

**STATEMENT OF NORTH CAROLINA SENATOR JIM DAVIS BEFORE THE HOUSE
OVERSIGHT AND GOVERNMENT REFORM COMMITTEE SUBCOMMITTEE ON
INTERGOVERNMENTAL AFFAIRS
APRIL 26, 2017**

Good morning, Chairman Palmer, Ranking Member Demings, and Members of the Subcommittee. Thank you for the opportunity to share impacts of unfunded mandates -- **federally imposed burdens** -- on North Carolina's state and local governments. I am here to provide examples of compliance challenges and their associated costs from such mandates.

I serve North Carolina's Senate District 50 which covers the seven western-most counties in my state. Collectively, these counties contain almost 900,000 acres of federal land – large tracts removed from development opportunities and the property tax base. As a result, these counties face significant challenges in their ability to provide critical services to our citizens. The added costs of compliance with unfunded federal mandates exponentially stress these already struggling local governments.

On the opposite side of my state, the U.S. Army Corps of Engineers dredges federal channels and disposes of dredged materials in federal waters offshore. Coastal counties seeking resources to re-nourish beaches and repair from coastal storms often have need of dredged sand. But before any restoration can begin, managers of re-nourishment and repair projects must navigate the federally imposed bureaucracies of two separate agencies. First, they must secure a federal lease from the Bureau of Ocean Energy Management. Then they must work through the National Environmental Protection Act's sediment sampling process for approval to extract sand from federal waters and place it back on the beach. Delays in these processes are the norm, and force local governments to create funding by increasing sales and property taxes on our citizens.

Our North Carolina workforce, and in particular our citizens with disabilities, along with our NC Division of Vocational Rehabilitation (DVR) and its contracted providers, are being directly and deleteriously impacted by numerous unfunded mandates associated with rules and regulations promulgated in Section IV of the Workforce Innovations and Opportunity Act (WIOA). These mandates include:

- Extension of service obligations: DVR programs are now responsible for services to youth with the most significant disabilities starting at age 14 for up to 4 years; with no additional funding and no previous responsibility, funding must come from either NC taxpayers or reduction or elimination of services for other citizens.
- New mandated allocation of states DVR Federal grant: 15% of total DVR federal grant money is now mandated for a new responsibility to provide pre-employment transitional services to youth starting at age 14. The 15% requirement was not graduated for infrastructure ramp up, causing states to forfeit federal funds; with forfeiture of funds, no additional funding and no previous responsibility, the money must come from either NC taxpayers or reduction or elimination of services for other citizens.

- New career counseling mandate: DVR is now obligated by WIOA to provide career counseling and guidance, along with information and referral services to 4,200 individuals who receive special minimum wage or commensurate wage per section 14c of the Department of Labor's FLSA. With no additional funding and no previous responsibility, funding must come from either NC taxpayers or reduction or elimination of services for other citizens.
- New DVR service expectation and expansions: DVR Supported Employment services are expanded 33% from 18 to 24 months and include a new expectation to provide career advancement services; with no additional funding and no previous responsibility, funding must come from either NC taxpayers or reduction or elimination of services for other citizens.
- Reduction in resources for personnel training: While personnel training requirements continue, those resources previously provided no longer exist under WIOA; this mandate continues after being unfunded.

While the legislative intent of the Workforce Innovations and Opportunity Act was intended to benefit our workforce and citizens with disabilities, it was in effect a regulatory overreach – an attempt to legislate through rule-making -- which resulted in noble intentions becoming unfunded mandates *ungrounded in reality*.

The North Carolina Department of Transportation (NCDOT) is rife with examples of the burdens of unfunded federal mandates. NCDOT is responsible for all modes of transportation in my state – highways, rail, aviation, ferries, public transit, and bicycle and pedestrian transportation – as well as the state's Division of Motor Vehicles, Turnpike Authority, and the Governor's Highway Safety Program. The NCDOT also oversees and helps expand economic opportunities through the NC State Ports and NC Global TransPark.

Federal unfunded mandates impact states that support passenger train services delivered by providers other than Amtrak. There is no federal funding to support the additional costs associated with this designation. The total financial impact to NCDOT is \$1,650,000.

Federal unfunded mandates impacting public transportation include the migration to a more difficult-to-manage grants making system. Staff and technology required to oversee performance targets cost \$5,000,000, \$2,000,000 of which is recurring. New reporting requirements and shifting definitions require \$500,000 in recurring expenses. Several actions taken by The Safety Management System(SMS) resulted in a recurring \$3,200,000 - \$8,000,000, the amount depending entirely on how far SMS carries its "Agency Plan".

Due to a change in the federal definition of "passenger ferry", base appropriations for NC's ferry system went from \$22,264,811 in 2007 to \$31,313,921 in 2008. In addition, Homeland Security mandates resulted in requiring 24 security positions with an impact of \$1,095,607.

A federal mandate requires vessels over 400 gross tons to develop a plan for treatment of oil spills in US waters. NC has 15 vessels that meet this requirement that includes annual drills and

training from a third party contractor. All of this is redundant to the requirements already mandated by North Carolina's environmental protection and spill response plans. The estimated cost to the department is \$10,000 each year.

Counties are the first responders providing health and human services to the public and, in particular, our nation's vulnerable populations – children, elderly and the chronically ill. Many of these services are mandated by federal law. The populations these programs help serve do not diminish with reductions in, or elimination of, federal assistance, and thus an unfunded mandate is created when counties are forced to make up the difference.

While immigration is a federal responsibility, counties are directly affected by immigration. Federal mandates require counties to provide emergency health, free elementary and secondary education, and public safety to everyone regardless of immigration status. The annual fiscal burden on North Carolina taxpayers from illegal immigration is more than \$1 billion.

NC counties own water quality systems and other infrastructure like roadside ditches, stormwater systems, green infrastructure and drinking water facilities. These should be excluded from the U.S. Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers (USACE) new "Waters of the U.S." (WOTUS) definition under the Clean Water Act. If left in place as is, this rule will substantially increase the cost of permitting and cause significant harm to farmers, businesses and landowners.

This legislative session, in response to longstanding complaints from North Carolina education systems, a bill was introduced to study the financial costs to the State and local school administrative units of compliance with federal mandates related to the receipt of federal education funding. SB 78 requires the Department of Public Instruction to study, report, and provide any supporting data to the Fiscal Research Division and the Program Evaluation Division (PED) to the General Assembly on the cost of compliance with federal education funding mandates to local school administrative units.

I conclude with this compelling example from a business owner in my district. His experience is at best a sobering commentary on compliance challenges and associated costs from unfunded federal mandates. He was told by a compliance officer charged with enforcing EPA guidelines that his boiler system was compliant with current emissions of arsenic. However, he would be required to reduce the emissions from 12 parts per million to 4 parts per million. After spending over \$200,000 on consultants, lawyers, and other experts, this business owner learned two things. One, the technology did not exist to reduce arsenic emissions to 4 parts per million. And two, arsenic occurs naturally in the western North Carolina air at 12 parts per million. Rather than invest \$200,000 on needed equipment, employee raises, or profit, the business owner spent his money on efforts to comply with the impossible. Where I come from \$200,000 is real money.

I commend my testimony to you and welcome your questions.