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Government, Military and Veterans Affairs Committee October 18, 2019
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BREWER: Good afternoon, ladies and gentlemen, and welcome to the Government, Military and Veterans Affairs Committee. My name is Tom Brewer, represent the 43rd Legislative District, and I'm the Chair of this committee. We have our committee members here with us today, and we'll start by introducing themselves. Start on my right with Senator Blood.

BLOOD: Good afternoon, I'm Senator Carol Blood. I represent western Bellevue and southeastern Papillion, Nebraska.

LOWE: John Lowe, District 37, southeast half of Buffalo County.

M. HANSEN: Matt Hansen, District 26, northeast Lincoln.

KOLOWSKI: Rick Kolowski, District 31, the Millard area.

HUNT: I'm Megan Hunt and I represent District 8 in midtown Omaha.

BREWER: All right, to my right is committee legal counsel, Dick Clark, and all the way on the end to my left is Julie Condon, who's our committee clerk. Let's see, we have one senator absent. I got a note and Senator Hilgers will be out for today's hearing. And we have our page, Sunny [PHONETIC], you want to raise your hand there? Today we're gonna have legislative resolutions, LR149 and LR247. For those of you who may not be-- may not have joined us previously or this is the

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first time, this interim study on resolutions that are introduced by senators who believe that the Legislature should investigate certain topics that may be the subject for future legislation. The government committee is here today to receive information about these topics. To help facilitate these proceedings and maintain an accurate record, we ask for your assistance with the following issues. First, be sure that your cell phones are muted. If you wish to record your presence in the hearing today, you can fill out one of the white attendance sheets over on the table. If you wish to testify, if-- please fill out one of the green testifier sheets located on the table. If you'll be passing out materials or have any other items that you want to hand out, please be aware of the fact that we'll need 12 copies. If you don't have that many, please let our page know and she can make copies. Letters submitted to the committee must be by 5:00 p.m. the day before the public hearing and they will be provided to the committee members in their binders. Each letter must include the following: your name, address, and the LR number. Mass mailings are not included. When your time to present comes, please come to the front of the room, have a seat. We'd ask that the testifiers spell out their name for the record. Speak clearly into the microphone. We will begin by having the senator who is introducing provide an opening statement, and then we will follow by other testifiers, and then the senator will have an

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opportunity for closing. We will now begin with Senator Wayne and
LR149.

WAYNE: Thank you, Chairman Brewer. Not oftentimes do you think about property tax relief in the Government, Veteran Affairs Committee. Most of the time when we're all on the floor we hear it from Revenue, typically, is where a bill comes out and we hash it out on the floor or maybe not hash it out, maybe it just dies on the floor. But this is a committee that, after serving two years on it and not really understanding the impact that counties have-- my name is Justin Wayne, I guess I should do that, W-a-y-n-e. I saw you lean forward to stop me. I represent District 13, which is north Omaha and northeast Douglas County. But the reason why I think this is important when we start talking about local property tax relief is we push a lot of things down to the county. More importantly, we have systems and infrastructures that the county have to pick up our tab. And I think it's important that we sit down and look at that and relieve some of these counties of that burden, which would ultimately reduce their overall budget. And I think ultimately impact our taxing authority at that level. So how did I get here? When George H. Bush died, the Supreme Court said the court was closed for the day that his funeral was. But in Douglas County, and my wife works for the Court of Appeals, so I assumed they didn't have court. And then I got an e-mail about 7:00 in the morning saying your court at 9:00 is still on at

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Douglas County. And I thought, well, that's weird, the Supreme Court said there's no court today. Then I found out that counties actually run their own court and that's-- and they pay for all their costs. So the county clerk is paid for by the county. The staff around-- which in Omaha is over 100, and we look at the court system, over 100 people is "beared" by the county. Which was weird because the bailiffs are state employees and the judges are-- I'm sorry, the judges are state employees, but the bailiffs aren't so they report directly to the county. But actually their boss is the judge, it was really confusing. And I didn't know this because I couldn't figure out if I had court or not. So I began talking to the Supreme Court about how this structure is set up, and I introduced a bill that's in Judiciary right now around starting to move away from the elected clerks of the district court in those areas where it doesn't make sense, where they're actually doing multiple other jobs, and to have an elected official and hold an election just cost the county extra money. Out of that conversation, and talking to NACO and other folks, it grew to there are a lot of other things that we do infrastructure wise, not just education that the state says we have to do and the counties bury our own at cost. So I'm just gonna have a couple people behind me testify. I will not be here for my closing. I have to go back to Omaha. But I felt this is important enough to come down to Omaha-- I mean, come down to Lincoln to say that this committee has the authority and the ability to provide property tax relief to the counties by making sure

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we make structural changes, that if it is a state function like our courts, then our states should pay for it. And there's other things, I believe, Sarpy County sent a letter that had about 30 different things that they think the state mandates down to them that they have to cover. And so as we continue to look at property tax relief, as we continue to look at best ways to serve Nebraskans, I think it is important that if it's state-owned, we should own it and we should pay for it. And with that, I will answer any questions?

BREWER: Thank you, Senator Wayne. Questions? Senator Blood.

BLOOD: Thank you, Chairman Brewer. Senator Wayne, when you move a paid position and who pays that to another government entity, how does that save taxpayer dollars? Isn't that just shifted?

WAYNE: Well-- but-- yes and no, it can remove the dollars from their cost. And we can also, particularly in, in, in the legal system, most of those fees are paid for by court fees. So people who are filing.

BLOOD: So--

WAYNE: Not, not necessarily--

BLOOD: --paid by court fees, wouldn't that then compensate at the county level?

WAYNE: No, that would be the individual who decides to sue or the state who decides to pursue criminal charges against somebody. There's

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a, there's a filing fee. That's one way we can do it. I'm not necessarily--

BLOOD: I'm saying don't those fees already exist and pay for those, is what I'm asking.

WAYNE: Correct. And you can increase those if we need to. But we have one of the lowest filing fees in the country as far as filing a lawsuit. I'm not saying that I have the answers today. Part of the interim study is to look at that structure and make sure that that structure's in place that says, counties you don't have to carry that burden. This wasn't a real issue 15 years ago when we provided county and city aid to them, but this body before us decided to remove that. But we still keep all these burdens on the county.

BLOOD: Well, it was a big deal during the recession--

WAYNE: Correct.

BLOOD: --around 2008, municipalities and counties had all of those mandates and then they lost the funding from the state and the federal level and then they--

WAYNE: Correct.

BLOOD: --were in deep trouble at that time, so. Thank you.

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WAYNE: And again, I think the purpose of this hearing is just to look at the structures of different things and have a conversation about what can we do structurally.

BREWER: All right. Additional questions? Senator Kolowski.

KOLOWSKI: Thank you, sir. Senator, on the, on the, on the topic of some of the topics you might get into between the counties and the cities, are there some things that might be dropped that neither one would have to do? Are we, are we looking for an efficiency eye on these totals compared to just it's not gonna be us, it's gonna be the county or back and forth?

WAYNE: I think there are some things-- I think we got to be mindful. Again, I started with the courts and then I heard rumblings of other things, and that's why I opened the interim study up and, and, and requested a [INAUDIBLE] so the counties can say what they feel. But from the courts, it just never made sense to me that if a judge is paid for by the state, why is this bailiff paid for by the county? That just-- and then you have a situation where we cancel court, but the county says, no, let's go forward. And then the judges want to cancel court, but you have sheriffs who work for the county inside of it, it just becomes this weird dynamic that doesn't necessarily play out everywhere else, but it plays out in Lincoln, Sarpy County, and Omaha quite a bit because you have the majority of the cases. But what

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we are finding out from the, from the hearing we had in Judiciary is that there are a lot of clerks at the district court who are elected and receiving dollars and getting paid pretty well that aren't doing a really clerk job because they only have 40 cases a year. They're actually doing other things. So we need to figure out how to, how to deal with that, too.

KOLOWSKI: Thank you.

BREWER: All right. Any additional questions? Senator Blood.

BLOOD: And sorry, Senator Wayne, that just brought up another question in my mind. So how is that not a county issue then? If there's people not doing your job effectively at the county level, why is that our job?

WAYNE: Because in statute, we, we, we mandate that they have a district court clerk.

BLOOD: Right.

WAYNE: So even if they don't have enough, enough jobs, we still have to have that, and it's--

BLOOD: Do we mandate how many there are?

WAYNE: We actually-- in the handout from Judiciary tells you-- I mean, from the Supreme Court, the elected ones, there's a lot of counties

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that we elect and we're trying to move that over, especially in the smaller counties where they don't need to have a full-time clerk position. But it's in our statute. It's what we mandated now.

BLOOD: But not how many, just that may have one?

WAYNE: Yeah.

BLOOD: Thank you.

BREWER: All right, one more time. Any additional questions? Senator Lowe.

LOWE: Thank you, Chairman. And thank you, Senator Wayne. This study just doesn't deal with the court system, it's, it's across the board with unfunded mandates and would state prisoners in our county courts and the counties having to house them-- I, I can relate to this because of YRTC in Kearney, and we don't-- our county doesn't get refunded for them being there. So this would be part of that then.

WAYNE: Correct. And so in Douglas County, I don't know if they're gonna testify today or not, but one of the biggest issues in Douglas County is this post-supervised release. And what happens on post-supervised release-- and this goes to your point, is after they serve their time, they're on probation, essentially post-supervised release for anywhere from 9 months to 24 months. Well, in that time, they could be, quote unquote, sanctioned. So that means they can go to

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the Douglas County Jail or Lincoln or Sarpy or any jail for a week, three days, ten days. The county has to bear that cost, even though it's, it's a, it's a state mandate that they be put on post-supervised release. And we're seeing in Douglas County that our prison-- or our jail is heavily overcrowded. And we're getting to a point where there are hundreds of people on post-supervised release spending the weekend or three or four days at a time in Douglas County and they are not getting reimbursed. So it's a huge problem for Douglas County, too.

LOWE: Um-hum.

BREWER: All right. Any more questions? All right. Seeing none, thank you for your testimony.

WAYNE: Thank you.

BREWER: And Senator Erdman, where are you? Come on up. We go by rank and you're next.

ERDMAN: Thank you, Colonel. Good afternoon. Steve Erdman is my name, S-t-e-v-e E-r-d-m-a-n. I live in western Nebraska and Bayard, was a county commissioner for twelve years. I also represent District 47, which is ten counties in the Panhandle. The NACO people are gonna pass out a document that shows unfunded mandates on counties. When I became a county commissioner in 2005, one of the things that surprised me the most was the things that we do, the counties do for the state. And as

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we began to put together our first budget that first year, I was amazed at how much our taxpayers pick up to do things that the state should pay for. One of the things that always amazed me is when someone is arrested for breaking the law, and we do have that happen in our county, they're put in our jail. And I asked our county attorney one day, I said, have you ever had anyone sit in our county jail that broke a county law, a city law? He said, I'm not. He said every person that's in that jail has broken the state law, but we housed them. We pay for their medical expenses. We pay for their defense, for the prosecution, for the judge. We pay all that, and they broke a state law. So back in 2001, and this document will show you that in 2001, there used to be a program called jail reimbursement. And that jail reimbursement program has now since gone away. And so they used to reimburse us \$35 a day for holding prisoners who broke state laws. We don't get that anymore. There used to be other forms, forms of funding that the state would pass along to us to do things that the state requires us to do. So the long and short of it is this, what has happened over a period of time is we have shifted from the state's obligation to the property taxpayer and consequently all those unfunded mandates that are passed down to the counties wind up in the taxpayers' statement and they pay those. Because you see, that's the only funding source that those counties have is tax-- property tax. And so consequently, when we pass legislation, and we do that from time to time that doesn't have an appropriations to it because it

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doesn't cost the state anything. So what happens then, it goes onto somebody else. It may be a school. It may be an NRD. It may be the fire department. It may be the county or anyone else who collects local property tax. And so you have heard numerous people say that if your property tax is too high, it's not the state's fault because the state does not collect property tax. And that is a true statement because back in 1966, the voters voted to no longer let the state collect property tax. So that's a true statement. All those things that are high because of property tax come as unfunded mandates-- most of them, a lot of them. In the county that I served, our budget was in that \$3.2, \$3.3 million range per year. And nearly 30 percent of that went to doing things for the state that we didn't get reimbursed for, especially in the judiciary part. And so consequently, when we keep balancing the state's budget on the backs of the local units of government, property tax is gonna go up. And that's exactly what's been happening for years. And so I appreciate Senator Wayne bringing this for a discussion, because I think as we move forward and we're passing legislation, I don't only think that we need to have an appropriation for when we the state are paying, but we also should have an appropriation and a determination if we pass this legislation, who pays for it and how much does it cost? And we maybe make different decisions if we understand that we're passing unfunded mandates on to the counties, the cities, the schools, and all those other people that we balance our budget, budget off. So when you get this document from

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NACO, this is a document that has been around for a while. They have updated it to make it more modern to what it was. I've seen this, this many times as a NACO board member, but this is a good document. This is a piece of information you can look at to see what those unfunded mandates are. And the good part is they have also included in their what these unfunded mandates cost. And so I appreciate the fact that we could come here today and talk about unfunded mandates, because I think that's been the crux of some of our property tax problem for a long time. So I appreciate the chance to come and visit with you.

Thank you.

BREWER: Thank you, Senator Erdman. And it's always good to hear from someone who's actually been in the trenches and--

ERDMAN: Thank you.

BREWER: --has to deal with it. Questions for Senator Erdman? All right. Seeing none, thank you.

ERDMAN: Thank you so much. Have a good day.

BREWER: All right. Now as we move forward, I'm-- have not set a time limit hoping that everyone will be reasonable in the amount of time. So let's not test my patience. Anyway, first up. Come on up. Oh, Jon from NACO. I got a list here and I didn't read it. Welcome to the Government, Military and Veterans Affairs Committee.

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JON CANNON: Thank you, Senator Brewer, much appreciated.

BREWER: A little deja vu here seeing you again.

JON CANNON: Yes, sir. And congratulations to you, Senator Brewer, on your accomplishment. Senator Brewer, members of the Government, Military and Veterans Affairs Committee, my name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the deputy director of the Nebraska Association of County Officials, otherwise known as NACO. And I'm here to testify on LR149. Senator Erdman expressed how unfunded mandates affect counties far more ably than I will. I'll cut out that portion of my testimony, my prepared testimony and get kind of the meat of it. But first, I did want to address that counties are fundamentally creatures of the state. They are political subdivisions of the state. And so there is nothing that counties do which is either not authorized or not mandated by the state. It's not like we're, we're out there making movies or we're running fast food joints or we're doing other things frivolously because we can't do it unless there is a law that says we have to or we can do that. So we certainly want to thank Senator Wayne for introducing a study resolution. The handouts that I've-- that are being handed to you right now, there are three of them, one is LR582 report. This was prepared under the auspices of Senator Crawford. It's an examination of unfunded and underfunded mandates to counties and their impact on property taxes. This study had been done in 2014. There are 16 issues identified by county officials as unfunded or

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underfunded mandates. The second is the NACO update of the 2014 report that Senator Erdman had referred to. To the extent that the first item, the 2014 report, is included in the Legislature's Web site. I would certainly recommend, if it's at all possible, for this committee to-- I'm not quite sure how the machinations worked, but if you could have this placed also on the Web site as an addendum to that original report, I think that would certainly be very, very helpful. And then final handout that we have for you is from the National Association of Counties, the, the more federal looking group that also talks about unfunded mandates and other regulator impacts on counties. The committee should have received an e-mail from Janet Wiechelman, Cedar County Clerk of the District Court. Janet had testified at the hearings in 2014 on the court fees that are paid by counties and not reimbursed by the state when the judge waives the fee. And her e-mail is just updating what she had said in 2014. Commissioner Schorr from Lancaster County is going to be distinguishing how some mandates go to the core responsibilities of county government and provide a direct, direct benefit to our constituents, other functions or state functions that primarily benefit state government that are shifted to counties and paid for by local property taxes. Just to highlight some of the unfunded mandates addressed after the 2014 report, there was a commission on motor vehicle sales tax collections, LB237 last year, would have an additional one half of one cent commission on all motor vehicle taxes in excess of \$6,000 remitted each month. Until 2023, 50

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percent each to the county general and the county road fund. And after 2023, 75 percent of that commission will go to the county general, 25 percent to the county road fund. That had been reduced to a maximum of \$75 per month in 2002. And so, you know, this is one of those instances where the county is doing an awful lot of work but not receiving much of the benefit in return. I think Commissioner Schorr will be talking about counties paying for autopsy and grand jury costs so I'll skip over that. There are election costs. The report proposed compensating counties for ballot space for statewide offices, constitutional amendments, and referendums. They currently are not. Instead, the Legislature has appropriated \$4 million to replace handicapped accessible ballot marking machines and counting machines. The state has paid for maintenance and authority for statewide voter registration lists, including buying tokens for two-factor authentication systems, and they have absorbed the cost for training. Other unfunded mandates that have not been changed, office space for HHS and Probation. Counties provide office space to DHHS, it is used for the administration of public assistance programs, and that occurred on April 1 of 1983. So that's been going on for quite some time. Now in exchange for the state taking over the cost of welfare, HHS offices have regionalized, the costs are not shared equally among taxpayers. Legislation introduced in 2015 and 2017 would have eliminated the requirement to provide office space, both of those failed. Jail reimbursement, as Senator Erdman had mentioned, was

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repealed in 2011. Now counties hold prisoners to reduce the state overcrowding. Also, one of the things that is a, a growing problem, and Commissioner Schorr is actually probably going to testify in this as well, not to volunteer her information, but when there are persons with mental or behavioral health problems, they are being housed in county, county jails and county taxpayers are the ones that are absorbing the costs for that. And frankly, probably county jails are the worst places to send initially persons that have behavioral health or mental health issues. If you're sensing a theme, a lot of the issues that we have are related to law enforcement, juvenile justice and court procedures and a 2014 report identifies providing guardians ad litem for state wards and appointing counsel to numerous noncustodial parties in cases related to children's unfunded mandates, costs for transporting juveniles increased after juvenile detention facility in Scottsbluff closed. Counties cannot control costs, so this falls into the unfunded or underfunded mandate designation. I don't want to test your patience, Senator Brewer.

BREWER: No, no, you're doing good. Drive on.

JON CANNON: OK. But I would, as Senator Erdman had said, I would urge all of you to read the report and the update to the report. I'll be happy to take any questions.

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BREWER: Thank you for your testimony. Many of the things that you mentioned, my brother is a sheriff, and he's only been a sheriff for a few months now, but suffice to say that he's been bending my ear pretty hard on, on issues, and it does seem like law enforcement specifically is having to bear a tremendous burden on issues that were not of their making or doing. So appreciate that. All right.

Questions? Yes, Senator Lowe.

LOWE: Do you know is NACO going to petition the Legislature this year for the housing of state inmates that are-- it's done by county now?

JON CANNON: I don't recall that we've, we've actually discussed that, Senator Lowe, but I, I like the idea. And I think I will take that back to the office and, and we will discuss it.

LOWE: OK.

JON CANNON: I think that sounds like a terrific idea. Actually, if I can sort of circle back, not off of your question, but to address a question that you had Senator Blood about whether or not shifting something for property tax to a funding source like sales tax or income tax, if all that does is a shift. One thing that I will say is that all the property in Nebraska, which is subject to property tax, is completely in Nebraska. It is, is a tax that cannot be exported. And sure we might have persons that own property that live out of state, but it's a tax on the property. The sales tax and the income

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tax those are, those are taxes that can be exported. Persons that are driving through on I-80, persons that are making purchases of some sort in Nebraska, those are persons that, that will be subject to the sales tax, persons that have a source income in Nebraska. If you've got a professional baseball team that's playing in Nebraska, they're going to be-- they're going to have some of their income that's derived from Nebraska that's going to be Nebraska source income. So those are ways that we can export those taxes to other persons outside the state. The property tax is 100 percent on land in Nebraska. So I just wanted to address that briefly. And I [INAUDIBLE] to the question, I may have regretted that.

BREWER: All right. I'm guessing you, you have provoked some more conversation here. Senator Blood.

BLOOD: Thank you, Chairman Brewer, since I was given an answer I didn't ask for it. I understand how the tax system works, so thank you for yet explaining that to me. But I, I would also like to tell you that when you explain things in that fashion, if you were to go to our end of the state, people are gonna say, well, there's the restaurant tax, which same principle is a shared tax that you saw how many people protested that initially in Omaha. There was-- Omaha tried to have the, the unfair mandate of trying to force Bellevue and other Sarpy County communities in paying a wheel tax to drive into Omaha, which I fought very hard against. So it really doesn't matter, even though

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logically speaking, you and I know how the tax system works. Somebody gets screwed one way or the other when it comes to taxpayers. So I still think we have to-- I, I agree, coming from a municipal background that the state passes on way down-- way too many mandates. But I also think we have to be really careful how we phrase things because we're still talking about taxes.

JON CANNON: Yes, ma'am.

BLOOD: But the concern that I have with what I'm hearing today is that this is a very broad interim study. And it seems like with each speaker, you're opening the can a little bit bigger and a little bit bigger and there's more sardines that we're seeing. And I'm wondering if this should have been like five interim studies and not one just broad liberal type of study. So I do have concerns about what I'm hearing here today.

JON CANNON: Yes, ma'am. Thank you. And, and if there's a thing we can address, I'd, I'd be happy to visit with you [INAUDIBLE]--

BLOOD: Oh, I know how to find you.

JON CANNON: Yes, ma'am.

BLOOD: Thank you.

BREWER: All right. Any additional questions? Yes, Senator Lowe.

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LOWE: The probation, do you have the figure that it cost counties to do the state probation?

JON CANNON: I, I do not have-- it-- I'm fairly certain it's in the report, sir.

LOWE: In the report?

JON CANNON: Yes, sir.

LOWE: All right.

BREWER: All right, one more time. Any additional questions? All right. Thank you for your testimony.

JON CANNON: Thank you. Take care.

BREWER: All right. Next up, Lancaster County. Deb, are you here? There you are. Welcome to Government, Military and Veterans Affairs.

DEB SCHORR: Good afternoon.

BREWER: You're up.

DEB SCHORR: Good afternoon, to all members of the committee. My name is Deb Schorr, D-e-b S-c-h-o-r-r. It is my privilege to present the following testimony on behalf of the Lancaster County Commissioners. I want to thank Senator Wayne for introducing this interim study and also to Senator Erdman for his comments from one who is in the

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trenches as you said. 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 with local real property tax dollars is appropriate. Other unfunded mandates, however, primarily benefit state government. In this situation, shifting the costs to counties places an unreasonable burden on our local property taxpayers. With increasing costs, counties often must raise their tax levy to pay for these important services and aging infrastructure. Including with my testimony is a list of mandated services which Lancaster County provides to the state similar to the one that Jon presented on behalf of NACO. All these mandated services are either unfunded or substantially underfunded. For our fiscal year 2018-2019 budget, Lancaster County included over \$18.8 million to cover the cost of providing these mandated services. Property tax growth cannot be controlled without a well-designed and reliable state plan for funding programs and services which counties are mandated to perform. Default funding service for these new and existing mandates should not be the property tax. Two previously state funded programs, both of which have been mentioned earlier, state aid to counties in the state prisoner reimbursement program provided financial assistance to all counties and should be considered for

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reinstatement. In addition, funding sources could be diversified for both new and existing mandates. Potential new funding sources include increasing the tobacco tax, and occupation on wineries, and the removal of the state tax exemption on soda, energy drinks, and candy while earmarking the proceeds for local property tax relief. An additional method for reducing the property tax burden on our constituents would be the ability to increase statutory fees to keep pace with the cost of service being provided. Issuing marriage licenses and handgun permits are just two of the many services provided by counties where the actual cost is exponentially higher than the fees received. Related to this would be the ability to establish reasonable fees for services provided by county engineers for the issuance of driveway permits, right-of-way permits, subdivision reviews, load permits, and petitions to vacate or abandon the county road. Cities do have this authority to establish reasonable fees, counties do not, leaving a financial burden on local property taxpayers to fund the costs for specific government services. Now, if I might add, at this point, it's been my pleasure to serve this year as the president of Nebraska Association of County Officials and I spent a great deal of the past four weeks traveling the state and talking to county officials from the, from the Panhandle all the way to the Missouri. This morning we were at Southeast Community College meeting with the South Eastern District, which is elected county officials in 16 counties in the southeastern quadrant of the state. I

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happened to mention to them that I would be here testifying at this hearing this afternoon and asked if they had any short stories to share which might illustrate the point, and I had several people come forward. I'll highlight two. One was the commissioner from Johnson County. He talked about the costs that the county has incurred with regards to autopsies performed and the actual travel cost of the body to Omaha, as that's the only place in, in the eastern part of the state at least where autopsies are performed. So that's a significant financial impact to their county. And the second one came from Richardson County. They spoke to me about the recent legislation that required attorneys for each juvenile in the juvenile court proceedings and the costs that they have incurred just over the last several years and the impact it's having on the budget. So just two stories that were shared to me this morning about unfunded mandates. Jon also mentioned that the county's responsibility to, to house those with extreme mental illness as they await a bed in the Regional Center. These are these people that have been adjudicated that need to be moved to the Lincoln Regional Center for restoration competency. But because no beds are available, it's the county's obligation to house them when and if those beds become available. And the waiting time now averages between 60 and 90 days. And at \$100-a-day minimum, those costs can add up significantly. So in conclusion, the Lancaster County Board believes government is more effective when different levels of government work together. While many state functions could be provided

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more efficiently at the local level, adequate state funding is required to maximize the effectiveness of state and local cooperation. I thank you for the opportunity to testify, and would be happy to answer any questions.

BREWER: All right. Thank you for your testimony. Senator Blood.

BLOOD: Thank you, Chairman Brewer. And thank you for your testimony. I just have a quick question, because, as usual, something you said--

DEB SCHORR: OK.

BLOOD: --brought something up. So you specifically referred to the handgun permits. I know that in Sarpy County, it's well over \$80,000 that it costs the county because the magnitude of permits that we're getting. And I know Lancaster was over \$100,000 when it comes to how much more it cost them that's not in their budget and that they're having to deal with those costs. But yet when legislation is brought forward to make changes, because we all know guns happen to be a wedge issue in Nebraska, what advice would you have for the legislators who are indeed trying to fix these because we know it's a burden on the taxpayers? But then it's a hot button topic like guns. We're not trying to take away anybody's guns. We're not trying to say who can and can't have a gun. The silliness that I always hear is, well, then poor people can't afford to have a gun, which I still don't understand that logic. But yet nobody brings forward a bill to eliminate the gun

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permit. So they don't want to help you financially. They don't care about the unfunded mandate. They don't want to eliminate that permit. And certainly law enforcement wants to keep those permits because it's helped them solve a lot of crimes in Nebraska. So I, I am looking to you directly. I'm sorry to put you on the spot, but I'd be curious if these people were in front of you, what you would say in reference to these, these mandates that we can't seem to fix.

DEB SCHORR: Well, and I think looking-- first of all, you've provided an excellent segue to the speaker that I hope follows me is our sheriff, Terry Wagner, who has a lot of specifics--

BLOOD: Hi, Terry, I didn't see you.

DEB SCHORR: --on gun permits so that's perfect. And I think from a, a commissioner standpoint, it's not just, it's not just one--

BLOOD: Well, I agree, that was just an example.

DEB SCHORR: --permit fee, it's the, it's the broad-- it's the broader spectrum, and also that ability to incrementally increase them over a period of time. Because you're right,--

BLOOD: [INAUDIBLE]

DEB SCHORR: --every single time you don't want to have to come back to the Legislature for another \$3 or \$4 increase. You know, it's guaranteed under the constitution. I guess that's how, you know, I

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would answer it at this time. And then I mentioned it's not just the existing fees that we have, it's all the other services we provide that we receive zero reimbursement for.

BLOOD: Right.

DEB SCHORR: So it's, you know, shifting it to more of a user-fee model. Not entirely, but in certain areas of county governments, so those people that are utilizing specific fees are paying for that service as opposed to property taxpayers, particularly in those lower income brackets that aren't utilizing those services and are least able to afford the taxes.

BLOOD: Thank you.

BREWER: All right. Additional questions? Senator Hunt.

HUNT: Thank you, Chairman Brewer. This is a really broad legislative resolution, and it's kind of great because it gives us an opportunity to talk about different types of unfunded mandates. And we've touched on so many from the autopsies, to the court system, Corrections. One, one question that I was interested in your expertise about is fees around elections and ballot initiatives. And with the increase in ballot initiatives that we see in Nebraska, you know, 40 days after those petitions get turned in, all the signatures need to be verified. We have increased concerns around election security and election technology. And have you heard any concerns from your members or your,

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your peers in the county official community about unfunded mandates around elections?

DEB SCHORR: Yes, certainly have heard that. We've had a lot of discussions about election security. The counties have a great working relationship with the Secretary of State's office. Wayne has traveled with us, I mentioned for weeks across the state, and he's been with us every single time talking to election commissioners, county clerks, and county commissioners about election security. As far as the detailed reimbursement on what's allocated back to each entity over the ballot, on the ballot-- I'm sorry, that's not my area of expertise. But I was hoping you were gonna ask what question out of all that entire list would be the highest priority. And that's something that NACO would-- you know, have to analyze. But speaking for Lancaster County, our largest is the jail reimbursement cost. So if I--

HUNT: Say again the--

DEB SCHORR: Jail reimbursement.

HUNT: OK. Thank you.

DEB SCHORR: Holding-- you know, prisoners on state charges. That's the largest-- and when I mentioned that \$18.8 million, that's largest, largest component. And so if I had to prioritize-- because as you mentioned, we've opened a can of worms or sardines or whatever it was,

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there's a lot on that list, but we'd probably go for the highest dollar amount.

HUNT: Thank you.

BREWER: And just from what I'm being told from some of the county sheriffs, it appears as though that is a fairly consistent issue across the state, their ability to maintain their jail, their ability to have enough space, their ability to deal with juvenile issues and mental health issues. It just seems like those are the ones are eating them alive right now.

DEB SCHORR: I couldn't agree more.

BREWER: All right. Additional questions? Seeing none,--

DEB SCHORR: All right.

BREWER: --thank you for your testimony.

DEB SCHORR: Thank you very much.

BREWER: And Sheriff, you don't have a choice, you have to come up now.

TERRY WAGNER: OK.

BREWER: Sheriff, welcome to the Government, Military and Veterans Affairs Committee.

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TERRY WAGNER: Thank you, Senator Brewer.

BREWER: The mike is all yours.

TERRY WAGNER: I appreciate the opportunity to be here. My name is Terry Wagner, T-e-r-r-y W-a-g-n-e-r. I'm the sheriff of Lancaster County. And I'm here just on a couple of different topics just to highlight the, the issues. The page is passing out a couple of documents I prepared. One of them is our handgun purchase permit costs that Senator Blood just alluded to a little bit ago, and I had prepared this document in 2011. Senator Fischer proposed, I believe it was LB658, to increase handgun purchase permit prices from \$5 to \$10. A lot of folks went crazy about the 100 percent increase in the-- proposed in that fee and it, and it failed to pass. So the document that you see that has to do with handgun purchase permits, it's actually has two separate sets of numbers. The numbers in black are from 2011 and the numbers in green are from 2018. And you can see our employee, employee costs have gone up. The number of permits that we have been issuing have increased dramatically. Postage, teletype fees and the rent space to perform these functions have all gone up. Handgun purchase permits have really become a political barometer. And every time there's discussion about restrictions on gun ownership or there's a good example when the 2016 election, presidential elections, October, November, our handgun purchase permits skyrocketed. And it was just kind of a fear that Hillary Clinton would get elected and

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handguns or firearms ownership would, would come under the, under the gun. No pun intended. But you can see from that sheet that in 2011, we collected about \$10,000 in handgun purchase permits issuing about 2,100 permits. Last year, we issued 3,700 permits still at \$5 per permit for a total revenue cost on the far right side there, about \$18,000. It cost us between \$29,000 and \$39,000 depending upon the wage of the employee to process-- that's the shortfall. So our total costs are between \$47,000 and \$58,000 a year to issue handgun purchase permits. Every time we try to get these-- this kind of fee increased, we, we have run into stiff opposition. And it seems like a no brainer to me that the people that use the service should pay for it, but that-- that's just my opinion. And then there are other fees included in this--or other fees as well, like motor vehicle title inspection fees. Every vehicle that's brought into this state from another state has to be inspected by the sheriff. And those fees are \$10. They were set at \$10 in 1984 when that law was passed. They're still \$10. And so the handgun purchase permit law was passed in '91 at five bucks. It's still at five bucks. So there needs to either be an inflationary factor built in to let user fees when, when these are passed or make it a little bit easier to, to actually recoup the actual cost of providing the service. The second sheet that I passed out to you had to do at court security costs. I just wanted to give you an idea. It costs Lancaster County about \$1.7 million to provide security for the 19 courts in our building. And I've got it broken down there by, by

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employees. We also have a, a security checkpoint at the front door of our building. If you've been there, has a magnetometer and X-ray machines. We have about 350,000 people go through that checkpoint every year. That's employees, litigants, defendants, witnesses, etcetera. So that's a huge cost. Some of that is sort of reimbursed to us by the Public Building Commission, but then we, we pay that back in the form of rent payments, as do all the agencies in our buildings. So it's kind of a convoluted shell game. But the bottom line is the \$1.7 million is what it cost to provide those services. So with that, I'd answer any questions the committee might have.

BREWER: Senator Blood.

BLOOD: Thank you, Chairman Brewer. Thank you for your testimony. I don't know if you remember that my freshman year I actually brought forward a bill to raise--

TERRY WAGNER: Yes.

BLOOD: --based on unfunded mandates.

TERRY WAGNER: Yes.

BLOOD: Excuse me, I'm losing my voice here. Because in Sarpy County, the amount of money that they were losing was substantial.

TERRY WAGNER: Yep.

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BLOOD: And we were doing it, not because we were anti-gun, but because we were pro Sarpy County, the fastest growing county in Nebraska. And the reason that I bring this up is, I still feel it's an unfair mandate, but people that are pro-gun without having to pay any permits say that we shouldn't have to pay permit. We have the right to our handguns, that should just go away. But they never bring forward legislation. So the question I have that I'm getting to is, what do you have to say that is going to help state senators understand that this, too, is unfunded mandate and we're not trying to take away anybody's guns, but what we're trying to do is save taxpayer dollars by creating a user fee that is fair? And if indeed they were-- would want to just remove the fee, what's wrong with that? Because I know that the crime where the officer and the female officer was killed in Omaha, that it was because of these permits that they were able to track who was the original owner of the handgun, right?

TERRY WAGNER: I believe that's correct.

BLOOD: So--

TERRY WAGNER: So--

BLOOD: --I guess we need some reasoning on the record, because as we look at unfunded mandates, they look at the sexier legislation that pertains to incarceration, maybe other fees. But it seems that this is

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one that's so obvious and we have such good statistics on, how do we address this?

TERRY WAGNER: Well, you can liken this to the restaurant tax that you mentioned in, in, in your area.

BLOOD: Um-hum.

TERRY WAGNER: And if I don't like that tax, then I don't have to go to that restaurant to eat--

BLOOD: Right.

TERRY WAGNER: --because I'm not gonna pay that tax.

BLOOD: I agree.

TERRY WAGNER: If I'm not a firearms enthusiast, I don't need a handgun purchase permit. And so I don't need to pay whatever that fee might be. It really is an individual choice. If you want to, if you want to be able to purchase a firearm, then you need that permit to do so or go through a NICS check, a national crime information system check through, through the federal government. And I believe there's a cost involved in that through the dealers if you, if you don't have the handgun purchase permit. Our permit's very comprehensive. And, and the federal government has recognized it as being as good as or better than a NICS check because it checks local as well. So people that have a \$5 permit don't need to pay the additional money to a dealer for

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them to do the NICS check on-line, which is, is a fee attached with that. So--

BLOOD: What is that fee?

TERRY WAGNER: I think it's 15 bucks.

BLOOD: So it's more.

TERRY WAGNER: But I'm not, I'm not sure about that. So many, many are-- you know, permits are good for three years.

BLOOD: Right.

TERRY WAGNER: A lot of people just-- they renew their permit every three years just so that if they find a good deal on a firearm that they want to buy, they've got the permit and are able to do it. You don't need a permit to purchase-- you don't need a permit to possess a handgun or any firearm. So if you have a firearm, you don't need a permit to do so.

BLOOD: Right.

TERRY WAGNER: You just need it to purchase. So there-- there's-- it's not necessarily an apples-to-apples comparison, but if, if you're not a firearms person and don't believe in firearms, should you help subsidize the cost of my firearms permit? Probably not. That's, that's part of the argument as well. So--

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BLOOD: Yeah, I don't mean to put you on the spot.

TERRY WAGNER: No, that-- no, that's OK.

BLOOD: I can't seem to find any reasoning that works. And I just-- to me, it's just-- if you take the word gun out of it, it's just unfunded mandate. But yet you put the word gun in it and all of a sudden people think we're trying to rip it out of their hands, which is ridiculous.

TERRY WAGNER: No, yeah, not at all. And I'm, I'm as big a Second Amendment supporter as Senator Brewer is and, and--

BLOOD: Yeah, I have nothing against gun ownership.

TERRY WAGNER: Yeah, and I do-- you know, I would never, I would never support something that limited that. But this, this helps determine those people who shouldn't possess a weapon. And I think as a society, we have identified those people as felons, as fugitives, as people who have been adjudicated mentally ill, dangerous. So they're-- and have been convicted of domestic violence convictions, those kinds of things that, that are federal "disqualifiers" for possessing a weapon. And so this just helps make sure that the people buying weapons are legally able to do so.

BLOOD: Thank you.

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BREWER: All right. Well, since Senator Blood brought it up, we're gonna go down this alley.

TERRY WAGNER: OK.

BREWER: Is there a need for the permit? I mean, if I go into a store to buy a gun, I'm gonna have to go through a full background check. I'm gonna have to do the ATF form. They're gonna call in if I don't have either concealed carry--

TERRY WAGNER: That's correct.

BREWER: --or permit. One way or the other, they're gonna find out whether or not I have any offenses that would prevent me from owning a firearm. Correct?

TERRY WAGNER: Yes, yes, sir.

BREWER: And if I'm a convicted felon, I'm probably not gonna stand in line very long to fill out your handgun permit or it probably wouldn't be the brightest criminal in the world that would do that.

TERRY WAGNER: Well, but what you could do is you could go to Terry Wagner and say, sell me a pistol.

BREWER: Right.

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TERRY WAGNER: And I'm under no obligation to require you to have anything that would say you're qualified to own a firearm and I could sell you that firearm legally.

BREWER: But you could do that whether we had a permit or not. Right?

TERRY WAGNER: No. Right now, if, if I sold you a weapon,--

BREWER: Right.

TERRY WAGNER: --it's my responsibility to make sure that you have a valid permit. OK. If we didn't have the permits at all, there'd be no requirement for me to do that. And you could go and buy a weapon from another private individual and not have to go through a background check. Does that makes sense?

BREWER: It does make sense. I guess I'm, I'm thinking more on, on the criminal realm. The gun market, they're, they're not gonna go get a permit or they're not gonna require to have a permit, they just simply pay cash and get it.

TERRY WAGNER: Right.

BREWER: The issue is that those that want to obey the law are gonna do what's required, whether it'd be a permit at whatever fee we set or they're gonna go through the requirements to have their concealed carry, but they're gonna follow the rules. My concern is that if we

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want to, we want to increase the fee, I guess-- I sat down with my brother and went through the process he goes through,--

TERRY WAGNER: Um-hum.

BREWER: --and it's, it's, it's a couple minutes on the computer and they drop an envelope and mail it out. I understand that Sheridan County is much different than Lancaster County, so obviously, he probably is able to meet the requirements within that \$5, but you're doing on a larger scale. How many permits did you issue last year? Did you say 30--

TERRY WAGNER: Thirty seven hundred.

BREWER: Thirty seven hundred. And how many-- what's the population in Lancaster County?

TERRY WAGNER: Three hundred thousand.

BREWER: OK. So we're--

TERRY WAGNER: You know, normally you're, you're absolutely correct. It, it-- somebody comes in, fills out the paperwork, we run them through our-- through the computer system and they could be done in ten minutes. It's when somebody has some sort of conviction that may not be clear, whether it's "disqualifier" or not, that we have to contact a court in whatever jurisdiction that was, whether it be in Nebraska or, or out of state, to assure us that it's not one of the

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"disqualifiers" identified in federal law. So some of those can take days, many of them take minutes. So it's sort of a juggling act.

BREWER: I see. We talked about earlier this jail reimbursement. You were around when that was still in effect. How did they determine how much a jail gets reimbursed? Is it on the number of prisoners in the days that they're in the jail or how would that work? Because I, I think there's some logic to trying to figure out a way to take the prisoners who really are there because of a state mandate. But the counties are, are having to eat it, especially the transportation cost and some of those medical and dental. That seems to be what-- what's really putting up a hurt on the counties.

TERRY WAGNER: OK, let me, let me qualify my answer by saying, I don't have a jail. Lancaster County Commissioners are the Board of Corrections and they hire a jail administrator. But I do know that in 1999, I think when that law was passed, the jail reimbursement pertained to those convictions that would normally warrant a Penitentiary sentence. So if it was a crime that was eligible for one year or more in prison than, than it was in this category, if it was less than a year, it normally would be in the county jail anyway. Regardless, whether it was a state charge or whatever. If, if the judge sentenced somebody on a felony, that, that could be from zero to 50 years in jail, sentenced him to 12 months, then they would do that 12 months in jail and not the Penitentiary. And those are the kinds of

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crimes that were reimbursed under the jail reimbursement. I don't know where the \$35 a day came from, because I think at that time, even in Lancaster County, the daily average was \$60 a day to house a prisoner. So the counties were still losing money, but the jail reimbursement helped. And I remember being at the sheriff association meetings where we were warned by folks that, that in the know that knew about the jail reimbursement that said, you need to submit those reimbursement requests quarterly because the money is running out. And I think every year that it was in, in place, the money ran out.

BREWER: All right. Well, again, this just seems like one of those burdens that if we're gonna put a requirement on the county to do it, there ought to be some way for them to go back to the state and say, hey, this is a real world costs and we need to help.

TERRY WAGNER: Yeah, the medical and mental health costs are-- the mental health costs are really becoming in the forefront of the issues in jails and in the criminal justice system.

BREWER: And what I'm hearing, too, is that with the juvenile issue, it is such distance to transport and in many cases they're standing on two officers, a vehicle, and bringing them if there is room to Kearney. But a lot of times they come all the way to Lincoln or Omaha. If you're coming from Chadron, that you're [INAUDIBLE] an officer probably over three days to go through the whole process.

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TERRY WAGNER: Right.

BREWER: And so, again, there's got to be a fix for that. Now maybe the answer is to have more facilities that we can take him to across the state. It seems like we've kind of weathered our ability to, to deal with mental health issues. And I think that's a self-inflicted thing on our part.

TERRY WAGNER: I'm, I'm selfish or lucky, however you want to look at it, in Lancaster County because we have mental health facilities here and we have a juvenile facility here. You're right. In those counties in western Nebraska, especially for juveniles with mental health patients, they've got hours to drive to get there, and we require by policy two deputies when we transport a mental health patient because of the uncertainty of, of their condition. And so you're looking at two deputies for an extended period of time. And you're right, it could be their entire shift or more.

BREWER: Actually, in five of my counties, it would be the sheriff and the deputy. That's all I have, so.

TERRY WAGNER: Yeah.

BREWER: All right. Additional questions? All right. Seeing none,--

TERRY WAGNER: Thank you.

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BREWER: --you got off lucky. All right. Next up, Douglas County.

Welcome to the Government, Military and Veterans Affairs Committee.

SEAN KELLEY: Thank you. Good afternoon, Chairman Brewer, members of Government, Military and Veterans Affairs Committee. My name is Sean Kelley, S-e-a-n K-e-l-l-e-y, appearing today as a registered lobbyist for the Douglas County Board of Commissioners. First off, I'd like to thank Senator Wayne for introducing LR149. Unfunded mandates, as you know, go back a long way. And it's been quite, quite the tug of war over the last decades, really. So brief background on the Douglas County budget. The 2019-'20 Douglas County levy is 29.55, comprising 12 percent of the property tax costs for an Omaha resident, that the total budget for Douglas County in this fiscal year is \$424 million. As has been touched on in earlier testimony provided the committee with context and contributing factor to the sensitivity to unfunded mandates from the Douglas County border, two state programs that have since been eliminated. The first of which you just had a discussion about being jail reimbursement was eliminated in 2011. These-- this was reimbursement for pre-adjudicated individuals being held at county jails. So upon its elimination, this fund was about \$3.9 million. However, as Sheriff Wagner mentioned, it typically ran out in the third quarter. So counties applied for those dollars and we exhausted what was appropriated by the Legislature in the third quarter and it never really got to the fiscal year. But nonetheless, it was a great

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resource to help offset those county jail costs. The second, which has also been mentioned, is state aid to local governments, which was also eliminated in 2011. Douglas County lost \$4.2 million when that state aid was eliminated. As this LR calls for certain mandates, I'm just gonna run through a couple of the, the numbers and what it means to Douglas County. First being, office space state employees. That's, you know, HHS, Probation, DMV, it's \$540,000 for Douglas County. The court costs \$9.7 million. Our criminal filing fees, which our Douglas County attorney pays for criminal filings, is \$200,000 a year. And the most discussed of recent unfunded mandate is the costs from LB605, what's-- what that's done to our jail costs. So since implementation of, of LB605, that's added 275 inmates to our average daily population at the Douglas County Correctional Center. So putting that into dollars, that's, that's millions and millions of dollars our, our jail population has really ballooned since implementation of LB605. So having said all that, the Douglas County Board has found this Legislature to be very sensitive to unfunded mandates and we appreciate support this last session, one on a bill of sales tax for motor vehicles, which will be very meaningful to the County Treasurer. And in addition, the LB605 fund was changed a little bit within the Appropriations Committee, so it should be easier for counties to access. So with that, I'm happy to answer any questions you may have.

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BREWER: Thank you for your testimony. Just so I make sure I wrote this down right. With LB605, you said the increase in inmates was 275 just for Douglas County?

SEAN KELLEY: That's right. So our ADP, our average daily population, was hovered around a 1,000 and now it's up to 1,300.

BREWER: OK. Thank you. Questions? Wow, you are gonna get off easy.

SEAN KELLEY: Thank you.

BREWER: All right. Thank you for your testimony.

SEAN KELLEY: Thank you.

BREWER: All right. Let's see, we are through state officials. Doug Kagan, you're up. Welcome to the Government, Military and Veterans Affairs Committee. You may begin when you're ready.

DOUG KAGAN: Thank you, Senator. Good afternoon. Doug Kagan, 416 South 130th Street. That's D-o-u-g K-a-g-a-n, representing Nebraska Taxpayers for Freedom. As a taxpayer group, we believe it unfair for the state to limit sources of county revenues while simultaneously requiring counties to assume new expensive obligations that leave counties less revenue to provide basic functions such as incarceration, adult probation, and medical care costs of which rise annually. The state has broken solemn pledges to pay for services and then stopped funding them. For instance, housing state prisoners in

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county jails. Unfunded mandates escalate our county property tax bills by increasing the cost and size of county government. Specifically, regarding higher costs for mental health, jail facilities and courts, and judiciary personnel and operating costs. Counties are forced to either cut services or raise property taxes because state laws mandate adequate jail facilities, courtrooms, and public safety. Then add county services for the state, such as issuing driver's licenses and ID cards and processing vehicle registrations and titles. Unfunded burdens hinder county ability to formulate future strategic financial plans and meet bond obligations. Moreover, these mandates remove local control and accountability and result in local priorities dictated by the state. One alternative would permit counties to share in revenue collected from vehicle sales taxes and other services to help maintain county operations. Nevertheless, our organization advises the Legislature to enact first a moratorium on unfunded mandates yoked onto county governments immediately require a fiscal note on legislation showing the estimated annual costs of these mandates to counties. Finally, we advocate legislation to prohibit the Legislature from requiring county governments to offer new or expanded services unless the state fully funds and disperses necessary funds to enable counties to comply with and operate such mandated services. Taxpayers and counties in both Washington State and Texas currently are advancing this proposal in their legislatures. As of 1988, at least 14 states had either a constitutional or statutory general mandate

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reimbursement requirement. This committee in December 2014 issued another interim study report on the subject, LR582. But five years later, we have no idea if, or how the Legislature dealt with it. Thank you.

BREWER: Thank you, Doug, for your testimony. All right. Questions? Let's go back and take a look real quick at LR582. I actually did not know there was a LR582. So I will need to do a little research and find out-- you know, what the end state of that was. And, and just again, 2014 was, was before I was in here. Was the LR basically the same title or the same--

DOUG KAGAN: Yes,--

BREWER: --request?

DOUG KAGAN: --the count-- the word counties was in the title, so it pertained to counties.

BREWER: OK. Well, it will be interesting to dig that up and take a look at it. One more time. None. Thank you, Doug, for your testimony. OK, any additional testimony on LR149? Senator Wayne has opted to forgo a closure. So with that, we will close on LR149 and get ready to transition to LR247. And Senator La Grone is with Senator Wayne in Omaha doing lawyer stuff. In his absence, he has asked that his LA

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will fill in. So you may begin whenever you're ready. Welcome to the Government Committee.

DAYTON MURTY: Good afternoon. My name is Dayton Murty, legislative aide to State Senator Andrew La Grone. He apologizes he is not here today to open on LR247. Last legis-- or last session, the Legislature funded a purchase of the state's election technology. While this is great, funding for election technology is a recurring purchase. That means the Legislature has to make a large purchase every 5 to 15 years, usually around every 10. Until now, the state has made large single-cycle budget allocations in order to deal with the need for election technology improvements as they arise. This resolution was introduced to consider taking a slightly different approach. Since we know that the technology will, will require replacement roughly every ten years, it might be more fiscally responsible for the state to contribute smaller portions over time to election technology improvement. If the fiscal impact of election technology improvements are spread out over several budget cycles, then the state will not have to face the challenges of a \$10-plus million bill in a single budget cycle.

BREWER: Can I have you go ahead and spell your name out so we got--

DAYTON MURTY: Yeah. Dayton, D-a-y-t-o-n, Murty, M-u-r-t-y.

BREWER: Drive on.

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DAYTON MURTY: That's, that's pretty much it.

BREWER: That's the opening. OK. Thank you. All right. Questions on LR247? All right. Normally, we don't let them slow roast you anyway, but as it turns out, they have none for you. And I think, Senator La Grone, has opted not to close also.

DAYTON MURTY: That is correct.

BREWER: All right. Thank you.

DAYTON MURTY: Thank you.

BREWER: OK, let's see, Civic Nebraska. Wes, come on up. Sit down, make yourself at home. Welcome to the Government, Military and Veterans Affairs Committee.

WESTIN MILLER: Thank you, Chairman Brewer, members of the committee. My name is Westin Miller, W-e-s-t-i-n M-i-l-l-e-r. I'm here on behalf of Civic Nebraska, and Civic Nebraska is a nonprofit, nonpartisan organization. We are committed to creating a more modern and robust democracy for all Nebraskans. I want to thank Senator La Grone and his team for being vigilant on this issue. The cost of election technology is burdensome and it is ongoing. So I'm really glad we're having this conversation now. I'll be really brief. There's just two things that I want to note today. The first thing which might seem really obvious, but it's important to reiterate, is that we are gonna have to continue

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buying election equipment forever. Given the current state of our election technology and also the very real threat posed by malicious cyber actors, there's just no end in sight for our reliance on paper ballots and, thus, the really expensive county machines that go with those ballots. It's unlikely that the federal government would help us shoulder all of this cost, because right now any congressional appropriations go almost strictly to digital security of our elections. And a nationwide replacement of even the oldest machines in our country, which I would characterize as ten years or older, just replacing those machines today would cost about a billion dollars. The lifespan of election equipment can vary, but experts agree pretty universally that a system over ten years of age needs to be replaced quickly for the sake of security and reliability. And that's the second point I want to quickly emphasize, is that rapidly changing technology is making our replacement timelines less and less predictable. So Secretary Evnen's team has done an excellent job staying in the forefront of our digital security needs. But part of what makes cybersecurity so daunting is the speed at which it can change. I don't think it is at all out of the realm of possibility that five years from now, this committee will be having a conversation about the urgent need to replace our election technology to counter some digital threat that right now we just don't even have the words to talk about. So in summary, number one, funding election technology is a challenge that will not go away. Number two, it's gonna get more

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complicated in the face of evolving cyber threats. And number three, it's gonna require proactive, thoughtful effort from the Legislature. Civic Nebraska, as always, is committed to supporting these efforts however we can. And with that, I would thank Senator La Grone and his team for keeping this conversation alive. And happy to answer any questions.

BREWER: Thank you for your testimony. I like how you wrapped up the points at the end like that: bing, bing, bing. Clear and to the point. Right now in Nebraska, how many of our machines are ten years or older?

WESTIN MILLER: So currently all of them. But it's about to be none of them, because we just appropriated a bunch of money to, to replace the whole deal, so.

BREWER: All right. So we appropriated money, the machines are being purchased.

WESTIN MILLER: Um-hum.

BREWER: Will they be ready to go by 2020?

WESTIN MILLER: My understanding is, yes, that's definitely the plan. Wayne can confirm, but I'm 99 percent sure.

BREWER: And you're the one guy I know that has answers so--

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WESTIN MILLER: That's-- no, great. That's why I'm here.

BREWER: --that's why I'm grueling you here. So you take the paper ballots and you feed them into this machine, it goes [voice sounds]. It counts up the numbers. You get the numbers,--

WESTIN MILLER: Yeah.

BREWER: --and then you keep the paper ballot to validate if you have to go back and do a recount or something.

WESTIN MILLER: Right.

BREWER: And as technology changes, any idea on, say, we're buying all new machines in 2020, and I won't disagree, the right technology is moving. I mean, look at our phones.

WESTIN MILLER: Yeah, right.

BREWER: You know, what's changed there. If we look six, eight, even ten years down the road to reset our machines now cost?

WESTIN MILLER: I think, this last operation was about \$11 million, which I think is about as low as it could have possibly been. So--

BREWER: So next time around, we'll probably double that?

WESTIN MILLER: I think that's a good bet. Yeah.

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BREWER: OK. Questions? All right. Thank you for your testimony.

WESTIN MILLER: Thank you.

BREWER: This is very informative. OK. Let's see, Douglas County, Brian-- oh, did he send a letter? Oh, yeah, Wayne Bena. Come on up. I guess I should have saved these questions for you. Sorry about that. Welcome to the Government, Military and Veterans Affairs Committee.

WAYNE BENA: You had me afraid for my job for a second.

BREWER: Oh, yeah.

WAYNE BENA: Good afternoon, Chairman Brewer, members of the Government, Military and Veterans Affairs Committee. My name is Wayne Bena, W-a-y-n-e B-e-n-a, Deputy Secretary of State for Elections here on behalf of Nebraska Secretary of State Bob Evnen in support of the efforts of this legislative study. Secretary Evnen is appreciative of the collaborative effort that occurred this past legislative session to fund the replacement of the statewide counting and ADA ballot counting equipment statewide. Election equipment must be replaced from time to time, as our previous speakers have alluded to. And there will be a time in the future when this equipment will need to be replaced again. We look forward to working with the committee and all interested parties on how best to fund election technology in the

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future. Thank you for your attention and I can answer any questions that you have.

BREWER: Good, because I have some.

WAYNE BENA: OK.

BREWER: All right. Lancaster, Douglas, Sarpy,--

WAYNE BENA: Um-hum.

BREWER: --they've got a pretty big system in place, a lot of people. But as we go farther out state and some of these smaller counties say, McPherson, how does it work? Do you have your different balloting-- your polling spots, they collect the ballots, and at what level do they start actually machine counting them or are they machine counted from the minute that the, the boxes follow and they move it?

WAYNE BENA: For the vast majority of the precincts in the state of Nebraska, the ballots go to-- from the ballot box. The ballot box goes to the county election office and they're counted centrally. There are some-- in limited circumstances, there are some machines and some of our smallest in rural precincts that the machine, the ballot box itself is a counting machine, so the ballot-- the paper ballot goes into the machine counted, collected at the bottom of a ballot box. And then those, those results are either transmitted by telephone or the disk is, is given back to the office on election night.

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BREWER: Now it seems like in past elections that there's been a pretty staggered delay, not just the time zone delay, but as you get farther west there seems to be a pretty substantial delay before those numbers get included. Is that, again, kind of a, a ballot counting mechanism that just isn't as efficient out there or how do we count?

WAYNE BENA: I would say, and I think-- I mean, your, your-- the county you're from is one the distance between the farthest precinct and the office is greater in western Nebraska than Douglas, Sarpy, and Lancaster County.

BREWER: [INAUDIBLE] all there.

WAYNE BENA: So then when the ballots are coming back to the office, it's sometimes just a transportation issue getting it back that would cause that delay.

BREWER: Makes sense.

WAYNE BENA: And you know, in your Douglas, Lancaster, and Sarpy, many of those counties, they do an early pickup. So they have two hours worth of results while they wait for the precincts, election night results to come in. So, for example, I've said many times, and I feel like Scott Lautenbaugh, when I say this, I was a former election commissioner. And so we at 8:00, we would do the early pickup results. So everything from 8:00 a.m. to 2:00 p.m.-ish, and then this-- 45 minutes later would be all the early votes. And so then by my next

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release at 9:30, by then we would have the results from the polling sites coming in. So I had, I had an hour and a half of the results before I even had to worry about the first car coming into the office.

BREWER: All right. So if we were to take a look at how ballots are counted in 2016 and then transition to 2020, what would we see as, as-- we-- we've got new machines now?

WAYNE BENA: We're working on a procurement process with DAS with the intent to having everything ready for 2020. But the intent is a seamless transition similar to the process that we have now with paper ballots counted centrally in the counties.

BREWER: And is there any special training that's required or are these things pretty-- you know, village idiot approved?

WAYNE BENA: That would be the hope. There are-- you know, different size of machines just like they are now. So it's-- you know, for the biggest machines, for the highest capacity, for the highest counties, all the way down to the lower capacity for counties that don't have as many ballots. But that would be-- is the intent during this process to have it to be as seamless as possible for the counties.

BREWER: OK. Now that Westin has truly instilled fear in us on, on the cost here, if we look down the road, how long do you think it would be

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before we're probably gonna have to look at standing up new and different electronic equipment to, to do the [INAUDIBLE]?

WAYNE BENA: I would say in the ten-year range is, is probably the max. I will say the machines that we have now were purchased in 2006 and it wasn't necessarily 2006 technology even at that time. And even by 2010 and '12, when I was election commissioner, we were starting to sound that alarm-- you know, early to get to this, get to this point. And we're glad that they are towards the very, very end of their lifecycle now and that we have that. So a balanced approach of maybe putting a little away each year so that we don't have as a significant hit in the tenth year as we would if we just put a little away every year could be as, be as one of many possible solutions. But we are grateful that the money was there this year, but it was a lot of heavy lifting over the course of a long period of time. Our, our request went from \$6 million and through their appropriations process, six to zero to six to zero to eleven. And you know, right before the, the last vote in Appropriations where the full package was, was done. So maybe it won't have to go through that roller coaster if we have just a little bit away as we go along.

BREWER: That would be way to logical to work in this body. All right. Questions? Yes, Senator Lowe.

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LOWE: Thank you, Chairman. Thank you, Mr. Bena, for being here. If we create this fund for the machines to be deposited in for the amount of five, ten years, whatever that time period is, because we know we're gonna have to replace them, do you have any fear of the Legislature coming in and, and taking the money out of those funds, as we've done in the past?

WAYNE BENA: No comment. [LAUGHTER] That's, that's always a possibility. But doing something is better than not doing something. It was a lot hard-- I mean, as I kind of explained on numerous times, and one of the main reasons why I took this job a few years ago was to write this plan and to do it. And I'm grateful that it was funded. But that doesn't mean-- you know, that it's gonna get funded every time. So if there is a small pool of money, at least to start with, it's, it's a maybe a less of a hurdle to get us to a full-funded package if there is already a pool of funds to, to select from.

LOWE: All right. Thank you.

BREWER: All right. Additional questions? I'm writing that quote down: Doing something is better than doing nothing about the program. All right. Seeing none, thank you for your testimony. Any additional testifiers on LR247? You have a green sheet that's an indicator. Welcome to Government, Military and Veterans Affairs. The mike is all yours.

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BETH BAZYN FERRELL: Thank you. Good afternoon, Chairman Brewer, members of the committee. For the record, my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials. I don't really have anything to add today, but I just wanted to publicly say thank you as a body for coming up with funding for some of the election issues last year for the accessibility equipment. We'd also like to say thank you to the Secretary of State's office. They've always been a great partner with counties looking at different ways that we can create efficiencies, that they've looked at ways to absorb costs within their own budget to make things work for counties. So we just wanted to say thank you.

BREWER: OK. Can I ask you a difficult question?

BETH BAZYN FERRELL: Um-hum.

BREWER: Was-- is it, is it fairly seamless the transition between the previous Secretary of State and the current Secretary of State?

BETH BAZYN FERRELL: Yes, both Secretary of State Gale and Secretary of State Evnen have been-- they were great to work with. Secretary of State Gale was great to work with. Secretary of State Evnen has been great to work so far.

BREWER: OK. Sometimes you worry that those transitions don't always go great, so that's good to hear. Any, any additional questions? All right. Thank you for your testimony. All right. One more time here,

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LR247. Any additional testifiers? All right. Seeing none, that will close the hearing on LR247 and close our hearings-- oh, hold up, good thing I got good help that remind me I have letters to read in. On LR149, we've got the Sarpy County Board of Commissioners have submitted a letter, and so has the Clerk of the District Court Association. And on LR247, the Douglas County Election Commissioner submitted a letter. So with that, we will close our hearings for today, and thank everyone for coming.