

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 23, 2024

AGUILAR: Welcome to the Government, Military and Veterans Affairs Committee. I'm Senator Ray Aguilar, and I represent District 35 Legislative District. I'm serving as acting Chair of this committee. The committee will take up bills of the order posted on the agenda. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on proposed legislation before us. The committee members might come and go during the hearing. This is just part of the process, as we have bills to introduce in other committees. I ask that you abide by the following procedures to better facilitate today's proceedings.

DICK CLARK: Turn past that one. I think you turn past one.

AGUILAR: Thank you. Please silence or turn off your cell phones or electronic devices, including senators. Introducing senators will make the initial statement followed by proponents, opponents, and neutral testimony. Closing remarks are reserved for the introducing senator only. If you're planning to testify, please pick up a green testifier sheet that is on the tables at the back of the room. Please fill out the green sheet before you testify. Please print. And it is important to complete the form in its entirety. When it's your turn to testify, give the green sheet to a page or to the committee clerk. This will help us make an accurate public record. If you do not wish to testify today, but would like to record your name as being present at the hearing, there is a separate gold sheet on the tables in the back of the room that you can sign for that purpose. This will be part of the official record of the hearing. If you have handouts, please make sure you have 12 copies and give them to the page when you come up to testify, and they will be distributed to the committee. If you do not have enough copies, the page will make sufficient copies for you. When you come up to testify, please speak clearly into the microphone. Tell us your name, and please spell your first and last name to ensure you get it accurate on the record. We will be using the light system for all testifiers. You will have three minutes to make your initial remarks to the committee. When you see the yellow light, come on, that means you have one minute remaining. The red light indicates your time has ended, and an alarm will sound. Questions from the committee may follow. No displays of support or opposition to a bill, vocal or otherwise, are allowed from the audience at a public hearing. The committee members with us today will introduce themselves, starting on my left with Senator Halloran.

HALLORAN: Good afternoon. Steve Halloran representing District 33, which is Adams, Kearney, and Phelps County.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 23, 2024

LOWE: John Lowe, District 37, the best part of the tri cities, Kearney, Gibbon, and Shelton.

AGUILAR: To my right is committee clerk-- committee legal counsel Dick Clark, and my far left is committee clerk Julie Condon. Our pages for today are Shriya, a UNL senior and a political science major from Omaha. Also Kristen, UNL senior, political science major from North Platte. Welcome both of you. Now we move to the first item on the-- first item, which is a bill-- a resolution appointment on the agenda, LR286CA. Welcome, Senator von Gillern.

von GILLERN: Thank you, Vice Chairman Aguilar and members of the Government, Veterans and Military Affairs Committee. My name is Brad von Gillern, B-r-a-d v-o-n G-i-l-l-e-r-n, and I represent Legislative District 4 in West Omaha and parts of Elkhorn. This resolution, LR286CA, prohibits the state of Nebraska and its retirement system from contracting with, investing in, or possessing direct holdings of companies that have active business operations with any foreign terrorist organization or state sponsor of terrorism as designated by the United States Department of State as those designations existed on January 1st, 2024. Currently, state sponsors of terrorism determined by the US Secretary of State include Cuba, North Korea, Iran, and Syria. Designated terrorist organizations include groups such as ISIS, Hamas, Boko Haram, and others. To be included in the State Department's designation as a foreign terrorist organization, there are three legal, legal criteria a group must meet. First, they must be a foreign organization. Second, they must engage in terrorist activity or terrorism as defined in federal statute. Finally, the organization's activity must threaten the security of U.S. nationals or the national security of the United States. Ensuring that taxpayer dollars do not end up in the hands of those who wish to do. The United States and its people harm is a commonsense step towards increasing safety in our communities. Recent world events have served as a grim reminder that terrorist organizations and those who sow seeds of destruction are active across the globe. These actors prey on innocent civilians and perpetuate violence. It's prudent for government at all levels to do what they can to address the problem. LR286CA would allow Nebraskans to send a clear message that our state denounces terrorism, and enshrine in our constitution that we will have no part, even indirectly, in its funding. Yesterday, I handed out to the committee members a document from the Financial Crimes Enforcement Network, and you received another copy here today, that's from the US Treasury, issued a bulletin that pertains to Hamas, and notes a seven point advisory to detect financial activity. Segment-- second document you have in your hands is issued from the United States Congress, House of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 23, 2024

Representatives, and it's a letter regarding-- from the administrator-- to the administrator, Power, and signed by numerous Congress people. With that, I'm going to close, I've got, some comments that I can make at my-- when I close on the bill. But I know that there are some proponents behind me that want to share some things, but now I'd certainly be happy to answer any questions that you may have about the LR. Thank you.

AGUILAR: Thank you. Any questions for Senator von Gillern? Seeing none, you're off the hook.

von GILLERN: I'll be back. Thank you.

AGUILAR: We're ready for the first proponent. Come on up. Welcome.

DOUG KAGAN: Good afternoon, Doug Kagan, D-o-u-g K-a-g-a-n, representing Nebraska Taxpayers for Freedom. State investment dollars are taxpayer dollars, and money, like dollars, is the lifeblood of terrorism. Thi-- this truism is why it is imperative for Nebraska to divest its pension funds from companies that conduct business with terrorists or state sponsors of terrorism. Middle East terrorist groups threaten us daily. Communist China is a coiled dragon ready to strike at a moment's notice. Every Nebraska pension dollars that we divest is one more dollar that will not fund weapons and materials for terrorists. No Nebraskans would wish to invest in corporations that facilitate hostile acquisition of nuclear, chemical or biological weaponry, weapon technology, or military equipment. Recent presidential administrations have pursued a strategy of financial isolation of terrorists. Several congressional bills encourage and authorize state divestment. This legislation provides legal cover for state fund administrators who might be wary of divestment, citing fund depreciation. However, according to the Missouri State Treasurer, that state pension portfolio suffered minuscule disruption following divesting and during several years outperformed the original fund. The Missouri Investment Trust actually generated higher returns after divesting from companies with ties to terror sponsoring regimes. Therefore our Nebraska pension funds will not suffer financially. This federal legislation also protects pension fund managers from lawsuits and charges of fiduciary malfeasance. We encourage our state to join the world wide initiative to encourage divestment from companies doing business with sanctioned nations. This resolution will send a message to the business community at large that Nebraska does not condone human rights violations, war crimes, and ethnic cleansing. It will apply pressure to rogue regimes to change their behavior and policies. By divesting the stock, etc. in these companies, Nebraska can send

this clear message to companies that provide large revenue flows and advanced technologies, equipment, and expertise to governments and entities that support terrorism, choose between your business in countries that threaten America's security interests and our invest-- and our investment in your company. We believe that LR286CA would ensure that our pension funds will not abet terrorist enemies of our nation and support the preferences of our retirees. Thank you.

AGUILAR: Thank you, Mr. Kagan. Any questions for Mr. Kagan? Seeing none, thank you. Next proponent? And any more testifiers, would you move up to the front? That's it. Welcome.

JOE BASRAWI: Hi. Good afternoon. My name is Joe Basrawi, that's J-o-e, B as in boy a-s-r-a-w-i. I'm here representing the Israeli-American Council and hundreds of thousands of American Jews who are increasingly under fire from radical and other terror affiliated groups across this country. I'm here because the Jewish community supports this resolution. Terrorist threats to the United States often specifically target Jewish individuals and institutions. Nebraska has yet to take a strong enough stance on this issue. The state has not yet adopted certain laws, consistent with nearly 80% of other states have taken up. It makes Nebraska rather conspicuous. For example, Nebraska has yet to pass a law that regulates its contracting and investment process against contact with trade partners affiliated with the BDS hate movement, which promotes boycotts of Jewish owned businesses and Jewish customers. The BDS movement's leadership affiliations with designated terror groups is well documented and commonly known. Parties that would work with terrorist groups would also work against the state and its interests. There is-- there is a responsibility to the taxpayer, both legal and moral, to deal with these issues directly. We need to shield the taxpayer from the instability that inherently comes from contracting and investing with unsavory partners. For a state that is renowned the world for its investment and financial acumen, this effort makes a lot of sense. When we look back over the last 15 to 20 years, we see that many state initiatives, such as Iran divestment, later become important points in public policy nationally. In the face of persistent congressional dysfunction, state action like the one under consideration here today, has become an increasingly critical driver of important policy. This resolution is a common sense step that defends Nebraska and its citizens. There is no reason whatsoever for Nebraskans, given the state's culture, reputation for business and investing acumen, not to take this step. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 23, 2024

AGUILAR: Questions for-- Seeing none, thank you very much. Next proponent. Seeing none. Are there any opponents? Seeing none, any neutral testimony? Senator von Gillern, would you choose to close? While you're coming up, written testimony. There was one proponent and one neutral.

von GILLERN: Thank you, Vice Chair Aguilar and committee members. I'm going to go off script a little bit, which is probably dangerous for me, but this one's a little bit personal to me. My wife and I've traveled to the Middle East several times. We, we've seen some of the challenges that exist in those countries. We spent almost two weeks in Israel, and most of that time was in the West Bank. We've been to the Golan Heights, where you can see Syria and Lebanon, and you can still see the destruction from the wars that existed there even before the-- what we know currently as the Israeli-Palestinian conflict. We spent two weeks in Kabul, Afghanistan, during the war. Actually, our son was stationed in Afghanistan during that time. We weren't able to see him, which we were disappointed about, but we were working with NGOs and relief organizations in, in Afghanistan at that point and we saw the decimation that that had happened in that city to innocent people from, from the Russian-- the war with the Russians, and what the Taliban had done to destroy that country and continues to do. So this is not-- I don't want anybody to think this is an Israeli-Palestinian statement that, that we're trying to make here. This is about bad actors in the world and what we can do to try to restrict the damage that they can do on innocent people. And again, we saw that the most current example is, of course, what we saw happened in October in Israel and continues to occur there. One of the questions that I had was, in, in bringing this was why a constitutional amendment? Why not an executive order? Why not a letter of understanding? Why not a statement from the Legislature? And my response to that is, is we have seen other institutions in our country fail to stand up from a leadership perspective for-- not just for what I believe is right, but to stand up for their own constituents. And we saw that happen at universities across the country and in other institutions, and we continue to see that. I believe that this is an opportunity for the people of Nebraska to tell us how to behave and to respond to not just current leaders, but future leaders. And that's a big part of the reason to enshrine this in the Constitution. And in this morning's testimony, there was a comment made that-- I wanna look at my notes. I want to make sure I get it right. You might-- you might like the leader we have now, but you might not like the leader we have tomorrow. So that's why we make laws that are supposed to withstand the current leadership. If we had an executive order, that would not

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 23, 2024

stand-- withstand following leaders that we might have that may or may not have a similar mindset. So, again, I think this is an opportunity for the people of Nebraska to say that this is important to us, this is what we stand for, and we expect our government and our government leaders to, to behave in that way going forward. So with that, I'll end my comments and be happy to take any questions.

AGUILAR: Any follow up for Senator von Gillern? Yes.

HALLORAN: Thank you, Chair Aguilar. Thanks for bringing this, Senator von Gillern. So this is looking forward to the future, in terms of investment in our retirement system. Are you aware-- retroactively, are you aware of any current investments that would--

von GILLERN: I, I'm not aware, and, and you are correct, it is-- it is going forward. But going forward, if there were-- there's a-- there's actually a clause that talks about divestiture. If we find that we are invested in anything that is, is of a-- of a nature that's in violation of the-- of the CA, that, that we even have a certain amount of time to divest of that.

HALLORAN: OK. Very good. Do you think it's necessary-- is it necessary to go off of-- we have several terrorist watch lists that are-- that come through the federal government that keeps an eye on this kind of thing, or should at least. I assume that we would be looking at that, it doesn't say that in this, and maybe you couldn't put it in a CA, but I assume that that's what they would refer to when they--

von GILLERN: The-- what the CA says is that we will go off of what the Department of State says. So presumably, should other organizations, and realistically, knowing the world that we live in, that's likely to happen, that other organizations will pop up and will end up-- will find their way onto that list, and therefore, they would be covered under the-- under the CA, as I understand it.

HALLORAN: OK. Thank you very much.

von GILLERN: Thank you.

AGUILAR: Seeing no more, thank you very much, Senator von Gillern.

von GILLERN: All right. Thank you so much. Appreciate it.

CONRAD: Thank you, Senator.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 23, 2024

AGUILAR: And that closes the hearing on LR286CA. Now ready to open on the LB1277 with Senator Wayne. We've been joined by Senator Conrad.

CONRAD: Hi ho. Good afternoon.

WAYNE: All right.

AGUILAR: Welcome.

WAYNE: Good afternoon, Vice-Chair Aguilar and members of the Government Affairs, Veterans Affairs Committee. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which is north Omaha and northeast Douglas County. This bill is a really simple bill. I thought last-- yesterday was my last day here, but I guess today is. So this will allow political subdivisions that provide utility services like OPPD, for example, to request emergency proclamations, proclamations from multiple-- for multiple counties at a time directly from the Governor, and remove the need to go through county governments before making such a request. This bill was brought to me by representatives of Omaha Public Power in response to ice jams. And it was just me reaching out to them, trying to figure out kind of how they're going to do it, what they're going to do. And they told me that they need to go through multiple counties to get each county to give them a resolution saying it's an emergency. And I thought the purpose of a political subdivision was for them to-- who oversee multiple counties was to, like, be able to do that themselves. So I couldn't believe that I need to do a bill for this, but, after researching, I found out that I needed to. So the ice jams caused issues for water intake for both MUD and OPPD. The issue spanned from multiple counties up and down the Missouri River. Despite the range of problem, only Omaha declared it an emergency. Had it been a larger, more urgent issue, the process to request proclamations from each required county would have been unnecessarily burdensome. This bill is intended to streamline that process and give utilities direct route to requesting declarations to the Governor. I don't think this is a controversial bill. There's no fiscal note. This is, actually, my last bill before this committee. And so with that, I will answer any questions.

AGUILAR: Questions for Senator Wayne. Senator Lowe.

LOWE: Finally, you bring good bills.

WAYNE: It took me eight years.

LOWE: I may have to vote for this bill also.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 23, 2024

WAYNE: Don't hurt yourself by voting yes, I know it's-- I know it's a strain for you. Any other questions for me, I guess.

AGUILAR: Seeing none.

WAYNE: All right. Well, you guys have a great time. And, Senator Lowe, no, I really do appreciate the years that we spent. And I know you've been on Government the entire time, and I was on here for two years with you, and we've always had good conversations. And although we don't always agree, you at least use logic and reason, so I appreciate that. Senator Halloran, I don't have a whole lot to say to you, but thank you, I am serious, thank you for the time that we went out to Williamsburg, Virginia. That was the most interesting time that one can say. The committee-- I mean, they even passed some resolutions at the Article V Convention that I thought were-- I mean, I, I-- one of them, I introduced. And then at the end, they realized I was a Democrat, and they tried to go back and take it out.

HALLORAN: That's not correct. I want to correct the record on that.

WAYNE: But I do want to say thank you, though, it's been, seriously, it's been a service, honor, and the one of the ideas that I got, actually I stole from him was Bristol Station. We had a conversation about that. And since then, I have been trying to figure out how to create more halfway houses, because of your service on that board and just our conversation. I thought that was a good one. And that was five years ago, and I'm still pushing forward on it, so thank you.

HALLORAN: Yeah. That's good.

WAYNE: I haven't really served with you a whole lot, so only four years, so.

HALLORAN: Spread the love.

AGUILAR: You missed the good years.

WAYNE: So thank you all, and I appreciate it.

AGUILAR: Come back and see us again.

WAYNE: Yeah.

AGUILAR: Any proponents? Welcome.

TONYA NGOTEK: I don't know how I'm going to follow that. Well, good afternoon, members of the Government, Military and Veterans Affairs Committee. My name is Tonya Ngotel, it's T-o-n-y-a, N as in Nancy, g as in George, o-t-e-l. And I'm the emergency manager for Omaha Public Power District, and I'm testifying on behalf of OPPD with collaboration between OPPD and Nebraska Power Association. I'm here to testify in support of LB1277, a bill that would give utilities and other critical service providers an opportunity to request emergency resources directly from the Governor. My career spans over 20 years in emergency management, including 14 within NEMA. During that time, in my time in OPPD, I've been involved in multiple state and federal disasters that give me a unique perspective and the ability to speak to the nuances of the current process that we fall under. The emergency we experienced in OPPD in the summer of 2022 is a good example where resources could have been expedited if LB1277 was in effect. During that event, the Missouri River formed an ice jam and in places was frozen solid from shore to shore for approximately 60 miles. The ice jam resulted in an unprecedented drop in water, and had adverse side effects. Specifically, OPPD's generation facilities had units trip offline, causing an impact on the larger grid. The timing of this event was especially sensitive as it occurred on Christmas Eve and Christmas Day, which caused a further delay in reaching our external county partners. Due to the urgency of the situation, we needed resources quickly. However, our efforts to remedy the ice jam situation were met with confusion from federal, state, and local entities as far as who had the authority to take measures to break up the ice, and where those resources would come from. As the law currently reads, OPPD is required to request resources in an emergency through 13 respective counties. As an example, if we request resources currently for the river, we would have to receive support from 13 counties. That's 13 separate systems with approximately 70 people would have to be involved in one request for help. The time and the effort that it takes for us to request emergency support and to support the declaration of 13 counties is unacceptable. This is our time our internal response systems could be focusing on producing and transmitting power. The solution outlined in LB1277 isn't new. The Emergency Assistance for Wildfire Control Manual is a joint effort between the Nebraska Forest Service and NEMA was created to do just that, to produce lifesaving wildfire resources at the discretion of the local first responders. The wildfire-- the wildfire program doesn't bypass the local emergency managers. It only allows for the expedition of resources in a critical time. In some ways, the proposal of LB1277 is similar. If this change is allowed, OPPD will continue to support the counties we serve by communicating relative emergency

information to the respective parties. The change would only divert the burden from the disaster declaration from the counties to the utilities and to the state. Unfortunately, extreme weather and its impacts of the utilities and the power structure and generation has become more frequent. We remain committed to learning from our-- learning from our disasters and advancing LB127-- LB2277 [SIC LB1277] would be-- would be beneficial. Thank you for your time today, and I welcome any questions you might have.

AGUILAR: Thank you. Do we have any questions for Tonya? Senator Lowe?

LOWE: Well, thank you for-- Tanya, for coming and testifying. When you request, request resources, do they say anything when you do that, or is it just an email back saying, yeah, we're good?

TONYA NGOTEK: Yeah. That, that's a-- that's a good question, Senator Lowe. And I think there is a process for that. We have to declare a disaster within the area, right? So whichever our county is affected, our 13 counties in, in this instance, and then we'd have to send that through the counties. They would declare disaster through a process that would eventually go to the state. The process, though, is that they would have to go back to their county commissioners and have them sign it, and then collectively within the 13 counties that would have to be pushed up to the state. So there is a pre-established process.

LOWE: So if this is an emergency, that takes time.

TONYA NGOTEK: Correct. Yes.

LOWE: OK.

TONYA NGOTEK: And, and, yeah.

LOWE: Go ahead.

TONYA NGOTEK: No, it, it does take time. And sometimes the wildfire mentioned-- that I mentioned, that, that program, they've created that program to sort of-- I don't want to say bypass but to, to fast-forward that process, to be able to get those resources quickly, and then they come back and, and gain that the disaster declaration later. So I think that's ultimately what we're trying to do is just get those resources quickly to be able to mitigate the disaster, and then follow--

LOWE: Are the counties on board with this?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 23, 2024

TONYA NGOTEK: I can't speak on behalf of the counties, I know some of them are, and some of them aren't. It depends on the, the area of the state and, yeah, the relationships they have with the public power utilities.

LOWE: OK. Thank you.

TONYA NGOTEK: Yeah.

AGUILAR: Senator Halloran.

HALLORAN: Thank you, Vice Chair Aguilar, so-- and thank you for being here. I hope-- I hope-- I mean, the nature of your job is it seems like disasters follow you everywhere. I hope that's not part of your personal life.

TONYA NGOTEK: I hope not either.

HALLORAN: But but on the most recent incident with the ice jam, and around Christmas, did-- what kind of time span did that take to go through all 13 counties, or is that some-- is that a question I should ask someone with the counties?

TONYA NGOTEK: Yeah. No, I think they can answer that question too. I think the unfortunate part about that example specifically is we didn't need that. So we're, we're trying to be proactive if we should have a disaster that impacts multiple counties. That disaster specifically was mitigated through Mother Nature.

HALLORAN: Gotcha. Thank you very much.

AGUILAR: Other questions?

TONYA NGOTEK: Thank you.

AGUILAR: Thank you so much for coming down today. Any more proponents? Welcome.

JOHN HANSEN: Mr. Vice Chairman, members of the Government Committee, good afternoon. For the record, my name is John Hansen, J-o-h-n, Hansen H-a-n-s-e-n, and I'm the president of the Nebraska Farmers Union, and I am also their lobbyist. We view this as a sort of a simple way to sort of speed up the approval process. And based on some of the natural disasters that we've been tracking in recent years, speedy responses and timely is helpful. And I would just say that in my tour of duty as, as president of Nebraska Farmers Union, we, we

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 23, 2024

seem to be getting more natural disaster kinds of events. We-- two years ago, we had everything from simple straight winds in the summer, which we'd not seeing that destroyed over 2,000 center pivots, about \$100,000 a pop, most of them under-insured, and not for replacement value, to ice storms, to, several years ago, wildfires that burned members' of ours houses in northeast Nebraska, southwest Nebraska. And that year, we almost, thanks to the farmers south of Lincoln, didn't actually get into Lincoln, but came close with the fires there. So we're seeing more different kinds of events. They're springing up. And so this seems like a simple, enough proposition, which is to, not dramatically change other aspects of the response, but simply speed up the, the rate at which you can apply and, and receive a timely designation. So for those reasons we're in support of the bill. And I'd be glad to answer any questions if you have any.

AGUILAR: Questions for Mr. Hansen? Seeing none, thank you.

JOHN HANSEN: Thank you very much.

AGUILAR: Any more proponents? Seeing none, are there any opponents to the bill? Welcome.

CRAIG STRONG: Thank you. Good afternoon, Senator Aguilar and the rest of the members of the committee. My name is Major General Craig Strong, C-r-a-i-g S-t-r-o-n-g. I'm the adjutant general of the Nebraska National Guard, and also the director of the Nebraska Emergency Management Agency. First of all, I just want to start by saying OPPD and all of the public-- all of our public power partners are clearly that, partners, strategic partners, and they always have been. But that being said, I must respectfully testify in opposition of LB1277 for several reasons. LB1277 is, quite frankly, unnecessary and potentially disruptive addition to the Nebraska Emergency Management Act, or the act. LB1277 bypasses the established hierarchy when it comes to emergency proclamation, and usurps the executive authority of the Governor to manage emergencies. Currently, pursuant, pursuant to the act, only local governments as defined by the act may directly request such a proclamation from the Governor. Under LB1277, the Governor would receive requests for emergency proclamations directly from political subdivisions. Throughout the state's history, however, political subdivisions have worked through and with local government rather than independently. There are several hundred political subdivisions which would qualify pursuant to this bill to request emergency proclamation directly from the Governor without coordinating with local government. If that authority is granted by LB1277, during an emergency, there could be potentially be multiple

requests to the Governor from with a single-- within a single county, rather than one comprehensive request from the local government. During a more, more widespread event, the requests may multiply exponentially. LB1277 would give those political subdivisions direct access to the Governor, thereby circumventing the established hierarchy for issues that very well could be taken care of by the local government level. Moreover, LB1277 would not result in any gained efficiencies. Requests for emergency proclamations are accomplished much more quickly and efficiently under the current process, whereby the political subdivision works directly with the local government. There is actually parallel actions that occur during an emergency. The political subdivisions, as local stakeholders, are already incorporated into the local emergency operation plan. When emergency proclamation is issued by the Governor, it activates the local emergency operations plan for the affected area. As such, there would be no advantage to allowing the political subdivision the authority to directly petition the Governor for an emergency proclamation, since the action is directed back to the local government for execution. In fact, LB1277's proposal will likely slow response times by enabling a request to go through a circuitous route, only to end up back where the request would have started in the first place. Finally, LB1277 directly contradicts several long established axioms of emergency management to the detriment of an effective and efficient emergency response. The state of Nebraska has expended substantial taxpayer funds over more than 25 years, training and exercising our local emergency management officials to provide the most efficient and proactive emergency response possible. For decades, local government and political subdivisions have worked together to accomplish the important mission of keeping Nebraskans safe during emergency events. LB1277 is, quite frankly, a solution in search of a problem. It is the best-- it is at best unnecessary, and at worst potentially undermines emergency management in Nebraska. Thank you for this time to be in front of the committee today. I'm happy to respond to any questions. I will be followed by my assistant director for NEMA, Mr. Erv Portis.

AGUILAR: Questions for General Strong?

LOWE: Yeah.

AGUILAR: Senator Lowe.

LOWE: Thank you. So we have a, a major problem happened, and so now we have to go out and find the city council members from multiple cities or county board members. Correct?

CRAIG STRONG: An emergency manager could activate the system. The actually convening of a-- the board, I'm not-- I do not believe that is a necessary step?

Unknown Speaker: It is not.

CRAIG STRONG: It is not. So emergency managers are empowered to make that declaration. For example, in the, the examples that were provided, one county could have made that declaration and it would have reached the Governor.

LOWE: OK

AGUILAR: Further questions? Senator Halloran.

HALLORAN: Thank you, Vice Chair Aguilar. From the previous-- welcome back.

CRAIG STRONG: Great to see you again.

HALLORAN: From previous testimony, and maybe I misunderstood, but I thought it was said that it would be required for 13-- 13 counties?

LOWE: That's for OPPD services

HALLORAN: Excuse me, for OPPD. OK.

CRAIG STRONG: Right. I'm not familiar with why the 13-- the 13 counties could in turn request assistance, mitigation assistance, things of that nature. It wouldn't delay actual incident response. First of all, it would be local emergency. Local emergency managers would be managing the response. When that elevates to a level where additional state resources are needed-- well, first of all, unofficial coordination, cooperation is already occurring. We have a, a watch center that is on top of these situations. And then to the extent that a formal request is made, these are somewhat, often after the fact, but the incident response would not be hampered.

HALLORAN: OK. Thank you.

AGUILAR: Any questions? Seeing none, thank you, General.

CRAIG STRONG: All right, thank you.

CONRAD: Thank you. Good to see.

AGUILAR: Welcome.

ERVIN PORTIS: Good afternoon. Good afternoon, Senator Aguilar, committee members. I am Ervin Portis, E-r-v-i-n P-o-r-t-i-s. I'm the assistant director of the Nebraska Emergency Management Agency. I report to the adjutant general. I testify this afternoon in opposition to LB1277, for two essential reasons. The first one, it's not-- it's not consistent with the National, National Incident Management System, which I'll elaborate on. And it's not necessary due to the existence of another statute that provides for declaring a vital resource emergency if such an emergency exists. So let me begin with NIMS. LB1277 is inconsistent with the National Incident Management System, a fundamental precept of which is that all disasters are local. They begin locally, they're managed locally, they end locally. They may be supported by state government when local resources have been exhausted. That's the national standard. The state's role is to support local effort-- local efforts. We don't take over for them. Executive Order #05-02 establishes NIMS as the standard in Nebraska, and in all states, but, but it's particular to Nebraska. NEMA annually validates Nebraska's NIMS compliance to assure eligibility for federal emergency management funds, which are shared with local governments that hire and train very competent emergency managers throughout the state. The existing system in Nebraska has been utilized nationwide for decades with remarkable results. Local emergency managers are best situated to first confront a disaster. When disaster strikes, they use their all hazards, inter-jurisdictional, inter-jurisdictional local emergency operations plans to respond and to begin recovering. They invoke standing mutual aid agreements to obtain and use resources of participating jurisdictions, and consistent with the Nebraska Emergency Management Act, only when local resources have been exhausted, and this is statute, do local resources then seek emergency assistance from the state of Nebraska. LB1277 would add several hundred political subdivisions with the authority to declare an emergency and seek state assistance without pre-- without having previously invoked their own LEOPs and exhausting those local resources. The prospect of breaking up proclamations into areas defined by political subdivisions rather than counties is contrary-- is directly contrary to how FEMA calculates damages in a disaster. This would slow response, and complicate seeking a federally declared disaster. Like all states and territories, when seeking such a declaration, Nebraska must demonstrate damages on a per county basis. We have thirty days from the date of an incident to show damages, and if we're going to, to seek a federal disaster declaration, and we must show damages attributable on a per county basis-- that's an absolute, we must--

AGUILAR: Are you about ready to wrap up?

ERVIN PORTIS: Pretty soon. Pretty quickly. But just a few more seconds. If the concern is that a vital resource crisis is imminent or has occurred, Sections 84-162 to 84-167 of Nebraska Revised Statutes provide additional emergency powers for the Governor to act in specified vital resource emergencies. And I've attached a copy of that statute or those statutes to my comments. Thank you, Mr. Chairman, committee members, I'm happy to respond to any questions you might have.

AGUILAR: Any questions? Yes.

HALLORAN: Thank you, Vice Chair Aguilar. Welcome first, of course.

ERVIN PORTIS: Thank you, sir.

HALLORAN: Would this bill facilitate responding quicker to an emergency?

ERVIN PORTIS: No, I don't believe it will.

HALLORAN: Would it slow it down?

ERVIN PORTIS: Yes , that, that is our testimony.

HALLORAN: Why would it slow it-- why would it slow it down? I, I heard your testimony. But in layman's terms, why would this-- there would be fewer parties involved directly--

ERVIN PORTIS: Why? Because under, under the Nebraska Emergency Management Act, jurisdictions are required to have inter-jurisdictional local emergency operations plans, and under the statutes, to exhaust local resources first. And that's a nationwide standard. Use your local resources, seek state assistance. If the-- if the impetus is, let's just go direct to the Governor, we're going to ask the question, what is your response? What is your request? And have you invoked your, your local emergency operations plans, and taken advantage of your mutual aid resources available to you? So it's just-- it's going to slow that down. Let me-- let me add to that. The process as it is works relatively quick. It is-- it is not uncommon, when we get a, a request for a declaration from a-- from a county, it's going to be-- we have a verbal declaration, we're waiting for the chief executive officer to sign that-- to sign that declaration, which is a request for an emergency declaration. We will then engage the Governor's Office and have a conversation. We often operate in the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 23, 2024

initial steps on a verbal authorization to the Governor, having answered those, those questions that I just articulated to you. It doesn't take multiple counties. We can do this with one county to begin and get a response going. And that's often the case.

HALLORAN: OK. Thank you.

AGUILAR: Seeing no other questions, thank you.

ERVIN PORTIS: Thank you sir.

AGUILAR: Any other opponents? Welcome.

AMANDA BURKI: Thank you. Senator Aguilar, members of the committee, thank you for listening to my testimony today. My name is Amanda, A-m-a-n-d-a, Burki, B-u-r-k-i. I'm here at the request of the Nebraska Association of Emergency Management. Moving forward will be referred to as NAEM, N-A-E-M. NAEM as opposed to LB1277. As the bill reads today, as part of the Nebraska Emergency Management Act, a state of emergency proclamation shall activate state, city, village, county and inter-jurisdictional emergency management organizations and emergency operations plans applicable to the local government or area in question, and shall be the authority for the development and use of any forces. Right now, some political subdivisions that supply electricity, natural gas, water or sewer services do not have an open dialog with their local emergency manager to know what resources are available. One of the first questions we as emergency managers get asked when requesting a disaster declaration is, have you depleted all of the resources available to you? If you cannot answer yes, you should not be declaring an emergency. The Emergency Management Act also states "The elected officers of local governments shall be responsible for ensuring that emergency management services are provided to their citizens, and for coordinating emergency operations in their respective jurisdictions." These provisions affirm that all disasters begin and end locally. Political subdivisions may not know the inner jurisdictional plans that are already in place, nor completely comprehend the community plans that go into effect in each of their districts. Executive Order #05-02, written by Governor Heineman, signed into order on March 4th, 2005, directed Nebraska to comply with the National Incident Management System, or NIMs. The proposed revision would circumnavigate this order. NAEM is inclined to encourage all of these political subdivisions to exercise and train their plans with their external partners, including local emergency managers. The proposed revision further implies that the local county emergency manager does not need to be advised when a political

subdivision chooses to declare a disaster, further exacerbating the locals' ability to respond. NEMA's Lifelines document already provides the opportunity for public utilities to report on their status. A local emergency manager's completed Lifeline reports provides NEMA the information required to accurately assess the situation and decide if a federal disaster declaration is needed. Emergen-- excuse me, Emergency Management is about partnerships. We do not tell you how to do your job. We ask you how we can help you do your job better. During any emergency, we'll ask two questions. What is the problem and what do we need to do about it? NAEM sees is an opportunity for improvement on the political subdivisions' part with the request of this revision. This is about mutual respect and agreement that we will work together in managing the needs of the people we all serve, and the expectations set forth by the Governor to increase the effectiveness of our response to disasters.

AGUILAR: Thank you. Questions for Amanda? Speak, Senator Halloran.

HALLORAN: Thank you, Vice Chair Aguilar. Welcome.

AMANDA BURKI: Thank you.

HALLORAN: I appreciate your testimony. Indeed, it-- you know, in your testimony, you say Emerge-- Emergency Manage-- Management is about partnerships. But I'm curious, earlier in your testimony, you say right now, some political subdivisions that supply electricity, natural gas, water, or sewer services do not have an open dialog with a local emergency manager to know what resources are available.

AMANDA BURKI: So emergency management professionals at the local county level can reach out to all of those services. It's getting them to come to the table. And frankly, some of them do not choose to come to the table.

HALLORAN: OK. Well, that's on both parties to make sure that happens, I would assume.

AMANDA BURKI: You can only ask so many times before they don't want to be bothered any longer.

HALLORAN: So you're saying utilities, natural gas, water and so forth don't want to be part of that?

AMANDA BURKI: Occasionally.

HALLORAN: OK. All right. Thank you.

AGUILAR: Seeing no further questions, thank you, Amanda.

AMANDA BURKI: Thank you.

AGUILAR: Any more opponents? Come on up. Welcome.

BETH BAZYN-FERRELL: Thank you. Good afternoon, Senator Aguilar, members of the committee. For the record, my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, F-e-r-r-e-l-l, Ferrell. I'm with the Nebraska Association of County Officials. I'm appearing in opposition to LB1277. When there's a disaster or an emergency, counties rely on the plans and procedures that they've developed, that apply to all affected entities, to determine whether a gubernatorial proclamation is needed. They work directly with NEMA, their mutual aid partners, and surrounding counties so that they can respond efficiently and effectively. It's essential to have a point person in the emergency response, and that's the emergency manager. They're trained to work with everyone that's involved, and they're trained to work with what's needed for NEMA and for FEMA, both at the beginning of the event and throughout the event, when it's time to file the documentation that FEMA might need. So we, we do recognize that providers of utilities may want to, you know, sort of bypass the process and have a response, directly toward them. But we think that the system that's in place right now is more effective. You know, we'd be happy to meet with stakeholders and see if there's something we can work out if that would be helpful to the committee. I'd be happy to take questions.

AGUILAR: Questions? Go on, Senator Lowe.

LOWE: Thank you. And thank you, Beth, for being here. Have you met with them in the past over these issues?

BETH BAZYN-FERRELL: I think individual counties and stakeholders have met. I don't know that we've had a broad meeting of, of all stakeholders.

LOWE: If they would come to like, a NACO event, in, say, Kearney or something like that, where everybody's combined together. Maybe that might be an easy time to get everybody on board.

BETH BAZYN-FERRELL: Yeah, we'd be happy to facilitate that if we can.

LOWE: OK.

AGUILAR: Seeing no further questions, thank you for coming today. Any other opponents? Is there any neutral testimony? Senator Wayne waives

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 23, 2024

closing. Written testimony, we have one proponent, five opponents. Next up, we have LB1048 with Senator Bostar. Starring Senator Bostar. And you're running everybody out of the room.

BOSTAR: I don't think so. No, I do not. Thank you. Good afternoon--

AGUILAR: Welcome.

BOSTAR: --Senator Aguilar, members of the Government, Military and Veterans Affairs Committee. For the record, my name is Eliot Bostar, that's E-l-i-o-t B-o-s-t-a-r, and I represent Legislative District 29. I'm here today to present LB1048, addressing a critical gap in chemical facility security left by the expiration of federal standards. In the wake of the tragic events of September 11th, 2001, the United States implemented stringent measures, the Chemical Facility, Antiterrorism Standards, or CFATS, to safeguard high risk chemical facilities against potential terrorist attacks. CFATS is administered by the Cybersecurity and Infrastructure Security Agency of the Department of Homeland Security. In July of last year, Congress allowed the statutory authority for this vital security program to expire, leaving facilities vulnerable to potential threats. LB1048 underscores the urgent need to reinstate regulatory oversight to prevent the weaponization of hazardous chemicals by terrorists. Under this legislation, chemical facilities are required to participate in a voluntary alternative chemical security program called ChemLock, provided also by the Cybersecurity and Infrastructure Security Agency. While federal enforcement mechanisms have lapsed, the ChemLock program offers chemical facilities services and tools aimed at improving chemical security and risk identification. HLB 1048 mandates that chemical facilities previously required to have a CFATS security program, and those possessing chemicals of interest as defined by federal regulations, must participate in the ChemLock program. This ensures that facilities deemed high risk or possessing hazardous chemicals remain accountable for their security measures. Additionally, LB1048 outlines requirements for the Nebraska Emergency Management Agency and the Department of Environment and Energy for the dissemination of program requirements, as well as publishing and promoting the program on agency websites. LB1048 fills a crucial void, safeguarding our communities against the potential threats posed by the misuse of hazardous chemicals. By reinstating a level of oversight and requiring participation in the ChemLock Security Program, this legislation enhances preparedness and resilience in the face of evolving security challenges. If Congress cannot act to safeguard Nebraska communities, the Legislature must. I would like to thank the committee for your time and attention to this matter. I'd urge your

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 23, 2024

support of this legislation. Be happy to answer any questions you might have.

AGUILAR: Thank you, Senator Bostar. Are there any questions for Senator Bostar? Seeing none.

BOSTAR: We'll see how this goes.

AGUILAR: Any proponents? Any opponents?

JOHN HANSEN: I was slow.

AGUILAR: Welcome, Mr. Hansen.

JOHN HANSEN: Welcome again this afternoon. My name is John Hansen, J-o-h-n H-a-n-s-e-n, and I'm the president of the Nebraska Farmers Union, and I'm also their lobbyist. We were around when 9/11 happened. We had 14 people on Capitol Hill when all of that went down. I came home, and we had a series of stakeholder meetings that were extremely sobering, and caused us to have to rethink about a whole number of things in our very open and accessible society. Everything from this issue, to how we secure our, our small airplanes for agricultural spraying, to all kinds of other airport security, to feedlot security, feed, feeds, and all of those kinds of things. The list was long. And so one of the takeaways from that was that you have to-- we as a society, need to do a better job of worst case scenario thinking in terms of what could happen. But now that that event has happened, I'm extremely disappointed in our Congress, that they did not do their job to reauthorize this act. And so it seems to me that it's a mistake for the state not to pick it up while it's still fresh in the-- in the minds of the folks that are involved in this, and that it seems like the protocols are similar to what we were doing before. So it seems prudent for our state to step up and do that which Congress, we thought was going to do but didn't. And hopefully they'll get their act together, and this will no longer be necessary. But it is important for us to think about what we normally don't think about on a regular basis, in a proactive kind of way in order to protect our security interests. And so I thank Senator Bostar for bringing this bill forward, and we are in support of it. And if there's just a ton of reasons why we shouldn't do it, there might be like a whole host of folks after me testifying and saying, why not? But the crowd is thin. I, I thought the crowd before you last was in support of this bill. So that goes to show you how much I could read a room. So thank you, Mr. Vice Chairman.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 23, 2024

AGUILAR: Any questions for Mr. Hansen? Seeing none, thank you.

JOHN HANSEN: Thank you very much.

AGUILAR: Any other opponents? Neutral? Senator Bostar. There are no letters of testimony from LB1048.

BOSTAR: I-- thank you, Senator Aguilar and members of the committee. I would urge the committee to clarify at what stage of testimony the previous testifier entered their remarks.

LOWE: Proponent.

BOSTAR: OK.

LOWE: He was just slow getting up.

BOSTAR: Got it.

BOSTAR: I just want to-- I just want to give a little bit of background about what some of these things mean and why we're here. So the, the current counter-terrorism statutes, federally, were allowed to lapse because a hold was put in place in the United States Senate by one person, when I could tell the other 99 really think it's a good idea that we maintain our counterterrorism statutes for high risk chemical facilities. But due to the nature of Congress's inability to move things quickly, there's a lot of procedures in place where one person can put a hold on something and effectively block it from being enacted, and that's what we've seen. This legislation is important to our federal partners. I don't think there should be any confusion, though, that what, what this legislation will require these facilities to do is not a satisfactory replacement for the CFATS program that has, hopefully temporarily, expired. And that ChemLock is a, a very weak replacement for that. But it's something. And right now there's nothing. To give you an idea of what the ChemLock program is, it's basically-- right now it exists. It's a voluntary program that all of these facilities and, and some of them have, joined, and it basically gives them access to cybersecurity and infrastructure security agency resources and expertise and site visits. It's there so that the federal government can help these facilities determine what makes sense to manage their own security. Unlike CFATS, which was a fairly prescriptive, very regulated, very strict program on counterterrorism security, ChemLock is a guidance program. And so what would be doing is, in light of the fact that our real standards are, are halted at the moment, we would just be having all of our facilities enter into the voluntary program so they can continue to dialog with the federal

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 23, 2024

counterterrorism folks and have some level of security in place. And I'm happy to go into more details about that. I would just say, though, that when it comes to high risk facilities, and that's a specific category determined federally, and facilities that are utilizing chemicals of interest, I believe is the way it's called, it's, it's, it's almost every legislative district in the state is covered by that. High risk, though, just for the folks here on the committee, I mean, Senator Conrad has one. Senator Aguilar, you have one. Senator Halloran, you have two in your district that are at the absolute highest tier of, of risk and threat when evaluated through the scope of counterterrorism. And this is-- this is. This isn't enough. I really want to stress that. This isn't enough, but it's, it's what we could do at the time. I would appreciate your support in trying to figure out how to get at least this done. Thank you.

AGUILAR: Questions, starting off with Senator Halloran.

HALLORAN: Thank you, Vice Chair Aguilar, could you be more definitive, and name those facilities in our respective districts?

BOSTAR: I would absolutely be happy to do that with you in a nonpublic setting.

HALLORAN: OK.

BOSTAR: That was what was asked of me.

HALLORAN: Well, I can-- I can think of several, but I can think of several that are probably in every agriculture of this district.

BOSTAR: There are different--

HALLORAN: Actually, in every Menards or Lowe's-- no disrespect to your name. But --and this is no trade secret to the terrorists, but the, the Oklahoma bombing, for example, was ammonium nitrate fertilizer, a dry fertilizer, and diesel fuel.

BOSTAR: Yes.

HALLORAN: Combined with a detonator. And, you know, that's-- my point here is that's very-- fairly common. But it's very effective.

BOSTAR: So that, that's absolutely true. I would say that the reason that there are designated facilities that are already in communication with the federal security folks in almost every legislative district is because things like that exist all over the place. But that's not

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 23, 2024

the same as the high risk tier of which Nebraska has 29. And so that's where you have two. Senator Aguilar has one. And those are-- those aren't just dry fertilizer. But I'm, I'm happy to give you more information and details about what's located in your districts.

HALLORAN: I'm looking forward to that--

BOSTAR: Another time.

HALLORAN: --so I can determine the close proximity to my home.

LOWE: Maybe you could move?

HALLORAN: Thank, thank you.

AGUILAR: Other questions?

HALLORAN: Thank you, Senator.

AGUILAR: Senator Lowe.

LOWE: Thank you. Does it cost these chemical companies to belong or take part of either CFATS or ChemLock, or is it--

BOSTAR: No, not at all. Well, you could argue that CFATS had a cost, sort of as, as a unfunded mandate on these-- on these, chemical facilities. But, but we're not-- you know, that's not what we are doing here.

LOWE: So, so it, it wouldn't inhibit them to taking part in these?

BOSTAR: No. And ChemLock in particular, which is what the bill would have them join, really gives them resources. So. And I've got more information about all these programs, if anyone's interested. But ChemLock provides onsite assessments and assistance. So again, it, it's not designed-- there's no-- there are no standards to be maintained under ChemLock. You can't-- you can't fail ChemLock, right? It's just there that when you're a part of it, CISA is available to you. So security awareness consultation: CISA experts work with facilities to identify potentially dangerous chemicals, and the security risk that those chemicals may pose. Security posture assessment: CISA experts work with the facilities to assess their current security posture and identify security enhancements that are tailored to the facility's unique circumstances and needs. Security planning visit: CISA experts work with facility to develop or update a security plan based on ChemLock security or chemicals-- this is

another document --that is both appropriate to facility specific security concerns, and drives actionable, cost effective improvements in their chemical security posture. So it's really just-- it just gives you that dialog with them so that they can try to help you. And you, then, have the option to implement things, take their advice, don't take it. But at the very least, we just want them talking to these folks since those other standards no-- now no longer exist.

HALLORAN: Vice Chair Aguilar. I want to compliment you on your diversity of bill you bring.

BOSTAR: Well, thank you. I, I was-- I mean--

HALLORAN: I mean that sincerely, I mean, you--

BOSTAR: I, I appreciate it.

HALLORAN: You're very creative.

BOSTAR: I, was asked to consider, and I'm-- and I'm happy to draft this and bring it to the committee for inclusion, but a provision that says that when CFATS is started up again, reenacted by Congress, that us requiring them to be part of ChemLock would expire at that point. And I think that that's perfectly reasonable, because at that point they're under far stricter regime as far as security standards. So I will get that to the committee.

AGUILAR: Further questions? Seeing none, thank you, Senator Bostar.

BOSTAR: Thank you very much.

AGUILAR: And that closes the hearings for today.