removing the first five-eighths. Then in 1977 we passed LB518 moving the final three-eighths. The Legislature put together what was then the personal property tax relief fund. Over a series of Nebraska Supreme Court decisions, the distribution formulas were held to be unconstitutional. And the Legislature at that time, you talk about deals that were broken, and I was a very young person then over 30 years ago with the League of Nebraska Municipalities. And the Legislature committed to local governments that there would be a dollar-for-dollar reimbursement so that there would not be a shift of property taxes to residential homeowners and others in the state of Nebraska because the Legislature understood the profound shift that would be occurring with just the elimination of those three exemptions on property tax. And then-Governor Exon said that's great, but we can't afford it. He capped it at \$70 million. After several years of Supreme Court

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decisions, the Legislature basically in 1982 then said okay, John DeCamp came up with the term state aid, we'll just call it state aid. We have developed over the years a frozen class. We can't go there. We're just going to call it state aid. And then you know the rest of the story, which is it was cut, it was cut, it was cut, and cut, and in 2011 totally eliminated. So again the deal was that there would not be a shift in a huge shift on property taxes to everybody else. In fact that is what occurred. So that is part of the story that was missing this afternoon because then you look at that coupled with unfunded mandates and you get a fuller picture. So thank you very much for your time this afternoon. [LR581]

SENATOR AVERY: Thank you. Senator Scheer. [LR581]

SENATOR SCHEER: I have a question. Now that you talk, I might ask you a question. What number out there, Lynn, do you think doesn't necessarily make them whole but gets them back in the game if the state were going back into... [LR581]

LYNN REX: Well, we could put an inflationary factor on it. I will tell you that we, the League hired the Bureau of Business and Research in 1977 to do a study of what was the amount of actual revenue lost for local governments. It was \$250 million of revenue, not valuation, revenue. Okay. You put an escalator on what that amount would be today. [LR581]

SENATOR SCHEER: Okay. I understand that, but what...but where we're at now, what would it take for...to get cities back? [LR581]

LYNN REX: I can come back and get you that number. I will tell you that of the...I mean, I will just... [LR581]

SENATOR SCHEER: I mean, I know the hard bargain... [LR581]

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LYNN REX: There's a way to do it. I will not be the one to do it, but I will...I can hire somebody to do that real quickly for you. [LR581]

SENATOR SCHEER: Well, and I guess what I'm looking at is, you know, obviously they lost what remaining part of it in of recent history. So if it was down to however million... [LR581]

LYNN REX: Oh, well...okay. [LR581]

SENATOR SCHEER: So, you know, how many does it take us to get back? [LR581]

LYNN REX: Well, yeah. Let me ask you...that I can answer pretty quickly here... [LR581]

SENATOR SCHEER: Okay. [LR581]

LYNN REX: ...which is...and I've talked to Larry Dix about this. We've been working together over the summer on a number of issues, including this one. And essentially \$17.9 million was the municipal share of the \$70 million. But again the \$70 million was, you know, not even a third of the total amount lost. So to us the amount lost, Senator, was taking the \$250 (million) and then applying an inflationary factor to that. But if you even take the \$70 million and apply inflationary factor, it's huge... [LR581]

SENATOR SCHEER: Oh, yeah. Absolutely. [LR581]

LYNN REX: ...in the actual amount, basically, that cities and counties, NRDs, and everybody else have lost. Now the state aid to school formula, that's been totally different. You folks have dealt with that on an ongoing issue. That's gone up, up, up, and up. I'm sure not adequate, but you looked at your issue about why your increased property taxes don't result in more money for your schools because again the state aid

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formula TEEOSA, so. But we can get you those kind of numbers and I know we're going to be coming in with some issues on this very thing. [LR581]

SENATOR SCHEER: Okay. Thank you. [LR581]

LYNN REX: You're welcome. Thank you very much, appreciate your time this afternoon. [LR581]

SENATOR AVERY: Yeah. [LR581]

LYNN REX: Thank you. [LR581]

SENATOR AVERY: You scared us with that \$250 million. [LR581]

LYNN REX: I'm sorry? [LR581]

SENATOR AVERY: You scared us with that \$250 million and then you have to bring into account the impact of inflation. Talking about a number well over a billion. [LR581]

LYNN REX: Easily, easily. And in fact, just to very quickly, Senator Cal Carsten, who was chair of the Revenue Committee at that time, begged the Legislature to put like even a 1 cent valuation or something on livestock, farm equipment, and business inventory. The folks that were all in the room at the time that were the beneficiaries of that, the farm organizations, the chambers, everybody else, they fought it, fought it, fought it. Why? Because they never wanted you to then come back and add the tax back. So as a consequence, that's why we had no factor. That's why the Supreme Court said you cannot base distributions in 2000 or 2014 or in this case back in 1982, you can't base it on what it was in 1977 because things change. [LR581]

SENATOR AVERY: Yeah. [LR581]

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LYNN REX: So it's huge. But it's well over a billion if you were trying to...and so when...that's why the Syracuse study and that's why the studies after that and the tax modernization folks that testified I believe from Tennessee that were involved in the Syracuse study that came back up and testified said the same thing, which is we said you needed to put more money in state aid going back to local governments. Nebraska is profoundly low compared to everybody else. But again, it takes money to do that, and that's sales and income tax dollars. [LR581]

SENATOR AVERY: Everything cannot be done on the cheap. Yes, sir, Mr. Bloomfield. [LR581]

SENATOR BLOOMFIELD: Again, this is just for the record, Lynn. This is not really a question. But being as the government seems to break its promise pretty regular about funding what they say they will fund, makes me a little hesitant about expanded Medicaid. Thank you. [LR581]

SENATOR AVERY: You can't get away with that. [LR581]

SENATOR BLOOMFIELD: You did it twice. (Laughter) [LR581]

LYNN REX: Thanks, all. Thank you for your time. [LR581]

SENATOR AVERY: Thank you. All right. We are adjourned. [LR581]