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Government, Military and Veterans Affairs Committee  
October 29, 2014

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[LR527 LR581 LR582]

The Committee on Government, Military and Veterans Affairs met at 1:00 p.m. on Wednesday, October 29, 2014, in Council Chambers at South Sioux City Hall, South Sioux City, Nebraska, for the purpose of conducting a public hearing on LR527, LR582, and LR581. Senators present: Bill Avery, Chairperson; Vice Chairperson; Dave Bloomfield; Jim Scheer; and Norm Wallman. Senators absent: John Murante; Tommy Garrett; Russ Karpisek; and Scott Lautenbaugh. [LR527]

SENATOR AVERY: My name is Bill Avery, I am a state senator from south-central Lincoln, District 28, and I chair the Government, Military and Veterans Affairs Committee. We are going to take up three resolutions today and I believe they are posted outside the door. We'll take them up in the order in which they appear on the agenda, LR527 introduced by Senator Bloomfield, and LR582 introduced by Senator Crawford who is back there in the red dress, and LR581 introduced by me on behalf of the committee. Now before I start, I'd like to thank Lance Hedquist and others from the chamber of commerce for their warm hospitality and a warm welcome to this city. If we get out of here in time, some of us will probably want to take a little tour around the town. If not, we'll just have to go across the river and see if their hospitality there is better. I doubt it. Before we begin let me introduce the members of the committee who are here. On my left is Senator Jim Scheer from Norfolk. And seated next to me on my left is Senator Norm Wallman from Cortland, Nebraska. And then over here on my right is Christy Abraham who is the legal counsel for the committee. Next to her is our host senator, Dave Bloomfield. You know him very well, he is from Hoskins. And way off there by herself is the clerk of the committee, Sherry Shaffer. If you would like to address the committee on any of the issues that we are going to take up today, we ask you to fill out this form. It is simple information but it provides us with a written record of who appears before us, the date, and information of that sort. We ask that you fill this out, please print legibly, and give it to Sherry before you appear. I believe it's this desk right here. Is that right, Lance, you stand behind that?

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Government, Military and Veterans Affairs Committee  
October 29, 2014

---

LANCE HEDQUIST: Yes.

SENATOR AVERY: All right. Well, we're happy to be here and glad to have the invitation. And we're happy to see all of you here and hope that you don't have a whole lot of testimony to give since we have a two and a half hour drive to get back to Lincoln. Now I know that Matt over here, Connealy, knows how to get back in under two and a half minutes. Maybe I'll have a conversation with him before. But we do have the former head of the State Patrol here so we don't want to get too far out of line with current law. So we have in addition to the people here representing the committee, I want to take a little time to kind of lay out the procedural ground rules. After you have filled out this sheet and given it to Sherry, take your seat and clearly pronounce your name, clearly spell your name for the written record. You have plenty of time to provide testimony. We'll ask you to keep it around five minutes. I'm not going to have...I'm not going to interrupt you if you are going beyond that. Generally in these hearings, we do not follow strict time limits on testimony so you can go beyond five, but we'd ask you to try to keep it to around five minutes if you can. The other thing we need to all do is turn off our phones. Either turn them off or put them on silent so that you don't interrupt the proceedings. And I thought I had mine with me but it must be in the car. Okay. We'll now start with LR527. Senator Bloomfield, do you want to make some opening comments?  
[LR527]

SENATOR BLOOMFIELD: Thank you, Senator Avery. 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 really appreciate the committee taking the time and making the effort to travel to South Sioux City for this hearing. I also want to thank South Sioux for providing us with this facility. I introduced LR527 to look into the process of emergency disaster payments by NEMA being made in a timely manner. The request to look into this came from members of the South Sioux City community. In the hearing we had last Friday on

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Rough Draft

Government, Military and Veterans Affairs Committee  
October 29, 2014

---

LR527 we heard from a few communities that also had some concerns. Like I said on Friday, NEMA is taxed with a great amount of responsibility and in my opinion they do a good job with limited resources. There are a few things I'd like to say before we open things up for testifiers. First, the suggestion has been made that NEMA should consider making payments up front. And then if the work is not completed they could go back and recover those funds. That's easy to say when we're in a legislative hearing. It's another ball game when the community has been given, say, \$100,000 for a project and they later decide not to do that project. NEMA then comes out to inspect based on the project sheet. They see the work wasn't done so they request the money back. That's where we run into problems. A hundred thousand dollars in the grand scheme of things doesn't seem like a lot of money, but if it's your community--particularly a smaller community--it's suddenly an issue. The payments are made the way they are for a reason. It's a protective measure for town, city, county as well as for the state. Secondly, it was mentioned that NEMA may benefit from another staff member. I think that's something that might be worth looking into. It is also something I hope Mr. Tuma will address during his comments. I would also like to hear how long Nebraska may hold any money from FEMA before it is forwarded to the recipient. I would like to add that it is my belief that the folks in NEMA really want to work with our communities. And while it can become frustrating, dealing with all the red tape seems cumbersome, they really are trying to look out for those they are working for. With that, I'll attempt to answer any questions you have and get out of the way so other folks can testify. And I want to apologize for being a little late. I had thought we started at 1:30. [LR527]

SENATOR AVERY: So you missed out on lunch. [LR527]

SENATOR BLOOMFIELD: No, I was actually having lunch down at Old Dane Golf Course. [LR527]

SENATOR AVERY: You didn't invite us though. [LR527]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Government, Military and Veterans Affairs Committee  
October 29, 2014

---

SENATOR BLOOMFIELD: I invited my LA so we could discuss things just a tad bit.  
[LR527]

SENATOR AVERY: Questions from the committee, comments? Thank you, Senator Bloomfield. Anyone wish to address LR527? [LR527]

NANCI WALSH: (Exhibit 1) Chairman Avery and members of the Government, Military and Veterans Affairs Committee, thank you for coming to South Sioux for this hearing. My name is Nanci Walsh, N-a-n-c-i W-a-l-s-h, and I'm the city treasurer for the city of South Sioux City. In the summer of 2011, the Missouri River recorded a flooding event for over 90 days and exceeded a 500-year flood level. To prepare for the flood event, the city worked with the Dakota County board of commissioners to build a temporary levee to protect as many county and city residents as possible. The temporary levee was built by the U.S. Army Corps of Engineers with the agreement that the city and county would be responsible for its removal. Other preparations included temporary levees along Golf Road and Riverview Drive. Temporary electrical work was done to provide electricity to customers along the river. The city-run campground was evacuated and as many things as possible moved to higher ground. The closing of the campground cost the city an estimated \$200,000 in lost revenue. The city spent \$1.1 million in emergency protective measures and had over \$4.3 million in qualifying damages to public infrastructure. There were other damages that did not qualify for FEMA or NEMA funding, including the soccer fields and replacing trees that were lost. For the qualifying projects, we were to receive 75 percent from FEMA and 12.5 percent from NEMA. We had 54 approved projects and as of December 2013 completed the repairs on all of them. The NEMA staff have worked hard on our requests, but with \$6 million in protective measures and damages we were forced to borrow money to pay for projects underway, with FEMA paying their share as the projects are processed and NEMA holding the 12.5 percent until the end. In our case, this represents about \$676,000 from NEMA and \$4-plus million from FEMA. After submitting documentation on projects, the time frame for reimbursement of the FEMA share has been from six

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Government, Military and Veterans Affairs Committee  
October 29, 2014

---

weeks to over a year and in one case longer. I have put the dates in the written handouts so I won't read all those dates. That was for the large projects. For small projects, which were under approximately \$69,000, we were paid the FEMA share in two parts on April 17, 2012, and August 10, 2012. To date we have received \$3.4 million in FEMA dollars; that's been over the course of three years with most of it coming in this last fiscal year. The NEMA staff have worked diligently on these projects and have been very helpful in getting issues with FEMA resolved on projects and I am grateful for their assistance. This testimony is not meant as a criticism of their work, but as a means to make the system better for those who need assistance in future disasters. When there are multiple disasters and/or a number of subdivisions involved, it would seem that more staff is needed to expedite claims processing. I realize that this is not just something someone can jump into without a knowledge of the FEMA rules. However, there are contractors that could provide personnel with knowledge and the volume of disasters warrant additional staff. If NEMA had immediate access to resources to employ or contract for additional help, I think this could help things move through the system. Faster payment, especially of the protective measures which in our case were all written in November or December of 2011, would help cash flow. Also if a percentage of the state's share was paid as projects were completed, it would be a positive step for communities paying for damage repairs. Thank you for listening and I would be happy to answer any questions. [LR527]

SENATOR AVERY: Thank you, Ms. Walsh. Let me start by asking you, were these levees built as temporary structures from the beginning? And if so, where did the directive come from to make these temporary? [LR527]

NANCI WALSH: They had to be temporary per FEMA regulations. The Corps only put that up...the big one up as a contingency that we would take it down because there was not time to do all the environmental permitting and that that would be required of a permanent structure. So they were all put up knowing that we'd have to take them down. [LR527]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Government, Military and Veterans Affairs Committee  
October 29, 2014

---

SENATOR AVERY: And they did serve their purpose? [LR527]

SENATOR AVERY: Yes, they did. They protected much of the city and the residents as possible. [LR527]

SENATOR AVERY: And at one point, the city had to borrow money to pay some bills that could have been covered by prompt processing of these...of the claims? [LR527]

NANCI WALSH: Yes, we borrowed the first set of money before all the actual things were written, so that probably could not have been prevented just because we were moving along and knew that we had a lot of repair expenses coming. The second issue we probably could have avoided. [LR527]

SENATOR AVERY: Did you have to pay...how much interest did you have to pay? [LR527]

NANCY WALSH: It's about...right now about \$12,000 every six months and we've been paying it since...\$6,000, probably half of that, since I would say the fall of 2011. [LR527]

SENATOR AVERY: Did FEMA or NEMA help with those interest charges? [LR527]

NANCY WALSH: No, interest is not eligible. [LR527]

SENATOR AVERY: Okay. Any...Senator Scheer. [LR527]

SENATOR SCHEER: Thank you, Senator. Just a couple of things. On project 205--and if you don't know what they are--I'm just curious. That was the first one and it looks like you provided all the documentation in November of '12 and it must have been closed and paid in final payment then in January of '14. Am I reading your note correctly then?

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Government, Military and Veterans Affairs Committee  
October 29, 2014

---

[LR527]

NANCI WALSH: That was the second one we submitted. The first one we had a good turnaround on. We submitted that in October 26 and I got the money in December. The second one we submitted in November, the end of November 2012 and the FEMA share came January 13, 2014. [LR527]

SENATOR SCHEER: Okay, so all the work was done by November of 2012? [LR527]

NANCI WALSH: Yes, all the projects...when we submitted it, all of the work had to have been done on any project...large project that we submitted. [LR527]

SENATOR SCHEER: Okay. And in this particular instance, are you familiar or what would your thought be was the problem from the standpoint of the state being bombarded with paperwork so that it took longer to get the information to Washington or was the hold up simply that Washington got it and it took longer than...either got lost on somebody's desk or whatever the case, because I understand we're talking about NEMA but if NEMA is following the rules, it can only pay when it's supposed to, when the projects are done and when they've got the funding. So I'm trying to find out if the slow down was getting the process finalized through the Nebraska system or was the slow down in Washington running through their process. [LR527]

NANCI WALSH: I am not sure where that answer lies. I know that we wrote projects here with FEMA representatives from October through the end of December. And I think we wrote one in January of 2012 that was December of 2011 and then there was some time while they were finally approved. Some of them took longer to get approved through FEMA and we had some issues to work through. And we worked with NEMA on that to get them approved through FEMA. But once we sent the work in, we would have had those projects done. And I don't know whether it was just the sheer volume of knowing how much was going on in November of 2012 or if it made it to the federal side

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Government, Military and Veterans Affairs Committee  
October 29, 2014

---

and the hang-up was there. I don't know that. [LR527]

SENATOR SCHEER: Okay. And on the emergency protective dikes that you put up, it's showing that that was submitted in December of 2011, but you weren't funded for that until May of this year. Again, any idea where that hold up might have been? [LR527]

NANCY WALSH: There may have been some communication on that...a gap in communication on maybe our part or their part. When FEMA wrote that project, we were all done with emergency protective. So it could have...and all the invoices were submitted at the time the project was written so we didn't resubmit them. So when we started asking questions and we got paid for it and I don't know if it just slipped through the cracks or what happened. [LR527]

SENATOR SCHEER: Simplistically, then you're saying you provided the information only they didn't know that you weren't going to submit it all in entirety so they were waiting for you to submit something and they already had what they were waiting for? [LR527]

NANCY WALSH: Well, I don't know if NEMA had it or if all those invoices were with FEMA because when the project was written by FEMA, all the invoices were given on the projects that were done at the time they were here to write them. And since the emergency protective stuff all ended with the date the flood ended, so those things were all done when the projects were written. [LR527]

SENATOR SCHEER: Okay. But again we don't know if the slow down or the miscommunication was necessarily yours or theirs or if it was in Lincoln or if it was in Washington. [LR527]

NANCI WALSH: It could have just been a glitch in the system on that particular one. [LR527]



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Government, Military and Veterans Affairs Committee  
October 29, 2014

---

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

SENATOR AVERY: Any other questions? Thank you, Ms. Walsh. Any other testimony, comments, reflections? Welcome, sir. [LR527]

RODNEY STORM: (Exhibit 2) Thank you. Thank you, Senator, committee members. My name is Rod Storm, R-o-d S-t-o-r-m, I'm the city administrator for the city of Blair. And I've had the opportunity to visit with this committee on a couple other occasions on different bills as well as LB945 last spring relative to this very issue. I'm not going to read the prepared comments that I've got to you. I will tell you they parallel a lot what we presented last I think it was February at the hearing on LB945. But I do want to make a few comments outside of that. I guess my testimony relative to the issue based on basically three issues: One, NEMA and personnel. We feel from the city of Blair the dealings that we've had with NEMA that NEMA, quite frankly, is just very understaffed, particularly when you get into larger disasters such as the flooding of 2011 on the Missouri and the Platte Rivers. And then in years, like we've been in I guess this last year, with the numerous storms that have went across the state of Nebraska. We feel very strongly that the Legislature needs to empower NEMA with the resources and the ability to contract with outside entities to help them administrate these disasters when they come. We realize it's not good policy to have a lot of staff sitting around in a building waiting for a disaster to happen. You don't seem to be able to schedule those disasters so that they're convenient for people. So we think that the best way to handle that is to have the basic staff that's needed and then being able to contract with outside entities, accounting firms or whoever, to help handle that administrative paperwork to get that claims and so forth submitted timely. From the city of Blair's standpoint the second thing I'd like to talk about is the FEMA payments. Quite honestly, I don't think any of the cities that I have talked with--I think the ones that testified last week or the city of South Sioux--I don't think anybody is asking the state of Nebraska to front the FEMA payments. I think Director Berndt last spring there testified that LB945 would in

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Transcriber's Office  
Rough Draft

Government, Military and Veterans Affairs Committee  
October 29, 2014

---

fact require the state to front payments far before they got reimbursed from FEMA. And I don't think that's what any of us are asking. What we're asking is that NEMA have adequate staffing to be able to process those claims, get them submitted to FEMA so that FEMA then can get that money to the state so the state can reimburse us. I know in Blair's case--and I think, Senator Scheer, it goes a little bit to one of your questions--we stayed right on top of the claims that we had throughout the summer/fall of 2012. And when we were submitting claims trying to get reimbursed for those \$2 million, \$3 million worth of claims that we had, we were trying to get reimbursed for, unfortunately, NEMA staff was out west fighting wildfires. They couldn't be sitting in the office worrying about processing my paperwork to get it submitted to FEMA. And they should have been out there working with those farmers and ranchers and those communities and fire districts with the wildfires and so forth that was going on. We had to sit and wait then to be able to get that paperwork in. We are not shy. We stay on top of our congressional delegation and their staffs to make sure that FEMA is processing things readily on their end. And we were constantly being told that the hold up is the state can't get those processed. And it wasn't because they didn't want to, they had other higher priorities that they had to deal with. And from our standpoint, that's the area that we feel that the Legislature and the Governor needs to step in and help get that processing time moved forward so that when those claims are submitted. I think Mr. Berndt testified that they don't forward the state payment. We're not asking the state to forward the state's payment before those projects are done. In our case, when we submitted those claims to NEMA and NEMA signed off on them and sent them in, those were completed projects. And in these disasters, FEMA will come out and write a number of different work orders dealing with the different various elements of the damages, whether it's streets, whether it's the levees that was built, the cleanup work, all of those different things that may be. You know in our case in the 2012 flood I think we had 10 or 11 work orders. Most of the communities up and down the river probably have five to ten times the number of work orders or more to be dealing with. We feel that NEMA needs to have that staff so that they can process that. And we feel that we are entitled to those state funds as quickly as possible. Once that claim is processed then to NEMA,

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Government, Military and Veterans Affairs Committee  
October 29, 2014

---

processed to FEMA, and we finally get our money from the federal, the 75 percent, in our case there's no reason why we aren't getting reimbursed that money from the state for the other 12.5 percent. Currently, we're carrying in the city of Blair about \$300,000...a little over \$300,000 that we're eligible for in reimbursement from the state of Nebraska. And in our case as I made note in here, we've got one work order that we have yet to complete that won't be completed until probably July. And if the state doesn't process and make their payment to the city of Blair until that work order is completed and everything is approved and paid by FEMA, we'll be looking at 2016 or later before we get any funds from the state of Nebraska relative to those emergency funds to help dealing with those disasters. That's over four years or five years from the time the disaster happened. We think that there ought to be a way that the state can process those funds and get them back to the local communities. I can't stand here and tell you how much interest we've paid. We've paid significant interest on warrants and borrowed funds to be able to front those costs, to be able to protect our infrastructure, to protect that to be able to provide water. And in our case not only do we serve the city of Blair with our infrastructure, but we treat the water and sell water to the village of Kennard, we sell water to the Washington County Rural Water Project No. 2, we treat waste water from Kennard and a individual trailer court that's out in the county, as well as the city of Fort Calhoun. So we've done a lot of working together with other communities to provide them with infrastructure. On top of our normal--well, I'll say businesses that you have in a community the size of 8,000, the size of Blair--we also provide all the water to the biocampus which is over a billion dollar investment in the state of Nebraska and over 1,000 jobs. And we don't feel that the city of Blair and our ratepayers should be having to carry the state of Nebraska on those costs. So with that, I'll shut up and answer any questions that you might have. [LR527]

SENATOR AVERY: Thank you, Mr. Storm; appropriately named. Questions? Senator Scheer. [LR527]

SENATOR SCHEER: If I'm following what you just spoke of correctly, you have a

Transcript Prepared By the Clerk of the Legislature  
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Rough Draft

Government, Military and Veterans Affairs Committee  
October 29, 2014

---

project that will not be completed until next July and you will not receive funding...if everything goes well, you'll receive the funding January or February of 2016. We don't set the rules. The state doesn't set the rules, they have to follow the federal rules as far as funding. And we, at least it's my understanding, we can't fund...the state can't fund their portion of that until the job is completed. So your first comments, you're not asking for it to be funded until...you know, so I'm a little confused because it sort of sounds like at the end that's what you were talking about. [LR527]

RODNEY STORM: Okay, yeah. Let me try to clarify that. What we're talking about is that project is a separate work order. And like I say, in our case we had ten work orders. That project is a paving project on a street to the water treatment plant that was completely damaged when we had to build the temporary flood prevention projects I guess is what NEMA or FEMA calls them. But when that project is completed we then will submit those claims to NEMA who will sign off, send them to FEMA. FEMA then will reimburse the state, the state will reimburse us. What I'm talking about the funds that are being held up is the state funds. The state participates in half of the local cost or in this case 12.5 percent. We have not received that 12.5 percent of those funds that were eligible for the other ten work orders because the state does not pay any of the state funds till all of the work orders are complete. So in our case, those funds that the state and those projects that have been "finalized" out a year and a half, two years ago, we should have been able to be reimbursed that state funds, which in our case on those particular ones are about \$250,000. [LR527]

SENATOR SCHEER: Okay. So you're saying that per work order and per project however... [LR527]

RODNEY STORM: Correct. [LR527]

SENATOR SCHEER: ...the technical term would be that as each specific project, work order, entity is completed that the state fund its 12.5 percent. Does the federal

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Government, Military and Veterans Affairs Committee  
October 29, 2014

---

government fund it at the end of that? [LR527]

RODNEY STORM: Yeah, they've already paid that. [LR527]

SENATOR SCHEER: Okay. So you've received the federal funding but the state has not paid in? [LR527]

RODNEY STORM: We have not received the federal. We've received the federal but not the state. [LR527]

SENATOR SCHEER: So the state then pays all the projects, their 12.5 percent, in total when the last project is completed. Is that right? [LR527]

RODNEY STORM: Right. [LR527]

SENATOR SCHEER: Okay. And so that's the change that you're asking is that the state would be paying... [LR527]

RODNEY STORM: That's one of the changes that we think, you know. We think that, number one, up front, those claims going to FEMA can be processed quicker if they had adequate staffing. Once we get the federal funds--and again, we're not asking the state to front those federal funds--but once those funds are received, once that project has been essentially signed off and completed, then we think the state should be able to reimburse those funds. I know one of our concerns was that Mr. Berndt indicated--the way I took his testimony last year--was that there wasn't enough money in NEMA's budget to be able to front all of those. Well, I think that's a different issue. If there's not enough money then I think it's behooving on the Legislature and the Governor to see where those funds can come from because those are funds that's been promised to the local entities. So why should the local entities have to try to carry that and pay interest on it? And in a lot of cases, I could tell you that interest is going to be close to what the

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Government, Military and Veterans Affairs Committee  
October 29, 2014

---

state cost is. So that's particularly where we're coming from. [LR527]

SENATOR SCHEER: And I can appreciate that. I guess I look at what somewhat happened between the flood and then the fires the following year are sort of two perfect storms back to back. And I don't know that NEMA has the need for additional staff under normal circumstances. I can ask that question later. But that doesn't preclude them having the ability perhaps either through a Governor or somebody else in order to contract. [LR527]

RODNEY STORM: And I think one of the things as far as the Legislature could ask NEMA on that. And I'm not familiar, I know if we hire a consultant to help us through the massive paperwork and so forth--of which I know South Sioux I think did--those administrative costs are eligible for reimbursement from FEMA. So if the state contracts to help with an individual basis, are those funds reimbursable to the state of Nebraska as part of that disaster which minimizes that cost? It doesn't completely because NEMA or FEMA is only going to pay 75 percent. But it goes a long way to pay that extra cost for hiring those consultants because as you indicated you can't just have a whole bunch of staff just sitting around waiting for a disaster. And we don't profess that that should be the answer. We think that we could...that there's firms out there that the state could contract with to help that processing process and be able to hopefully get those federal dollars back to the state, back to the local entities quicker. [LR527]

SENATOR SCHEER: Okay, thank you. Perhaps we'll find some of that out later. [LR527]

RODNEY STORM: And from my standpoint, I would be happy to work with this committee or anybody working with NEMA on a solution. [LR527]

SENATOR AVERY: Senator Wallman. [LR527]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Government, Military and Veterans Affairs Committee  
October 29, 2014

---

SENATOR WALLMAN: Thank you, Chairman Avery. Thank you, Mr. Storm, for coming. And I hear where you're coming. That's the reason people hate government. We don't pay on time and all these things. Do you think it would help if we tied interest payments onto this and say if it's late you have to pay interest? [LR527]

RODNEY STORM: Well, I would love to be able to make my interest payments eligible for state or federal funding. I mean, point blank, I'd be lying if I said not. I think the hard part is, is when you say when does that clock start to determine when it's going to be late? You know like I said, if they don't have the staff to process or if they don't...that claim and so forth, when is that process? To me the quicker the better thing is let's get the ability to have the administrative assistance to be able to get everything timely and then we're not into that determining whether it's excessive interest or not. [LR527]

SENATOR WALLMAN: Thank you. [LR527]

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

RODNEY STORM: Thank you. [LR527]

SENATOR AVERY: Any more comments? No one else wishes to...are you wishing to address this resolution? [LR527]

BRYAN TUMA: LR527? [LR527]

SENATOR AVERY: Yes. Welcome. [LR527]

BRYAN TUMA: (Exhibits 3, 4) Good afternoon, Senators. My name is Bryan Tuma, B-r-y-a-n T-u-m-a, I'm the assistant director for NEMA. And I did offer testimony last week on this same legislative resolution. And I guess I'd ask you, do you want me to read my testimony once again, because it's not changed and I'd be willing to offer it into

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Rough Draft

Government, Military and Veterans Affairs Committee  
October 29, 2014

---

the record if you so choose. [LR527]

SENATOR AVERY: Let's take the latter option. [LR527]

BRYAN TUMA: Okay, that works. Then I will avail myself to questions. [LR527]

SENATOR AVERY: All right. Senator Scheer. [LR527]

SENATOR SCHEER: Couple of things from the last testimony. Is it a state policy or a federal regulation in regards to how the state pays its portion from per project versus the completion of all projects? [LR527]

BRYAN TUMA: Okay. Under the federal regulations, the federal government when they agree to do a project they obligate themselves to 75 percent. Now I don't want to...that's a general rule. After the Sandy Recovery Act, there are some situations where they will pay more to expedite certain issues. So there are some nuances to that, but generally speaking it's 75 percent. Then the local jurisdiction is responsible for the remaining balance or the 25 percent. In Nebraska we have elected to use the Governor's Emergency Fund to help support that local payment. So not all states do that. So in Nebraska we would pay 12.5 percent of the balance. The local jurisdiction, the subgrantee also pays 12.5 percent. [LR527]

SENATOR SCHEER: In relationship to the 12.5 percent that the state...the concern that I heard earlier was that the state's portion--and I appreciate knowing that other states don't participate in the same manner--so would it be your...NEMA's policy that their funding does not go out till the end of the projects? So that's...I guess that's a decision that can be changed or altered on a state basis, not necessarily a federal. Would that be correct? [LR527]

BRYAN TUMA: Yes. And if I could offer an explanation here. [LR527]



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Government, Military and Veterans Affairs Committee  
October 29, 2014

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SENATOR SCHEER: Sure. [LR527]

BRYAN TUMA: The Governor's Emergency Fund is outlined in state statute, so we have to observe the statutory language. Part of that program also requires us to comply with auditing and the way the state wants us to disburse those payments. So long story short is, we have not paid out any issues out of the Governor's Emergency Fund until after the project has been inspected and completed and the federal folks have made their 75 percent payment, then we will pay that 12.5 percent figure when all that other work is completed. That has historically been the way that the disbursement of those payments has been made. [LR527]

SENATOR SCHEER: Okay. And last question, knowing that you were bombarded, you had the floods and then you had the fires the following year, indeed was there a shortage of staff in order to move the paperwork along to the federal agency or were you somewhat timely but the federal government was somewhat slow as well? [LR527]

BRYAN TUMA: Yeah. Let me frame my answer around, we do response and recovery. So we have a staff of roughly 37 people. And response meaning we go out to the field. And we had, you know, the tornadoes this summer. All members of the staff are subject to respond and go out to the field and help with those initial efforts to protect life and property and stabilize the incident. Once that is done, then we start pulling people back out of the field and then they will address their...most of them will begin addressing their normal duties. So in the case of the public assistance program, those people are basically going to go back and resume their activities. So to answer your question, yes, that does have an impact on the ability to staff to process public assistance claims that are in the queue. So I just want to emphasize, we do respond. We go out, we take care of business, we come back. So we try to make up for lost time in a lot of cases when those situations occur. [LR527]

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Government, Military and Veterans Affairs Committee  
October 29, 2014

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SENATOR SCHEER: On a normal basis, a normal year--and I don't know, maybe there is no such thing as a normal year so that may be an oxymoron in itself--do you...does your department...is it in need of additional staff on a ongoing basis or is it just the periodic, simultaneous disasters that may hit that cause the drops in service in some areas at some point in time? [LR527]

BRYAN TUMA: Well, I think you're very correct. We do have to respond to surge so in most cases if we didn't have those active disaster response-type duties going down, we could probably manage most of those projects with the staff that we have. When we do have incidents--and the trend right now has been more incidents, more severe incidents, and you can read all the climate studies and look at that information and the predictions are that that will be the trend for at least a period of time--so I guess I want to tell you we do have staff that can address the workload. But when we have to address the surge from other activities, it does impact our ability to stay on task. I can't deny that. [LR527]

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

SENATOR AVERY: Senator Wallman. [LR527]

SENATOR WALLMAN: Thank you, Chairman Avery. Yeah, thanks for coming again. And I've dealt with NEMA before in the schools and I can't complain really. But you have a finite budget, right? You submit a budget to the Governor? And what happens if that runs out? [LR527]

BRYAN TUMA: Well, we... [LR527]

SENATOR WALLMAN: You postpone things? [LR527]

BRYAN TUMA: Yeah. NEMA is a part of the Military Department so General Bohac as

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Government, Military and Veterans Affairs Committee  
October 29, 2014

---

the Adjutant General, works the budget issue. So, yes, we do submit a...our budget goes in under the Military Department's budget. Now in terms of operating costs, a lot of things can impact that. If we do have disaster declarations, we do have the ability to tap into some additional dollars to manage those incidents. FEMA will provide us...if we have a declaration, FEMA will provide us roughly 3 percent of that cost to help with our administrative tasks. And that might include hiring some additional temporary employees and it runs the gamut: warehouse storage space to store materials, extra temporary positions to do project management, and so there are even equipment costs if we need additional equipment to help with that particular disaster. So we do have the ability to tap into some of those funds as well. [LR527]

SENATOR WALLMAN: Thank you. [LR527]

SENATOR AVERY: Senator Bloomfield. [LR527]

SENATOR BLOOMFIELD: Thank you, Senator Avery. Do you...Mr. Storm talked about contracting out for some additional help. Do you have the ability to do that if you wanted to and do you have a group of people that you'd have in mind where you'd go and get that inside-the-office help? [LR527]

BRYAN TUMA: We have some options there and one of them would be the state has a temporary pool, people that maybe have been in state government in another capacity. We could tap into those folks if they are looking for employment. We have a couple of those folks that work on our staff currently. In fact, we have one employee is temporary in terms of classification, but really has a presence most of the time to help go out and inspect projects and follow up and make sure that we keep those projects on track. The other option would be to hire an outside contracting company, a firm that would come in. And there are a number of those companies around. They specialize in that type of activity. And I'll just be very frank with you, that just like any other vendor, there's good vendors and maybe sometimes there's those that don't really deliver as promised. So I

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Government, Military and Veterans Affairs Committee  
October 29, 2014

---

have heard those kinds of stories from the emergency management community. The other issue is cost. Those people are in it to make money. And so it would cost additional dollars if you were to contract with one of those companies to do that, but it would be a possibility to address surge. You know, and there are maybe some other options within the Military Department. I have not discussed this with the Adjutant General but I fully intend to have some conversations with him around would it be possible to maybe identify a group of individuals within the Military Department that could be trained up on public assistance and maybe some of these initial project writing activities to help with the surge and be on staff temporarily and then go back to some other duty status. So again, I have not discussed that with him. I'm throwing that out here. I haven't even discussed that with the staff to a large degree. So the answer is, yeah, there might be some options that we could address that would I think be practical, make us a little more effective, a little more efficient, and address people's concerns about timeliness on projects. [LR527]

SENATOR BLOOMFIELD: Okay, thank you. [LR527]

SENATOR AVERY: Any other...Senator Scheer. [LR527]

SENATOR SCHEER: Bryan, you know it seems to me that we passed a bill last year that gave the Adjutant General authority to go in disasters up to another \$25,000 and so forth. Would those funds...granted, that's 20/20 hindsight, but would those funds have been able to be utilized in some of the fashion that we're talking about? [LR527]

BRYAN TUMA: State statute allows us to form what we call SERT teams, state emergency response teams, and that can range anything from fighting fires to maybe even looking at this particular issue, could we develop a SERT team? [LR527]

\_\_\_\_\_: (Inaudible) statute is only for... [LR527]

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Government, Military and Veterans Affairs Committee  
October 29, 2014

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BRYAN TUMA: For fires. [LR527]

\_\_\_\_\_: Fire...no, hazmat teams and aerial suppression. Those are the only two.  
[LR527]

BRYAN TUMA: Okay. Okay. You have two issues that we can do that with, hazardous materials, which we have a program across the state of Nebraska. We contract with various fire departments. We have memorandums of understanding with those folks and we provide them with grant funding and assistance. And in return, we have a statewide response mechanism. The other is fire suppression, wildfires. The statute that you're speaking of allows the adjutant general to authorize up to \$25,000 as a...like an emergency expenditure so people on the ground that are actively fighting the fire could use up to \$25,000 immediately without having to request a disaster declaration or declare an emergency and go through that process with the Governor's Office. [LR527]

SENATOR SCHEER: So we might be able to legislatively perhaps change that to broaden that perhaps. [LR527]

BRYAN TUMA: Well, that might be an idea, yes, sir. [LR527]

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

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

BRYAN TUMA: Thank you. [LR527]

SENATOR AVERY: Anyone else wish to address LR527? Okay, Senator Bloomfield do you have any more questions? All right, with that we will end the comment period on LR527 and we'll move now to the next item on our agenda, LR582, and invite Senator Crawford to come up. [LR527]

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Government, Military and Veterans Affairs Committee  
October 29, 2014

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SENATOR CRAWFORD: Thank you and good afternoon, Chairman Avery and members of the Government, Military and Veterans Affairs Committee and all who are with us today. 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. I'd like to thank you for the opportunity to appear before you today and to share some additional results and testimony for our interim study, LR582, regarding unfunded mandates to counties. And I will not repeat what I said on Friday so those who may be listening or reading the testimony, it's important if you're wanting to get a full view of the results that you get a copy of the testimony from Friday as well as today. As state legislators, we have a core responsibility to establish a foundation for effective local governance. Counties are often called an arm of the state and so we have a special responsibility and a special relationship with counties who carry out many of our state tasks. We also work with counties to ask them to respond to local needs and we give them authority to respond to local needs. And because we work with counties and the counties perform many of these tasks for us, that really raises the question for us as state legislators--and especially you in terms of your jurisdiction on the committee--of what our responsibility is to counties and what our responsibility is to our state citizens to make sure that counties can perform these functions well. Two keys to that responsibility in my mind are authority and resources. So we have to ask, what authority we've given counties to perform these functions and what resources have we given the counties? And in many cases again, especially those functions that we ask counties to do in partnership with us, a key question we have to ask is what part do we play in making sure they have adequate resources? What's our part in paying our part in that partnership? In many counties and in the state of Nebraska in the past one way that we have provided resources and been a partner with counties in providing them the ability, the resources to perform these functions has been through some form of revenue sharing that we have called state aid to counties. And we recognize that we ask them to do many things for us and so we help provide resources, share revenue with them to help perform many of those duties. Another way that we have done that in the past is when we ask a

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Government, Military and Veterans Affairs Committee  
October 29, 2014

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county to do something we may allow them to have authority to collect revenues as part of that task that we're asking them to do. And we talked on Friday a bit about the collection of sales tax that we ask counties to do and the commissions that we used to allow them to keep for that task. And you'll hear a little bit more about that from a different perspective today, so that's another example. And then a third would be...another example would be times where we might actually pay some of the cost to counties for a task we ask them to do. And then finally we might give counties authority to collect revenues for some task that we ask them to do. So there are many forms this partnership might take. And I think our fundamental question today is really asking how we're doing in terms of that partnership with our counties and are we providing the authority or resources that they need to perform these tasks that they do on our behalf. And particularly we're looking today at those cases where that partnership has failed in terms of the assistance of unfunded mandates. Unfunded mandates occur when one governmental body or agency requires another governmental body to perform a function or change policy without a funding mechanism. So we know what that looks like when we get unfunded mandates from the federal government. And when we as state legislators pass unfunded mandates down to counties then it is often the case that property tax revenues must cover that cost that gets pushed down to the county. In tight budget times the Legislature...we have made cuts to balance the budget. And many times these cuts have been ones that have increased this pressure on unfunded or underfunded mandates. We have done things like 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. Over the years also sometimes policies have changed that have at times added responsibility to counties one by one, but over time these responsibilities can add up. So now is an opportune time to evaluate our partnership with counties and that includes evaluating these unfunded and underfunded mandates more broadly. So I appreciate your willingness to take on this interim study and your willingness to have hearings and hear not only results of that study and also testimony related to these unfunded and underfunded mandates. As we discussed on Friday, addressing these unfunded and

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Government, Military and Veterans Affairs Committee  
October 29, 2014

---

underfunded mandates may take many forms. In some cases it may be a decision by the state to say we need to pay for this service, this task that we're asking the counties to do. But in other cases there may be other options, other ways to rethink how we address those unfunded or underfunded mandates. And as we discussed on Friday, there may be some cases where instead it's a matter of giving counties authority or giving counties more fiscal control. And one example of that that relates to an issue that is on our target list of unfunded mandates is that of fees. So it may not be the state paying more, it may be the state allowing counties to charge more for some of the tasks that we ask them to do. I want to thank Christy Abraham, the Government legal counsel, for her work on this interim study. She combed through the statutes and helped us identify responsibilities and tasks that the state assigns the counties as a starting place for the conference calls that we then held with county officials throughout the summer. I'd like to thank the Chair also for being on those conference calls and participating in those discussions. So from that discussion and from Christy Abraham's work we have come up with a list of 16 target actions and we introduced that list on Friday. And so we aren't giving you a new list today but Kaitlin does have a couple of extra copies if anybody needs a new copy of that list. I want to thank the county officials who participated in the calls and who took time to testify on Friday or who are taking time to testify here today. I'm also pleased today to have two former state senators with us to share their unique experiences. They have both historical experience in terms of this issue but they both now have county responsibilities and so they bring that county responsibility perspective with them today. So I'm very glad today to have with us Senator Giese and Senator Connealy. You'll also hear a bit more today about property tax rates levied by counties and their efforts to control or hold down property tax rates. Hopefully we'll address a couple of the questions that were asked last time on Friday about some of the issues about property tax rates in counties. So hopefully that testimony will answer that question for you today. I appreciate also the attendance and participation of those county clerks and election commissioners who may be with us today so close to an election. And as on Friday, I would ask if we have anyone here testifying as election commissioners or election clerks that they're allowed to testify first



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Government, Military and Veterans Affairs Committee  
October 29, 2014

---

so they can get back to the task of running our elections in partnership with us as a state. So thank you again for the opportunity to testify and the opportunity to bring other people forward to share their perspective on this issue. [LR582]

SENATOR AVERY: Thank you, Senator. Any questions or comments? Senator Scheer. [LR582]

SENATOR SCHEER: Senator Crawford, just out of curiosity--and I know it's specific to counties--but I hear the same thing from school districts, from cities, from a lot of different subdivisions of government, why did we...or why are we only exclusively looking at counties? [LR582]

SENATOR CRAWFORD: That's a very good question. This interim study focused on counties because that's the jurisdiction of this committee. So we had talked a bit about whether to look at all of the mandates at once across all those subdivisions, but they are in different committees. Different committees have jurisdiction of schools and school responsibilities and school funding, so it would be the Education Committee. The municipalities would be under Urban Affairs. So the focus of this study then was just on counties for that purpose. But you raise a very important point. We have a similar partnership with our school districts and a similar partnership with our municipalities. And so these same issues of what are we doing in terms of our share to provide authority and resources is also true in those partnerships as well. [LR582]

SENATOR SCHEER: I guess my thought is what dollars we're talking about here, we have equal or greater ones in other areas as well that may be out there. So this isn't the solution to all government mandates so that haven't quite... [LR582]

SENATOR CRAWFORD: That is correct. This is focused specifically on those mandates targeted to counties. And you are correct, there are many similar issues to be addressed in terms of mandates to schools and funding for schools and mandates and

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Government, Military and Veterans Affairs Committee  
October 29, 2014

---

funding for municipalities as well. It's a very good point. [LR582]

SENATOR SCHEER: Thank you. [LR582]

SENATOR CRAWFORD: Thank you. [LR582]

SENATOR AVERY: Any other comments or questions? Thank you, Senator. Anyone else wish to address the committee on LR582? Welcome. [LR582]

BETH BAZYN FERRELL: (Exhibit 1) Thank you. 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. I'd like to thank Senator Crawford for introducing LR582. And I'd like to thank her staff and Christy Abraham for all the work that they did, Senator Avery for helping us with those conference calls and the discussions this summer. The study really provided a lot of information not only about unfunded and underfunded mandates but we talked a lot about county operations and county functions in general. And I think that was very helpful to all of us. What you're receiving today is a handout that stems from the discussion on Friday. It is a list of county levy rates for 2012 and 2013. This is based on information that is submitted every year to the Department of Revenue through the certificate of taxes levied by each county. And it compares the valuation and the tax rates for each year. So you can see the column on the yellow, those tax rates are ones that decreased. And we had discussion on Friday about what are counties doing with their levies as valuations increase. So this shows all of the ones in yellow had a decrease in their levy rate between 2012 and 2013. And I guess we got...we had a lot of discussion on Friday, we'll have more today, so I will conclude my remarks but I would be happy to try and answer any questions if I could. [LR582]

SENATOR AVERY: Thank you. Let me ask you, is this typical for this many counties to have a decrease? [LR582]

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Government, Military and Veterans Affairs Committee  
October 29, 2014

---

BETH BAZYN FERRELL: I think it is. I could...I'd be happy to go back and compare this for the last several years. This is a handout that we do every year for the Revenue Committee and we'll be doing another one with the 2014 information. When the session starts, we'll have that for the Revenue Committee. So I'd be happy to share that as well when we have that. [LR582]

SENATOR AVERY: It doesn't seem to fit with what we often hear that my taxes are too high and they go up every year. [LR582]

BETH BAZYN FERRELL: I think one piece of that... [LR582]

SENATOR AVERY: Mine do. [LR582]

BETH BAZYN FERRELL: It's when people get their tax statement they see the dollar amount but they don't often look and see why it went up. Maybe there was a bond issue. Maybe one particular political subdivision had something going on where they needed to increase their rate. So I think oftentimes people think, oh, that's the county. But it's not necessarily just the county. [LR582]

SENATOR AVERY: Yeah. And they don't notice that credit we give them. It's a rebate, is it, or something like that? It's a credit. [LR582]

BETH BAZYN FERRELL: Right, it's a deduction off the top. [LR582]

SENATOR AVERY: Right. Senator Scheer. [LR582]

SENATOR SCHEER: Thanks for the information. And just looking, scanning...although in fairness to taxpayers I can see some of their concern because in some of these areas the valuation has gone up immensely. And although their tax rate may have gone down

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Government, Military and Veterans Affairs Committee  
October 29, 2014

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a little bit, certainly not matching the amount of asset valuation for that county. So I mean it is providing more dollars on an ongoing basis. And I don't think from my perspective people are complaining about the services, it's just that when the valuations are going up that much when if I wrote a check for \$10,000 for a farm or a ranch last year and I get my tax statement and my taxes are now \$11,500 the next year and the tax rate went down 6 percent, you know the 6 percent is really not my issue. My issue is my taxes went up 10 percent. And I appreciate it because I'll take more time to look at it, but I think that's where I think a number of folks that I've talked to are concerned that the valuations are going up very quickly but they're not seeing the tax rates being lowered in the same percentages as that valuation, and realizing it's going to cost more year after year. I don't know that people expect it to be exactly the same, but there seems to be a little arbitrage in there somewhere. Thank you. [LR582]

SENATOR AVERY: Any other comments? Senator Bloomfield. [LR582]

SENATOR BLOOMFIELD: Thank you, Senator Avery. Would you be willing to get me copies of this for the last few years? I'd like to do a little math comparison and see what the tax dollar actually is versus the rate. [LR582]

BETH BAZYN FERRELL: I'd be glad to. [LR582]

SENATOR BLOOMFIELD: Thank you. [LR582]

SENATOR AVERY: Anyone else? Senator Wallman. [LR582]

SENATOR WALLMAN: Thank you, Senator Avery. Yeah, thanks for this information. I noticed a lot...most property went up. And the lid limits are the same for all counties, right? [LR582]

BETH BAZYN FERRELL: Yes. Counties are constitutionally limited to 50 cents. [LR582]

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Government, Military and Veterans Affairs Committee  
October 29, 2014

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SENATOR WALLMAN: So this kind of bails the counties out in a way, doesn't it, increase the property value? [LR582]

BETH BAZYN FERRELL: It does help. We've been hearing though that there are some areas of the state where there are certain kinds of, for example, ag land that the values are starting to level out a bit. You know certainly that's not going to change everything. And there's...it's a three-year cycle to average those values, but you know values... [LR582]

SENATOR WALLMAN: Yeah, thanks. This is real good information. Yeah, thank you. [LR582]

SENATOR AVERY: Anyone else? Thank you for your testimony. Anyone else wish to address LR582? Senator Connealy, good to see you. [LR582]

MATT CONNEALY: Senator Avery and members of the committee and Senator Crawford, I want to thank you for coming up to our part of the world, in particular the senators from down by Lincoln, and for looking at unfunded mandates. I am Matt Connealy, M-a-t-t C-o-n-n-e-a-l-y, I reside in rural Decatur in Burt County about 30 miles south of here and I currently serve on the Burt County board of supervisors. In your previous hearings--and I know in talking to your public--I mean you see the way things are moving from other entities to the local entities, to counties, and to like Senator Scheer said, to schools and the whole like, to the burden that's moving from other areas to our local property taxes. It's very important for all of us to look at those needs and the wants that we have on a local level, but counties and other governments are really mandated to do certain things by the state. We are, as Senator Crawford said, we are a function of the state. We work with them under strictures that are set up by the state and we enforce state laws and do things like that. So in reality as we look at the actions that happen on the local level to a large extent they're mandated by the state. And if they're

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Government, Military and Veterans Affairs Committee  
October 29, 2014

---

paid for by local fees or by inheritance tax or by the majority, property taxes, then to some extent they are unfunded. We are all responsible for those local tax increases and like in what we have local governments do and how we fund those. From my years in the Legislature and watching other government operations work, you know, in tough times it's easy for the Legislature to move costs from something that's short like income taxes in down times to local property taxes. I was in the Legislature when we had really tough times and tough budgets, special sessions, and things like that, and we did that kind of thing. And then all the times when things turn around a little bit we don't go back and fix the state aid formula or we don't refund our aid to counties or local governments. We oftentimes do the politically maybe a little easier thing and look to give income tax cuts or other kind of cuts. And as a local elected official who has to work within these strictures, I urge you caution in that and urge you to look at and make sure we fix things on the local level. In talking to my local county officials, I talked to Joni Renshaw, our assessor. She talked about and wanted me to highlight that we're doing things like every other county. We're putting a whole lot of money and resources into GIS and putting information on our property so that our local entities and also our public can use that information and we become really into the digital age as everybody else is doing. We didn't get any funding from the state or from grants to do that. We put in hundreds of hours and thousands of dollars just like other counties are doing. Now the state comes back and says, well, we want all that information so we can put it on our Web site. Those are the kind of things that we look at. I talked to the district court clerk in Burt County and she talked--of course like every county has talked about--the increased costs of attorneys and the increased costs of court-appointed attorneys. But also she talked about probation costs and administration that is growing as we do that for our courts. And that and other things in the courts are really something that a county has very few tools to manage. That's kind of outside us. We aren't able to adjust that. If that cost goes up we just have to handle it. There's continuing to be increased costs on our road projects in counties because any time you're going to do a repair you're likely to have higher and higher standards that come down from the state. And this and the courts and the GIS, all those are things that we probably should be doing and they're

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Government, Military and Veterans Affairs Committee  
October 29, 2014

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good things. It just means that we have to look at how we're funding it and how the increased cost of all these things move down toward us. Burt County along with most counties as you see from the list is being very diligent. We actually lowered our mill levy next year from .3289 to .2891. That's a decrease enough where we actually decreased our tax asking, not just the tax level. So I think that we're not odd. I think you see from that list Burt County is being very careful. We're funding what we absolutely have to have now and not what we'd like to have. We actually have a...we're short a deputy on our force, we're not having any major roads projects this year, and we're doing it even in a time when things tend to be--on the books--looking like it's good for us. But we understand that our taxpayers have had dramatic increases: schools and NRDs and other things are not holding the line like the counties are. And so our taxpayers are really getting big hits. And I am encouraged by what counties are doing, but we as a state need to make sure that we continue to have an effort to keep from shifting things to the local level and keeping that tax distribution between property and sales and income tax as balanced as we can. [LR582]

SENATOR AVERY: Thank you, Senator, Commissioner, Supervisor; you're all of those things. Senator Scheer. [LR582]

SENATOR SCHEER: Matt, can you give me a rule of thumb, because you talked at the beginning about counties providing a lot of services that are an extension of state services I guess for the lack of a better term. But cities do that and a lot of others do that and counties, cities, everybody's given a taxing authority to provide income to them to provide, in part, probably most of those services. So is there a place where we sort of draw the line on who's responsibility it is or is it just clouded in almost every case? [LR582]

MATT CONNEALY: Well, I don't know if it's clouded or if it's part of the function. We have details on certain issues and I always look at things as does it tie back to where the tax came from? If not, then it's probably a state responsibility. We don't always

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Government, Military and Veterans Affairs Committee  
October 29, 2014

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follow that. Law enforcement tends to be on a local level tied to property taxes, but is education always and things like that? So that's my goal is to try to make sure that we take the state responsibility as much as we can on things that are not tied locally. But a mix of property taxes, income taxes, and sales taxes is a good tool for our state and our local governments because it gets the distribution from people like my absentee landlord that lives in California pays some local property taxes. So I don't necessarily want to get rid of property taxes. But if you go to a burden now where state aid is being diminished dramatically to counties but also to schools and the increase shifts to agricultural land values, it is really putting a burden on an economy that isn't really doing as well as it did a couple of years ago. So you've got to keep that balance. [LR582]

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

SENATOR AVERY: Anyone else? Anymore comments? Thank you. [LR582]

MATT CONNEALY: Thank you. [LR582]

SENATOR AVERY: Anyone also wishing to address LR582? You going to go through all of that? Welcome--I think. [LR582]

JANET WIECHELMAN: (Exhibit 2) Good afternoon, Senators. My name is Janet Wiechelman, J-a-n-e-t W-i-e-c-h-e-l-m-a-n. I'm the clerk of district court for Cedar County and I also am the legislative liaison for the Clerks of District Court Association. I'm honored to actually be before your committee because most of the times I'm before Judiciary; that seems to be my spot there. In listening to the hearing on Friday, there were some issues brought up along with some issues that were brought up here again today about the different functions that the counties pay for functions within the court system. And this is what I'm wanting to identify are the different things in the counties we are providing that actually are a part of the entire court system. So in the booklet I've kind of identified the information. Most of it is statistical or data just for your information



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Government, Military and Veterans Affairs Committee  
October 29, 2014

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if you'd like to look at that information. I'm not necessarily here to request any type of legislation, but just simply just to provide information for you. It is not my intent to identify any judges, attorneys, clerks, or whatever who if you look at some of the information you may wonder why. But I will kind of identify some issues that we kind of raised in doing some of the research that we did here. The first issue if you would look at is the issue of uncollectible court costs at a county court. According to statute at a certain time period the clerk magistrate will submit a claim to the county to pay for uncollectible court costs. Those could be court costs that were for cases that were dismissed by the prosecutor, cases that were transferred to juvenile court, or for other purposes. They're not including all the county court fees in that. It's only \$17 of the original \$48, but I know it was identified by somebody on Friday that it's interesting that one of the fees that we're paying from the counties is the judge's retirement fee. And that is \$6 of these fees which are being claimed by the county which are being paid to the state. There are no fees in the filing fee of county court that are paid to the county; all fees are paid to the state. Like I said, I got the statistical information for the last three years. This information was provided by JUSTICE which is the court automated system. They were willing to provide me the information of each last three years of 2012, 2013, and 2014, of all claims that had been paid by the counties to the state. And just to look in, I looked at the Cedar County end of it just to see on those cases that were claimed to the state as to the reason why. The majority of them were because they were not paid. They were traffic tickets that they no longer were able collect money from them--that was the majority of them--or dismissed by prosecutor. Seven of them were transferred to juvenile court and the other couple were bind overs, in other words, felony actions bound over to district court. The second category that I'd like to identify has to do with the issue of the district court cost. This has to do with the filing fee on the criminal end for the bind overs in the felony cases. We have to make a claim at the time the information is filed. That claim is made to the county for again state fees. We do not make any claim to the county for any portion of the county fees, which is \$50. The state end of the claims is \$35. So we're putting money out before we...as we start the case. Court costs can be ordered by the court at the time of the conviction. We do know there

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Government, Military and Veterans Affairs Committee  
October 29, 2014

---

have been some judges who have been hesitant to order some defendants to pay court costs. In a survey made by the Clerks of District Courts (inaudible) committee because sometimes the incarceration time is so lengthy they know the possibility of actually getting the money back from the defendant is improbable. Defendants have the opportunity to make payments on that. There are things available in statute right now. A defendant can sit out court costs and fines but it is at the rate of \$90 per day, which also means that we have individuals sitting in county jails for a couple of days at county cost while the person is serving out their court costs and fines. Also there's other ways we try to get it by way of if there's bond been posted by having the court costs taken out of that bond. Also we try to get time payments or we have to do to show cause. There are some avenues available to try to collect this money but we're finding sometimes that it is not...we are not able to collect the money as we had hoped. Some clerks of district courts have indicated--especially in district court where we have individuals who are incarcerated for long periods of time--once they're released from the prison system, we don't know where they go. There's no way to try to get ahold of them to tell them you still owe court costs in district court. I know when individuals are placed on parole. We do receive notice from the Parole Board of their hearing though we are never notified if they actually are released on parole, we're never told who the parole officers are, and we know parole is not checking to see if those court costs as a condition of their parole have been paid. So I think to some extent between parole preparation and the court system, it not necessarily is a legislative issue but perhaps just a meeting of the minds, finding a way that we're all communicating and trying to make sure that we are getting these fees paid back to the county for court costs and we are able to collect the district court fees that are owed to the county because otherwise that is \$50 per case that we are not getting as a revenue. Some district court clerks have indicated that there isn't the assistance from the county attorneys in trying to collect these costs. It does have in statute that the county sheriff, the clerk of district court, and the county attorney should make all attempts to collect this under their rules and however it was stated. We have to remember one difference between district court clerks and county court clerks, the clerk magistrates have traditional authority, clerks of district court do not so we are limited in

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Government, Military and Veterans Affairs Committee  
October 29, 2014

---

our avenues that otherwise would have been available in a county court and them trying to collect a fine and fee court costs. There has been past legislation. Last year Senator Bolz had offered LB870 which was the Public Debt Recovery Act. That did not make it out of committee, but that was one bill that had been brought to find another way of finding sources to collect the unpaid court costs. And before that, Senator Ashford in 2011 had also brought some legislation. I do not have with me the amount of unpaid court costs, fines, or probation costs. Probation costs go to the state, they are not a county revenue. But when the report was printed last year from the JUSTICE query that was done, to say the least we were shocked by the amount of unpaid court costs and fees owed to the counties. If you would like to get that I sure can have them run another query just to give you an idea of how much money is outstanding by defendants. One issue the clerks of district court had brought in the survey that I sent to them is, they said it's a lot of time spent trying to get defendants to pay. Sometimes they look at the issue is it worth their time and their resources to try to collect this. I'd like to think that if we were able to find a way of making it easier to collect these, perhaps there would be more clerks of district court who'd be more willing to be more active and proactive in trying to collect that. The next category that I have is the issue of what we call 4(D) and in forma pauperis orders. These are domestic relation cases. Four (D) cases are actions brought by a county attorney, an authorized attorney, or contract attorney on behalf of the state for the establishment or enforcement of child support. When these actions are filed, they are filed at county cost. So once again the district court clerks, when the complaint is filed we are making claim to the county for the state fees again paid up front and the state receives theirs but we do not again get any county court fees from that. What we're finding out is some counties when an order is entered is not asking the court to assess the filing fees or the court costs to an individual to pay, to any one of the parties. So that means there is \$34 going out on each case in which there's no reimbursement being made back. Some indicated that they asking for it but the 4(D) attorney or the authorized attorney is not necessarily helping with assistance in getting that money collected. And when we looked at statute, we really couldn't find who really has the authority or the responsibility to go after and enforce that order to make sure

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Government, Military and Veterans Affairs Committee  
October 29, 2014

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that the court costs are being paid. Just as an interesting point just to...on the spreadsheet that I gave you, I was not able to give you a dollar amount because when we did the query with JUSTICE what was coming out was not an accurate figure. So we did it based on cases filed and how many of those cases were actually claimed to the county. And just the total amount (inaudible) in the spreadsheet was \$465,632 worth in one year. The other type of cases which we call IFP cases which are the in forma pauperis cases, this one an individual files a domestic relation case and asks the court for leave in which to file their case without paying the filing fee in which they do that, they do provide for the financial affidavit. The court makes a determination whether or not the case should be filed at the county expense. We're seeing a lot more with pro se divorce actions. Just because availability of the forms being available now and there are quite a few that are filing as an IFP. The way the wording of the orders' decree indicates that the party shall pay their own court cost. Some judges are not looking at the, again, in forma pauperis order in determining at looking at the property they have whether or not they should reimburse the county back on the filing fee. We would just perhaps just like to have that noted that perhaps we need to look at that as a different way to say that we need to make sure that the judge is saying, yes, one party should pay it or not. Like I said, the dissolution matters, the total claims just on divorce actions alone was \$311,370. The rest of the domestic cases is only \$8,640. So it's a huge amount just on the in forma pauperis orders on divorce cases. And again, we just would press if anything, we want to have clarification who's responsibility is it to try to collect those filing fees back when they have been assessed by the court. Just for your information I did, after looking at those codes, probably wondering what some of those codes are. They're JUSTICE codes, but I did provide a sheet giving a breakdown of what a DSSMARR is, it's a dissolution of marriage for you. And I also did include some of the counties. I asked them to provide a listing of those cases that were identified in that spreadsheet whether or not the...in a stipulation if it's even being addressed in the stipulation and if it's being addressed by the courts as far as whether or not they're being assessed or not and also whether they've been paid. The next category is the attorneys' fees, court-appointed attorney fees, the public defender fees. We thank the

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Government, Military and Veterans Affairs Committee  
October 29, 2014

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public advocacy. They do help the counties out when we have these major cases that does give great assistance to the counties in having to not pay for the public defender cost or court-appointed attorney cost. People are entitled in a criminal case due to the fact if it's a felony action, post conviction, juveniles and parents, misdemeanors if they're punishable for imprisonment--which actually would be a one-year sentence--and the mental health boards. Again, if someone is requesting that service, they file an affidavit with the court and the court then makes a determination of whether or not they're entitled to court-appointed counsel or not. I have provided...I have gone through the last three budget years--the budgets that are available from the Public Auditor's Office. I do not have the last year budget on there because that information was not available. But I did go through each county and identified their budget and how much actually has been spent in those three years and the total amount for court-appointed counsel. And I also did provide a spreadsheet that identifies the hourly rate of the court-appointed counsel to give you an idea of the different rates that are throughout the state because they do vary a little bit. A court can order a defendant to reimburse the county back. We're not seeing so much of that, especially when there's a public defender situation where it's being paid on a contract or (inaudible) if it's court appointed it's going to be based on hourly and the court will ask how much are your fees going to be. And he'll base his order based on that. The next one that I have is the issue of juror fees. It is the responsibility of the county to pay juror fees for petit trials, which are jury trials and also for injury. I know a Johnson County commissioner who testified on Friday indicated that they've been having to pay for some grand juries. I just wanted to give you the information so that you are informed how much we are paying out in juror fees for the counties. Again, this information was garnered from the budget sheets from the Public Auditor's Office. Last...second to last is county court expenses. And the Supreme Court and Court of Appeals, all the wages and expenses are paid by the state. In district court, the state pays for the judges' salaries and their benefits. The expenses of the district court judge and if they have a bailiff, those wages and those expenses are paid by the county. The county court, the county court judges and their staff, their wages and benefits are paid by the state. However, the county has responsibility of providing the

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Rough Draft

Government, Military and Veterans Affairs Committee  
October 29, 2014

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office expenses, the office equipment. Like I said, there are no fees on the county court end that get paid to the county, but just wanted to kind of give you an idea on how much comes from the budget sheets, how much is paid by the counties for the support of the county courts. And lastly is the issue...and I wanted to get more information but I was not able to get that. What was needed is the issue if there is a full-time bailiff for a district court judge. I was able to get the order from the Seventh Judicial District, which is Madison, Knox, Antelope, Cuming, Stanton, Pierce--I think that's all of them--the bailiff, how she is paid, how it's split between the counties--it's based on the caseload--just to give you an idea of expenses the counties are putting out for the purpose of the court system. I know it's a lot of information. I apologize for it but I figured you wanted to have some information and I tried to get as much as I could for you. I'm open to questions you may have. If you do decide you want more information, I'd be more than willing to provide it to you. [LR582]

SENATOR AVERY: Please do not apologize for this. It looks to me as if you put a lot of time into it. [LR582]

JANET WIECHELMAN: I felt it was best if we were going to come we should be able to provide some information. [LR582]

SENATOR AVERY: I appreciate that. Questions for...I think we're a bit overwhelmed. [LR582]

JANET WIECHELMAN: I figured that. [LR582]

SENATOR AVERY: Senator Wallman. [LR582]

SENATOR WALLMAN: Thank you, Chairman. [LR582]

SENATOR AVERY: How can I miss you? [LR582]

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Government, Military and Veterans Affairs Committee  
October 29, 2014

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SENATOR WALLMAN: Yeah, this has always been interesting to me. I know a couple of judges quite well, they're friends. And some of them...one of them claimed that it's enough and the other one said it was short. So you'd have to get the judges together I think on this court costs. [LR582]

JANET WIECHELMAN: Actually I think there needs to be a meeting of the minds, if you want to say that, between judges, court staff, probation, and parole. We need to sit down and try to find a way that we're all talking together... [LR582]

SENATOR WALLMAN: Absolutely. [LR582]

JANET WIECHELMAN: ...because I know we've had cases of probation where someone has been released from probation but that no one had ever checked to see whether or not the court costs, fines, or whatever were paid. There needs to be communication between all of the different entities. [LR582]

SENATOR WALLMAN: Thank you. [LR582]

SENATOR AVERY: Any other comments or questions? I don't see any. Thank you. [LR582]

JANET WIECHELMAN: Thank you. [LR582]

SENATOR AVERY: It's Wiechelman, right? [LR582]

JANET WIECHELMAN: Yes. [LR582]

SENATOR AVERY: Wiechelman. Any other comments on LR582? All right. Senator Crawford, do you want to have some closing remarks? [LR582]

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Government, Military and Veterans Affairs Committee  
October 29, 2014

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SENATOR CRAWFORD: I'd like to thank everyone again for their testimony and perhaps just circle back again to the question about all the different political subdivisions. So this interim study was focused on counties and as you can see there's a lot of information just focusing on one subdivision and trying to understand what's happening there. Counties, school districts, and municipalities are all--we call--creatures of the state. They only have the authority and resources that we allow them to have. Counties are a little different though and hopefully you had a little sense of that from this discussion of the judicial role. We do have some special state roles that we ask them to do where they play that role and the judicial role is one and the elections role and the licensure role. So they have some areas where we have them carry out our policies whereas in the case of, say, schools, we allow districts to educate and we create standards and requirements they have to meet as they educate those children. So we are in a position of regulating and holding them accountable for meeting certain state standards. And then we may choose also to help and provide equalization funding or other funding, but it's a little different than the county role which is when they're really engaged in carrying out those state functions that we have established. So hopefully that helps. Again, it's important that we ask this question and gather this data for all of those political subdivisions. But your job in your committee is really focused much more on the counties and that's why we had that focus on counties for this study. [LR582]

SENATOR AVERY: Thank you. [LR582]

SENATOR CRAWFORD: Thank you. [LR582]

SENATOR AVERY: All right, now we have one final resolution on our agenda. This is a broad category to capture any issue under the jurisdiction of the Government Committee that may not have made it into a resolution but is a problem or an issue that someone may wish to comment on. Do we have anyone here that would fall into that category? No beef with government? Good. That's a good, good thing. We want to



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Government, Military and Veterans Affairs Committee  
October 29, 2014

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thank you all for coming. I'm going to end the hearing and again thank the chamber for your hospitality. You have a fine city here and we're going to have some time I think to cruise around when we adjourn. Thank you very much. [LR581]