

**STAFF MEETING MINUTES  
LANCASTER COUNTY BOARD OF COMMISSIONERS  
THURSDAY, SEPTEMBER 27, 2018  
COUNTY-CITY BUILDING  
ROOM 113 - BILL LUXFORD STUDIO  
8:30 A.M.**

Commissioners Present: Todd Wiltgen, Chair; Jennifer Brinkman, Vice Chair; Deb Schorr, Roma Amundson and Bill Avery

Others Present: Kerry Eagan, Chief Administrative Officer; Ann Ames, Deputy Chief Administrative Officer; Dan Nolte, County Clerk; Cori Beattie, Deputy County Clerk and Leslie Brestel, County Clerk's Office

*Advance public notice of the Board of Commissioners Staff Meeting was posted on the County-City Building bulletin board and the Lancaster County, Nebraska web site and provided to the media on September 26, 2018.*

The Chair noted the location of the Open Meetings Act and opened the meeting at 8:30 a.m.

**AGENDA ITEM**

**1) APPROVAL OF STAFF MEETING MINUTES FOR SEPTEMBER 20, 2018**

**MOTION:** Brinkman moved and Schorr seconded approval of the September 20, 2018 Staff Meeting minutes. Avery, Amundson, Brinkman, Schorr and Wiltgen voted yes. Motion carried 5-0.

**2) A. REVIEW OF LEGISLATIVE RETREAT-** Joe Kohout; Brennen Miller and Gordon Kissel, Kissel, Kohout, ES Associates

The consensus of the Board was to restructure the Legislative Retreat to become an internal County legislative priorities session and contact the senators individually.

Joe Kohout, Kissel, Kohout, ES Associates, suggested updating the Lancaster County 101 meeting for senators.

**B. LEGISLATIVE PRIORITIES**

The consensus of the Board was for Kerry Eagan, Chief Administrative Officer, to draft a document for conversations with the Legislature with legislative proposals and standing priorities.

Possible proposal items are: Allow financing of County bridges under Neb. Rev. Stat. §23-120(3)(b); Reasonable fees for services provided by the County Engineer for issuance of driveway permits, right-of-way utility permits, subdivision reviews, and load permits; Require the State to pay for medical care provided to inmates granted medical parole; Clarify licensure requirements for facilities providing civil protective services pursuant to Neb. Rev. Stat. §53-1,121; Amend Neb. Rev. Stat. §23-174.03 to provide property dedicated to public use in plats is acquired by the County in fee simple; Allow

counties to sell real property directly to other governmental entities; Authorize 24/7 driving permits; and Outpatient restoration of competency to stand trial (Exhibit A).

Possible bills supported by the Board are: Make texting/emailing a primary criminal offense; Remove fishing license, park permit, and hunting license violations from the juvenile justice system; Review county elected positions; and End money bond.

Eagan will follow up on legislation being drafted for the 24/7 program.

Schorr said she wants to present legislative priorities at the Nebraska Association of County Officials (NACO) Legislative Retreat on October 11, 2018.

Brinkman inquired on the number of possible new senators. Kohout said there may be eight new senators statewide.

Schorr asked Kohout if legislation on Emergency Protective Custody (EPC) will be introduced. Kohout responded he will be researching reports of a group working on Civil Protective Custody (CPC) or EPC.

Schorr exited the meeting at 9:27 a.m.

### **C. COUNTY 101**

Kohout, Brinkman and Wiltgen will hold a conference call after the legislative priorities are confirmed. Kohout suggested the Board review the Lancaster County 101 agenda.

#### **3) A. EARLY HIRE OF SHERIFF DEPUTY—** Chief Sheriff Deputy Todd Duncan

Sheriff Terry Wagner said he received a retirement letter from a Deputy effective November 30, 2018 and needs Board approval to hire a replacement before that date. He stated it is not the position the Board approved for hire beginning in January.

**MOTION:** Amundson moved and Brinkman seconded to authorize the Sheriff to proceed with the early hire of a Sheriff Deputy. Amundson, Avery, Wiltgen, and Brinkman voted yes. Schorr was absent. Motion carried 4-0.

### **B. THE BRIDGE FUNDING FROM FORFEITURE ACCOUNT**

Todd Duncan, Chief Deputy Sheriff, reported the Sheriff's Office would like to transfer \$50,000 over two years from the Department of Justice forfeited assets fund to The Bridge Behavioral Health to help offset its budget shortfall for use in the Protective Custody Unit.

Tammy Stevenson, The Bridge Behavioral Health Executive Director, said The Bridge is currently in the process of signing funding contracts with the City of Lincoln and the County. The Nebraska State Patrol intends to provide a long-term annual gift of \$15,000. Duncan and Stevenson will host a meeting for law enforcement regarding sustainable funding.

Duncan stated he felt the main users of The Bridge need to find a way to provide funding for the program. Stevenson said there should be discussion on a fee per service, however, it is difficult to operate a medical detoxification program only on such fees.

Wiltgen asked for the number of individuals who have been admitted to The Bridge. Stevenson replied there have been 3,600 admissions per year for the past three years. Duncan added Blood Alcohol Content (BAC) levels have seen a dramatic rise.

Brinkman asked which agencies would make contributions on a fee per service model. Duncan said the County and State Patrol have not provided funding before. UNL has been contributing for the last few years.

**4) YOUTH SERVICES CENTER PER DIEM – Sheli Schindler, Youth Services Center Director**

Sheli Schindler, Youth Services Center Director, and Melissa Hood, Youth Services Center Administrator, discussed proposed per diem rates for Health and Human Services (HHS) Office of Juvenile Services (OJS) related to youth who are committed to youth services in Kearney and Geneva but are at the Youth Services Center (Exhibits B and C). HHS OJS is currently paying a \$307 per diem rate with the reason for the change being HHS OJS wants the same rate as Probation. Schindler asked for the Board's direction on what per diem figure to use in contract negotiations with HHS OJS.

Amundson suggested Schindler show expenses and come up with a halfway point for per diem rate.

Wiltgen told Schindler to send HHS OJS a letter outlining option 4 on Exhibit C at \$377 and have them put their response in writing. The Board's consensus was to review the response.

**CHIEF ADMINISTRATIVE OFFICER REPORT**

**D. TV-Series "On Demand" Storyline- "Best Counties to Live, Work, Raise a Family & Visit"**

The consensus of the Board was not to proceed with the series.

**E. Re-Appointment to the Air Pollution Advisory Board – Dr. Martha Shulski (Term to Expire 9.1.20); Joselyn Luedtke, Tim Schulz and Piyush Srivastav (Term to Expire 9.1.21)**

The consensus of the Board was to move the item to a Tuesday meeting.

**GENERAL ADMINISTRATIVE ITEMS**

**A. Nebraska Association of County Officials Legislative Retreat – Thursday, October 11, 2018**

Amundson said NACO retreat attendees will discuss and vote on legislative bills.

## **DISCUSSION OF BOARD MEMBER MEETINGS ATTENDED**

### **A. Lancaster County Fairgrounds Joint Public Agency – Wiltgen/Amundson**

The meeting was not scheduled.

### **B. Emergency Medical System Oversight Authority – Brinkman**

Brinkman did not attend the meeting.

### **C. Lincoln Metropolitan Planning Organization – RESCHEDULED TO 11.16.18**

### **D. Lancaster County Board Chair and Vice-Chair Meeting W/Planning – Wiltgen**

Wiltgen stated there was a briefing on the Hallam extraterritorial zoning jurisdiction, the letter for text and penalty violations review for commercial feedlots was received and a working group will start in January, and moratoriums for commercial feedlot applications were discussed. If an application for a commercial feedlot is filed, the Board is required to act on it under the current guidelines. The Planning Commission will hold a public hearing on October 24 for a County zoning text change for commercial wind energy applications. Tom Cajka, Lincoln-Lancaster County Planning, Planner II; and Steve Henrichsen, Lincoln-Lancaster County Planning, Development Review Manager, will meet with representatives from the Home Builders Association of Lincoln (HBAL) to voice concern for accessory dwelling units.

### **5) HALLAM EXTRATERRITORIAL ZONING JURISDICTION – Vicky Polak, Village of Hallam Clerk/Treasurer; Steven J. Reisdorff, Village of Hallam Attorney; and Gary Vocasek, Village of Hallam Board Chairman**

Vicky Polak, Village of Hallam Clerk/Treasurer, and Gary Vocasek, Village of Hallam Board Chairman, stated Monolith Nebraska, LLC plans to build a carbon black manufacturing plant in Hallam and Hallam requests the County or City of Lincoln do the building inspections.

Chad Blahack, Building and Safety Director, reported Hallam adopted City of Lincoln codes. The State would handle electrical and fire codes.

It was the consensus of the Board that the Village of Hallam enter into an interlocal agreement with the City of Lincoln.

### **6) BREAK**

A break was taken from 10:30 a.m. until 10:48 a.m.

### **7) EXECUTIVE SESSION**

#### **A. POTENTIAL LITIGATION – Doug Cyr, Chief Deputy County Attorney; Sue Eckley, County Risk Manager; and Kari Wiegert, Risk Management Specialist**

**MOTION:** Brinkman moved and Amundson seconded to enter Executive Session at 10:49 a.m. for the purposes of potential litigation, labor negotiations and to protect public interest.

The Chair said it has been moved and seconded that the Board enter Executive Session.

**ROLL CALL:** Amundson, Avery, Wiltgen, and Brinkman voted yes. Schorr was absent. Motion carried 4-0.

The Chair restated the purpose for the Board entering Executive Session.

**MOTION:** Avery moved and Brinkman seconded to exit Executive Session at 11:23 a.m. Amundson, Avery, Wiltgen, and Brinkman voted yes. Schorr was absent. Motion carried 4-0.

**B. LABOR NEGOTIATIONS** – Doug McDaniel, Human Resources Director; Kristy Bauer, Lancaster County Deputy Attorney; Nichole Gross, Manager of Compensation; Amy Sadler, Compensation Technician

See above motion.

## **8) ANNUAL REPORT FROM SUE ECKLEY, LANCASTER COUNTY RISK MANAGER**

Sue Eckley, County Risk Manager, reviewed the County Risk Management report (see agenda packet) with the following highlights: Pharmacy Benefit program identifies potential drug overuse, increased communication with physicians on medical reports, monitoring employees driving County-owned vehicles, all departments now offer temporary modified duty, and policy restrictions and certifications for drones.

Wiltgen asked if work is being done with Information Services Policy Committee on an interlocal agreement for cyber liability. Eckley said it is a goal for this year.

Eckley said she will complete the harassment training by the end of the year.

## **9) CHIEF ADMINISTRATIVE OFFICER REPORT**

### **A. Pension Review Committee Membership Changes**

Eagan reviewed Pension Review Committee member retirements and possible appointments.

**B. Claim for Review PV # 624964 through 624966 to Americom communications from Dennis Meyer, Budget and Fiscal Officer in the Amount of \$22,039.00. The Invoices are Dated February 13, 2018. These Claims are Beyond the 90 Day Time Period.**

Eagan speculated the invoice was received beyond the 90-day period.

**MOTION:** Brinkman moved and Amundson seconded to move the claim to the next Tuesday meeting as a regular claim. Amundson, Avery, Wiltgen, and Brinkman voted yes. Schorr was absent. Motion carried 4-0.

- C.** Claim for Review PV # 626039 to Jose Gary Nadala, MD from Mental Health Crisis Center in the Amount of \$7,250.00. Services Were Provided from July 25 – August 3, 2018. This Providers Contract (C-18-0552) Does Not Cover the July 2018 Dates.

Eagan provided an email from Scott Etherton, Mental Health Crisis Center Director, explaining the claim (Exhibit D).

**MOTION:** Brinkman moved and Avery seconded to move the claim to the next Tuesday meeting as a regular claim. Amundson, Avery, Wiltgen, and Brinkman voted yes. Schorr was absent. Motion carried 4-0.

- D.** TV-Series "On Demand" Storyline- "Best Counties to Live, Work, Raise a Family & Visit"

Item moved forward on agenda.

- E.** Re-Appointment to the Air Pollution Advisory Board – Dr. Martha Shulski (Term to Expire 9.1.20); Joselyn Luedtke, Tim Schulz and Piyush Srivastav (Term to Expire 9.1.21)

Item moved forward on agenda.

## **10) GENERAL ADMINISTRATIVE ITEMS**

- A.** Nebraska Association of County Officials Legislative Retreat – Thursday, October 11, 2018

Item moved forward on agenda.

## **11) DISCUSSION OF BOARD MEMBER MEETINGS ATTENDED**

- A.** Lancaster County Fairgrounds Joint Public Agency – Wiltgen/Amundson
- B.** Emergency Medical System Oversight Authority – Brinkman
- C.** Lincoln Metropolitan Planning Organization – RESCHEDULED TO 11.16.18
- D.** Lancaster County Board Chair and Vice-Chair Meeting W/Planning – Wiltgen

Items A-D moved forward on agenda.

- E.** Lancaster County Mental Health Crisis Center Advisory Board – Avery

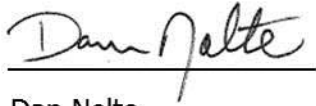
Avery reported a bid has been received for the locks at the Mental Health Crisis Center, the cleaning crew at the Mental Health Crisis Center is not cleaning the facility to expectations, an external review will be held October 29, and staff information day is November 9. Scott Etherton attended a business intelligence training session in Baltimore for Credible, the electronic health record software system.

## **16) EMERGENCY ITEMS**

There were no emergency items.

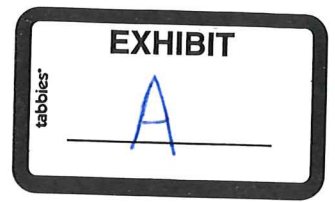
**17) ADJOURNMENT**

**MOTION:** Amundson moved and Brinkman seconded to adjourn the meeting at 11:51 a.m. Amundson, Avery, Wiltgen, and Brinkman voted yes. Schorr was absent. Motion carried 4-0.



Dan Nolte  
Lancaster County Clerk





**LANCASTER COUNTY LEGISLATIVE PROPOSALS  
2019 SESSION**

**INTRODUCTION  
Summary of 2018 Session**

Property tax relief is a standing priority for Lancaster County. During the 2018 session various property tax relief Bills were introduced, including LB 947 by Senator Smith and supported by Governor Ricketts, and LB 1103, which incorporated property tax relief proposals from other Bills. Neither Bill gained enough support for passage. Going into the next legislative biennium property tax relief will again be a top concern. Lancaster County will continue to monitor these discussions and support tax policies which help reduce the burden on our property tax payers. (See Attachment A for a list of property-tax funded services provided to the State of Nebraska by Lancaster County).

Lancaster County achieved a legislative goal in 2018 with the passage of LB 1098, which raised the purchasing thresholds under The County Purchasing Act. The old thresholds were established in 2003. Since that time technology has increased the efficiency of the purchasing process, and the cost of goods and services has increased significantly. The formal bidding process is expensive and time consuming. Increasing the thresholds will help expedite the procurement process and reserve formal bidding for larger purchases for which it is designed.

LB 776 is another legislative success for the County. As originally drafted, LB 776 would have prohibited counties from accepting or receiving revenue exceeding the reasonable operating costs for establishing and administering a telephone or videoconferencing system for inmates. The potential impact on Lancaster County was the loss of nearly \$400,000 of revenue per year, all of which is used for the benefit of inmates. The County's proposal to adopt Federal Communications Commission (FCC) cap rates for inmate phone calls was incorporated into the final version of LB 776, thereby preserving this revenue source for inmate programs.

In the area of juvenile justice, the passage of LB 1112 could be helpful to Lancaster County. This Bill was incorporated into LB 670 by AM 2875. Referred to as the JDAI Bill (Juvenile Detention Alternatives Initiative), LB 1112 places restrictions on the detention of juveniles. It also allows funding received under the Community-Based Juvenile Services Aid Program to be used on a one-time basis for the construction of facilities used as an alternative to detention. However, LB 1112 deleted language which allowed a juvenile to be held when detention is a matter of immediate and urgent necessity for the protection of the juvenile. County officials have expressed concern for the safety and well-being of vulnerable juveniles for whom placements in community programs are not available. This portion of LB 1112 goes into effect July 1, 2019. The County intends to introduce statutory language to address this concern.

Another juvenile justice Bill of interest to the County is LB 870, which addresses the use of room confinement in juvenile detention facilities. Although LB 870 was killed at the end of



the session, it is likely to be reintroduced in 2019. The County worked closely with Senator Panzing Brooks on LB 870 during the 2018 session, and will continue to do so in the next session.

Regarding the adult justice system, Senator Matt Hansen introduced LB 1010 in 2018 to authorize outpatient treatment to restore competency to stand trial, a priority for Lancaster County. Although the Bill did not get out of committee, it did bring attention to the issue of mentally ill persons being held in jail, often without adequate treatment, while awaiting placement at a State facility. The County will continue to pursue this legislative priority in 2019. Senator Hansen has followed up this year with LR 370, which will study the effects of housing inmates with mental illness in county facilities. Lancaster County will testify at LR 370 and then work with Senator Hansen to pursue appropriate legislation.

LB 977 is another 2018 adult criminal justice Bill of interest to the County. Neb. Rev. Stat. §28-105(1) mandates nine months of post-release supervision for Class IV felonies. LB 977 died at the end of the session. It would have amended §28-105(1) to make post-release supervision for Class IV felonies discretionary with the trial judge. The County's jail population has seen a substantial increase in the number of inmates serving jail time for the violation of post-release conditions for Class IV felonies. Making post-release supervision discretionary with the trial judge could help reverse this trend.

Also in the adult justice area, the County will continue to work on legislative changes needed to fully implement the 24/7 sobriety program. Changes are needed to mandatory DUI sentencing and driver's license provisions, including the easing of interlock requirements for participants in the 24/7 program.

## NEW PROPOSALS

### 1. **Amend Neb. Rev. Stat. §23-174.03 to Provide Property Dedicated to Public Use in Plats is Acquired by the County in Fee Simple**

The subdivision of land under the zoning jurisdiction of Lancaster County is governed by §23-174.03. It is the policy of the County to acquire land used for right-of-way purposes in fee simple. This section does not specify how the County holds title when property in plats is dedicated for streets and other public purposes. §23-174.03 should be amended to include the following language:

The plat shall, after being filed with the register of deeds, be equivalent to a deed in **fee simple** absolute to the county, from the proprietor, of all streets, all public ways, squares, parks, and commons, and such portion

of the land as is therein set apart for public use or dedicated to charitable, religious, or educational purposes.

This is the same language found in Neb. Rev. Stat. §15-106 for a city of the primary class.

**2. Allow Counties to Sell Real Property Directly to Other Governmental Entities**

On several occasions Lancaster County has received requests from other governmental entities to purchase real property owned by the County. However, the statutory authority of counties to sell county-owned real property is limited to the sale of surplus property under the procedures set forth under Neb. Rev. Stat. §23-107.01, or in conjunction with the exercise of human services powers under Neb. Rev. Stat. §23-104.03. In the past, the County has required the governmental entity seeking to purchase County land to initiate eminent domain proceedings, thereby enabling the County to negotiate directly with that entity for the sale of the land in question. In contrast, municipalities have the authority to sell real property directly to other governmental entities. This authority should be extended to counties.

**3. Require the State to Pay for Medical Care Provided to Inmates Granted Medical Parole**

Neb. Rev. Stat. §83-1,110.02 allows committed offenders, not under a sentence of death or life in prison, to be granted medical parole if they become terminally ill or permanently incapacitated. The cost of caring for these individuals can be very expensive, and the burden often falls to General Assistance. Although Lancaster County requires all General Assistance clients to apply for Medicaid, it is not unusual for a terminally ill client to die before being approved for Medicaid. In this situation the County will not be reimbursed for providing General Assistance for medical parolees. The State should be required to pay the medical expenses of all committed offenders while they are on medical parole.

**4. Make Texting/Emailing a Primary Criminal Offense**

Under Neb. Rev. Stat. §60-6,179.01(4) the criminal offense of reading, writing or sending a written communication while operating a motor vehicle which is motion can only be enforced "...as a secondary action when a driver of a motor vehicle has been cited or charged with a traffic violation or some other offense." Nebraska is one of only a few states which don't enforce this conduct as a primary offense. Texting or emailing while operating a moving motor vehicle is a serious problem which jeopardizes the safety of the traveling public, and should be enforceable as a primary offense.

**5. Clarify Licensure Requirements for Facilities Providing Civil Protective Services Pursuant to Neb. Rev. Stat. §53-1,121**

For many years law enforcement agencies in Lancaster County have utilized The Bridge to house individuals removed from public places under the civil protective custody (CPC) procedures authorized under §53-1,121. Recent changes to the interpretation of regulations governing the licensure of facilities providing CPC services have jeopardized the ability of The Bridge to serve CPC individuals in a licensed facility. Legislation is necessary to clarify licensure requirements for CPC facilities.

**6. Review County Elected Positions**

A review of existing county elected positions should be conducted by the Legislature to determine whether the positions should be elected, or whether the public would be better served if the positions were appointed by the county board.

**7. Remove Fishing License, Park Permit, and Hunting License Violations from the Juvenile Justice System**

In 2016 Neb. Rev. Stat. §43-247 was amended to require all misdemeanor charges against juveniles to be filed in juvenile court. Before this change, juveniles could simply pay a fine in adult court for violations of statutes governing fishing, hunting, use of state parks, etc. Since these offenses must now be filed in juvenile court, many of these youth now become involved in the juvenile justice system and are being placed into juvenile diversion programs. This ties up juvenile court resources and may remove diversion as an option for youth who have subsequent involvement with the juvenile courts. A legislative solution is needed to more appropriately address these offenses.

**8. Public Defender Proposals**

The Lancaster County Public Defender has identified the following list of potential Legislative changes:

- a. Outpatient restoration of competency to stand trial;
- b. End money bond;
- c. Reduce possession of controlled substance residue to a misdemeanor;
- d. Legalize marijuana;
- e. Authorize 24/7 driving permits; and
- f. Pre-trial diversion for DUI's.

See Attachment B for a more thorough discussion of these proposals.

## EXISTING PROPOSALS

### 1. **Appointed Counsel Costs**

For many years Lancaster County has struggled with the escalating cost of court appointed counsel. In 2011 the Lancaster County Indigent Defense Advisory Committee undertook a complete review of the issue. The Committee made a number of recommendations, including the following legislative proposals:

- a. Restrict the right to appointed counsel in juvenile court cases for non-custodial parents who do not have charges filed against them;
- b. Examine low-level misdemeanors to determine which offenses could be reduced to infractions which do not carry jail time;
- c. Amend Neb. Rev. Stat. §29-3604 to allow diversion for driving under the influence cases;
- d. Expand the State contribution for indigent defense, including more funding for the Commission on Public Advocacy; and
- e. Increase the indigent defense fee under Neb. Rev. Stat. §33-156.

### 2. **Amend Neb. Rev. Stat. §13-906 to Require Strict Compliance with Six-Month Waiting Period**

§13-906 provides that no suit shall be permitted under the Political Subdivisions Tort Claims Act unless the political subdivision has made a final disposition on the claim, or in the alternative, final disposition of the claim has not been made within six months after the claim was filed. The Nebraska Court of Appeals has held that the notice requirements of §13-906 are to be liberally construed, and a claimant does not need to wait six months so long as they substantially comply with the six-month requirement and the lack of compliance has not caused prejudice to the political subdivision. The doctrine of substantial compliance creates uncertainty, and the legislature should amend this section to clarify that strict compliance with the notice requirements under §13-906 is required.

### 3. **Conduct a Legislative Review to Examine How the Length of Time Post Adjudicated Youth Spend in Secure Detention While Awaiting Placement Can Be Reduced**

Post adjudicated youth held in the County's Youth Services Center should be placed into community treatment as soon as possible. However, placement can be difficult

because of a number of issues involving these youth. The Legislature should conduct a legislative review to examine how the length of stay in secure detention can be reduced for post adjudicated youth.

**4. Allow financing of County Bridges under Neb. Rev. Stat. §23-120(3)(b)**

The number of structurally deficient county bridges in Nebraska is increasing at an alarming rate. In Lancaster County alone there are twenty (20) structurally deficient bridges and five (5) functionally obsolete bridges. Amending §23-120(3)(b) to include county bridges could provide a steady source of revenue for addressing this important public safety issue.

**5. Strengthen Prisoner Litigation Statutes to Discourage Frivolous Lawsuits**

Frivolous litigation filed by state and local prisoners is time consuming, expensive, and a waste of limited judicial resources. The deliberate filing of frivolous lawsuits by prisoners could be discouraged if all prisoners were required to have some financial stake in filing an action. Federal statutes governing civil rights actions of prisoners require that a prisoner seeking to proceed in forma pauperis is still required to pay the full amount of the filing fee. Along with the affidavit seeking to proceed in forma pauperis, a prisoner is also required to submit to the court a certified copy of their institutional trust fund account for the six month period immediately preceding the complaint or notice of appeal. The prisoner may then be allowed to pay the filing fee over time based on a payment formula in the federal statutes. Federal law also gives judges greater discretion in dismissing actions filed by prisoners which the court determines to be frivolous, malicious, or fail to state a claim upon which relief can be granted.

Presently, Neb. Rev. Stat. §25-3401(2)(a) provides, "A prisoner who has filed three or more civil actions, commenced after July 19, 2012, that have been found to be frivolous by a court of this state or a federal court for a case originating in this state shall not be permitted to proceed in forma pauperis for any further civil actions without leave of the court..." This statute should be amended to include the federal law provisions which require the prisoner to pay the filing fee and which provide greater discretion to judges to dismiss frivolous or malicious claims.

**6. Amend Neb. Rev. Stat. §29-2022 to Give Trial Courts Discretion with Regard to Sequestered Juries in Criminal Cases**

Defendants in criminal cases have the right to keep a jury sequestered until a verdict is reached, regardless of the severity of the case or the actual risk the jury members may be influenced by improper contact or communications. See Neb. Rev. Stat. §29-2022. When a jury is sequestered counties are responsible for paying all the costs of housing and feeding the jury members, as well as the costs of providing security. These expenses can be significant. Additionally, sequestration can result in a substantial hardship to the members of the jury. This

statute should be amended to give the trial court discretion in deciding whether a jury in a criminal case should be sequestered until a verdict is reached, based on the actual potential of the jury being improperly influenced. 2016 Neb. Laws LB 976 would have given trial courts discretion on jury sequestration. However, it was withdrawn prior to consideration by the Judiciary Committee.

**7. Reasonable Fees for Services Provided by the County Engineer for Issuance of Driveway Permits, Right-of-Way Utility Permits, Subdivision Reviews, and Load Permits**

The Lancaster County Engineer's Office spends a significant amount of time issuing driveway permits, right-of-way permits for utilities, vehicle load permits, and reviewing proposed land subdivisions. These services primarily benefit individual companies or persons. Enabling legislation is necessary to give counties the authority to charge a reasonable fee for these services.

**8. Limit Workers' Compensation Awards to Retirement Age**

Rising workers' compensation costs are a concern to the County. Awards for permanent disability are expensive and can extend an indefinite period into the future. Limiting disability awards to the age of retirement would still benefit the injured worker by helping replace lost wages during wage-earning years. At retirement other revenue sources, such as social security and pensions, then become available to support the injured worker. The benefit to the County would be lower costs and a greater ability to manage workers' compensation cases.

**9. Tax Increment Financing**

The Nebraska Redevelopment Act, Neb. Rev. Stat. §58-501 et seq. is intended to encourage economic growth through redevelopment of blighted and substandard areas within cities. The Act generates funds for redevelopment projects by creating tax increment financing (TIF) districts. TIF is widely used by cities and villages to finance community redevelopment projects. Essentially, two land values are established for tax parcels lying within the boundaries of a project: the value of the parcel prior to redevelopment and the value of the parcel after redevelopment. Property tax increases within the TIF district attributable to the project are placed in a special fund to be used solely to pay the principal, interest, and premiums on any bonds, loans, notes, or other indebtedness incurred to finance the redevelopment project. Lancaster County has identified the following concerns with TIF:

**A. Clarify Who is Entitled to the Proceeds in a Tax Increment Financing Special Fund Upon Payment of All Bonds, Loans and Other Indebtedness for a Redevelopment Project**

Neb. Rev. Stat. § 18-2147(1)(b)(Reissue 2007) provides, " When such bonds, loans, notes, advances of money, or indebtedness, including interest and premiums due, have been paid, the authority shall so notify the county assessor and county treasurer and all ad valorem taxes upon taxable real property in such a redevelopment project shall be paid into the funds of the respective public bodies..."

A question has arisen regarding whether a city has the authority to amend a redevelopment project after all indebtedness has been paid, and thus continue using the proceeds in the special fund for redevelopment purposes instead of distributing the balance of the special fund to the respective public bodies which levy on the property. Legislation is needed to clarify whether a city or village has the authority to amend a redevelopment project after the original indebtedness has been paid.

**B. County Input in the Approval of Tax Increment Financing Districts Which Affect the County Tax Base**

Other taxing entities in the county where the TIF district is located lose the benefit of the property valuation increase for the entire district during the period the project is financed. In recent years there has been a sharp increase in the number of TIF districts created by the City of Lincoln. TIF districts often encompass a large area, regardless of the size or number of the individual projects within the TIF, and regardless of whether the entire district is blighted or substandard. Since the other taxing entities, including counties, are being denied essential tax revenue, they should have direct input into the establishment of TIF districts. This would help guarantee TIF districts are actually targeted to blighted or substandard areas and do not unnecessarily remove growth from the assessed valuation for other taxing entities.

**10. Extend Deadline for Issuing Greenbelt Valuation Notice**

When a property owner simultaneously has a pending board of equalization valuation protest and an application for special Greenbelt valuation, it is possible that a landowner will receive conflicting valuation notices. This problem can be solved by amending Neb. Rev. Stat. §77-1345.01(2) to extend the final date for the board of equalization to send a notice of special valuation from July 22nd to August 15<sup>th</sup>.

**11. Modify Strict Liability Provisions of Neb. Rev. Stat. §13-911 When a Vehicular Pursuit Is Terminated by a Law Enforcement Officer**

As interpreted by the Nebraska Supreme Court, a political subdivision can be held strictly liable under §13-911 for damages to an innocent third party caused by a fleeing

motorist, even after a pursuing law enforcement officer has stopped the pursuit. §13-911 should be amended to eliminate strict liability when the damages are caused by the fleeing motorist after the pursuit has been terminated by the officer. This amendment would provide an incentive to law enforcement to stop pursuits which have become dangerous to innocent third parties.

**12. Clarify Funding Source When Courts Assign Non-IV-D Cases to a Child Support Referee**

Under Neb. Rev. Stat. §43-1610 funding for a child support referee shall be provided by the county and state to the district Court, separate juvenile court, and county court. Neb. Rev. Stat. §43-1611 provides these courts may by rule or order assign any matter regarding the establishment and collection of child, spousal, or medical support, paternity matters, and protection orders to a child support referee. However, when a child support referee is assigned non-IV-D cases federal funds may not be used to cover the cost. Since the courts have complete discretion in assigning cases to a child referee, it is possible the county may incur additional costs under the IV-D program over which it has no control. The statutes should be clarified to provide state funding will be used in this situation rather than county funding.

**13. Provide Statutory Guidance on Enforcement of Insurance Subrogation Clauses**

In the case of Blue Cross and Blue Shield of Nebraska, Inc. v. Dailey, 268 Neb. 733 (2004), the Nebraska Supreme Court held a subrogation clause in the insurance contract could not be enforced against the insured under the equitable made whole doctrine. The Dailey case involved an employee covered under an insurance contract between his employer, the Nebraska Association of County Officials, and Blue Cross. The employee was injured as a result of the negligence of a third party, and subsequently recovered a one-time payment of \$1,225,000 and monthly payments of \$10,000 for life against the third party. Even though the contract clearly provided Blue Cross would be entitled to recover approximately \$794,000 it had paid on behalf of the insured for injuries caused by a third party, the Supreme Court held Blue Cross was not entitled to recover these funds because the insured had not yet been made whole for the injuries. A statutory solution is needed to provide for the enforcement of reasonable subrogation clauses to help control health insurance costs.



# ATTACHMENT A

Lancaster County, Nebraska  
Services Provided to the State of Nebraska

Budget Year  
2018-19

Updated Information

<p>County Treasurer</p> <p>The Treasurer collects sales tax and remits to the state through the motor vehicles division. Collected \$29,238,776 in FY12 and collections fees kept by the county were \$1,800.</p>	<p>Collected \$41,235,411 in FY18 and collection fees kept by the county were approximately \$2,700</p>	\$	76,895
<p>West O Building</p> <p>Lancaster County provides 4,075 square feet to the State for Drivers License Examiners. This includes utilities and custodial services. The cost per sq/ft at West O is \$14.88.</p>	<p>The cost per sq/ft at West O is \$18.87 (2018-19)</p>	\$	16,361
<p>Motor Vehicle Building</p> <p>Lancaster County provides 1,651 square feet to the State. This includes utilities and custodial services. The cost per sq/ft is \$7.47.</p>	<p>The cost per sq/ft is \$9.91 (2018-19)</p>	\$	1,555,000
<p>Register of Deeds</p> <p>The Register of Deeds does all of the work required to file land records yet is required to send a portion of the documentary stamp tax to the state to fund other programs. County keeps 22.22% and the State receives 77.78%. Based on \$2 million collected - state receives \$1,555,000. (76-903)</p>	<p>Calculated amount is still reasonable</p>	\$	1,555,000
<p>Election Commissioner</p> <p>Billable costs for elections are not allowed to be billed to the state. Costs are passed down to other political subdivisions but not to the state. State costs would range from 50% to 60% of billable costs. Last primary billable costs were \$356,000.</p>	<p>Court Costs (All 3 courts have been combined)</p>	\$	300,000
<p>County Court (BU 6280)</p> <p>Lancaster County is required to remit certain court costs to the State. If those fees cannot be collected from defendants, the County must pay.</p>		\$	689,933
<p>County Court</p> <p>All County Court staff are state employees.</p>		\$	689,933

Lancaster County, Nebraska  
 Services Provided to the State of Nebraska

Budget Year  
2018-19

Lancaster County pays for operating expenses, computers, and office equipment.

Updated Information

31,422 sq/ft @ \$15.95 plus parking \$ 506,581

Lancaster County is required to provide for office space and courtrooms. Cost includes custodial services, utilities, security, and parking. 29,195 sq/ft at a cost of \$14.72 per sq/ft. (New Courtroom is under construction)

Juvenile Court

Juvenile Court Judges are state employees. The County pays for a Court Administrator, 3 Clerk Typists, and 4 bailiffs. (Personnel Costs)

\$ 645,506

\$ 1,185,399

Lancaster County also pays for Court Appointed Attorneys, Boarding contracts, and other operating expenditures.

12,500 sq/ft @ \$15.95 plus parking \$ 204,055

Lancaster County is required to provide for office space and courtrooms. Cost includes custodial services, utilities, security, and parking. 12,632 sq/ft at a cost of \$14.72 per sq/ft.

District Court

District Court Judges are state employees. The County pays for a Court Administrator, 2 Law Clerks, and 8.75 bailiffs. (Personnel Costs)

\$ 1,278,790

Lancaster County, Nebraska  
 Services Provided to the State of Nebraska

Updated Information

Budget Year  
2018-19

Lancaster County has had a District Court Referee for many years. State Statute states the county and state should pay for the costs. IV D pays for 2/3 of the costs but the state pays zero.

Lancaster County also pays for Court Appointed Attorneys, juror fees, and other operating expenditures.

\$ 1,079,424

Lancaster County is required to provide for office space and courtrooms. Cost includes custodial services, utilities, security, and parking. 33,524 sq/ft at a cost of \$14.72 per sq/ft.

33,524 sq/ft @ \$15.95 plus parking

\$ 542,988

County Sheriff

Special Services Division provides security for the courtrooms. This cost is incorporated into the cost per sq/ft in rent calculations.

The CIVIL Division is responsible for the process of writs and documents. Sheriff does receive revenue but it does not offset the cost of performing the service.

Register sex offenders and complete handgun registrations in the Administrative Support Division. 2 employees - does not include supervisor time.

Corrections

The Jail has provided 859 DNA tests for the State over the last 2.5 years.

The Jail has completed 7,175 full sets of fingerprints for the State system (NSP) over the last 2 years.

Lancaster County, Nebraska  
 Services Provided to the State of Nebraska

Updated Information

Budget Year  
2018-19

The Jail has completed 22 sex offender registrations over the last 2 years.

The Jail has had to answer 138 Ombudsman's request with time spent researching, interviewing, making repeated phone calls, and email contacts with the Ombudsman's office over the last 2 years.

The Jail has completed approximately 18,000 warrant checks on offenders before releasing over the last 2 years.

Time and staff effort to send inmate medical files to the State of Nebraska over the last 2 years.

\$ 7,070,523

Jail Reimbursement - housing of prisoners on behalf of the State. The State's rate was only \$35 per day and funding would run out during the fiscal year. Funding ended after FY11.  
 Amount billed FY00-FY11 15,696,765  
 Amount collected 8,626,242

Amount unable to be billed because funding ended:

\$ 13,260,415

FY12 1,809,255

Amount unable to be billed because funding ended:  
 (through June 30, 2018)

FY13 - FY18 11,451,160

Lancaster County, Nebraska  
 Services Provided to the State of Nebraska

Budget Year

Updated Information

2018-19

Juvenile Probation

Juvenile Probation staff are state employees.

Computer Request

\$ 69,997

Lancaster County pays for operating expenses, computers, and office equipment. This also includes contracts with the State Probation Office.

(County is no longer funding Drug Court)

16,903

The Juvenile Drug Court was funded by the State with grants but the County started funding in FY05.

Lancaster County provides space for the department and the juvenile drug court. Cost includes custodial services, utilities, security and parking. 3,736 sq/ft at a cost of \$14.72 per sq/ft.

(14,603 sq/ft @ \$15.95 plus parking)

\$ 258,109

Adult Probation

Adult Probation staff are state employees.

Computer Request

\$ 187,529

Lancaster County pays for operating expenses, computers, and office equipment. This also includes a contract with the State Probation Office.

Lancaster County provides space at the jail and office space at Trabert Hall. Cost includes custodial services, utilities, security and parking. 6,323 sq ft at a cost of \$11.75 per sq/ft at the jail and 17,572 sq ft at a cost of \$10 per sq/ft at Trabert Hall.

605 Building - 19,533 sq/ft @ \$15.95 plus parking  
 Reporting Center - 6,650 sq/ft @ \$10.20

\$ 386,221

Community Corrections

Drug Court - reimbursement for employees. Dollar amount of reimbursement has not changed over 6 years - despite Kim's request.

State Reimbursement - \$246,839  
 Employee costs - \$350,449

Employee Costs - \$276,156 (salaries only)  
 State Reimb - \$183,839

Lancaster County, Nebraska  
 Services Provided to the State of Nebraska

Budget Year  
2018-19

Updated Information  
 State Probation does not cover actual costs  
 Staff Secure has been eliminated in FY16-17

<p>Youth Services Center</p>	<p>The state does not reimburse the county for the cost of care for youth detained and/or in an alternative to detention post adjudication and beyond. The requirement is only when the youth is committed to HHS/OJS and should be adjudicated youth in juvenile court. The state should also be responsible for the cost of care for youth who are detained due to a violation of probation pre-adjudication status.</p>	<p>\$ 285,000</p>
<p>General Assistance</p>	<p>Lease agreement with Health &amp; Human Services - 41,267 square feet x 13.60 per sq ft. x 51.62% nonfederal share = \$289,707.55 (Included on legislative list)</p>	<p>\$</p>
<p>County Fees</p>	<p>A number of county statutory fees have not been raised for many years. Fees are not allowed to be increased to cover costs. A few examples:          locksmith license          handgun permits          motor vehicle inspection fees          Treasurer fees</p>	<p>\$</p>
<p>Other Court Related Costs</p>	<p>Clerk of the District Court          Jury Commissioner          Mental Health Board</p>	<p>\$ 1,899,678          \$ 410,809          \$ 148,467</p>

Note: List was started in FY12-13 and updates have been added throughout the years.

Kerry P. Eagan

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From: Joseph D. Nigro  
Sent: Friday, August 31, 2018 4:41 PM  
To: Kerry P. Eagan  
Subject: Legislative Retreat

These are issues for potential legislation. I don't have draft language at this time:

Outpatient restoration of competency. Hopefully we can get legislation introduced again to allow for outpatient restoration of competency. This would reduce the wait time for people to go to the Regional Center to be restored competency, and allow some individuals to be restored to competency in the community. There were constitutional issues with the pilot program proposed last year. We should propose a change which will apply to all counties.

End money bond. We should move away from money bond to evidence based risk assessments determining release and the level of supervision necessary. This is happening around the country as people have realized that the current system does not guarantee that people return to court, nor does it protect the community. It only keeps the poor in jail. We must guarantee that the assessment tool used does not also discriminate against the poor and people of color.

Reduce the penalty for possession of residue of a controlled substance to a misdemeanor. These cases have overwhelmed our system. We are not solving the problem. LB 971 could be reintroduced.

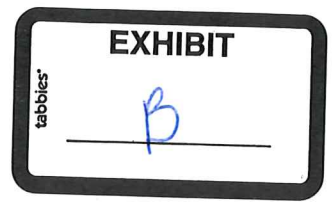
Legalization of marijuana. This is inevitable as more and more states legalize marijuana. We are wasting resources dealing with this in the criminal justice system, with ruinous consequences for people who are convicted. It would be smarter to regulate it. Taxation of sales could provide property tax relief.

Authorization of 24/7 driving permits would help expand the 24/7 program. People have to be able to drive to testing, their jobs, school, and probation activities. 24/7 has proven more effective than interlock at reducing drunk driving. Many people cannot afford interlock.

Pre-trial diversion for DUIs. It is more effective than going through the court system at reducing recidivism. It could raise revenue too.

Thanks,

Joe



## Per Diem Rates

Based off our adopted revenues and expenditures, our costs reflect a per diem rate of \$455.

Here's what we are currently charging:

1. City: \$443.44 for FY19. Figured as stated in interlocal agreement with the City of Lincoln.
2. Probation and Contract Counties: \$276.
3. DHHS/OJS: \$307.

FY19 Projected Revenues:

Probation 8,942.50 care days figured at \$276: \$2,468,130.

City 8.5 care days figured at \$291.33: \$2,484.

Contract Counties 54.75 care days figured at \$276: \$15,111.

DHHS/OJS 91.25 care days figured at \$307: \$28,014.

- OJS proposed \$276 as their new rate. If we agree this could drop OJS revenue by \$2,829.



## 1. Historical calculation with adopted care days

FY19 Adopted Expenditure Budget	\$5,524,917
Less FY19 Education Program (Reimbursed)	\$893,214
Plus FY18 Indirect Costs	\$193,446
Plus FY 18 Depreciation	\$196,486
Total	\$5,021,635
FY19 Budgeted Care Days (ADP 30)	11,042
Proposed Per Diem Rate	\$455

## 2. Historical calculation less depreciation and indirect costs

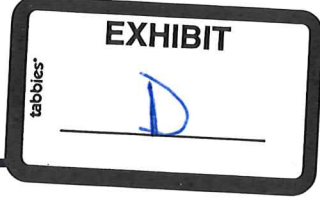
FY19 Adopted Expenditure Budget	\$5,524,917
Less FY19 Education Program (Reimbursed)	\$893,214
Plus FY18 Indirect Costs	Excluded
Plus FY 18 Depreciation	Excluded
Total	\$4,631,703
FY19 Budgeted Care Days (ADP 30)	11,042
Proposed Per Diem Rate	\$419

## 3. Historical calculation less rent

FY19 Adopted Expenditure Budget	\$5,524,917
Less FY19 Education Program (Reimbursed)	\$893,214
Plus FY18 Indirect Costs	\$193,446
Plus FY 18 Depreciation	\$196,486
Less Rent	\$465,234
Total	\$4,556,401
FY19 Budgeted Care Days (ADP 30)	11,042
Proposed Per Diem Rate	\$413

## 4. Historical calculation excluding depreciation, indirect costs, and rent

FY19 Adopted Expenditure Budget	\$5,524,917
Less FY19 Education Program (Reimbursed)	\$893,214
Plus FY18 Indirect Costs	Excluded
Plus FY 18 Depreciation	Excluded
Less Rent	\$465,234
Total	\$4,166,469
FY19 Budgeted Care Days (ADP 30)	11,042
Proposed Per Diem Rate	\$377



**Leslie E. Brestel**

**From:** Kerry P. Eagan  
**Sent:** Thursday, September 27, 2018 11:43 AM  
**To:** Leslie E. Brestel  
**Subject:** FW: Review item on agenda

For the record.  
-kpe

-----Original Message-----

**From:** Scott E. Etherton  
**Sent:** Thursday, September 27, 2018 11:31 AM  
**To:** Todd J. Wiltgen <TWiltgen@lancaster.ne.gov>; Kerry P. Eagan <KEagan@lancaster.ne.gov>  
**Subject:** Review item on agenda

I have a pension disability review meeting at 11:30. The item on the agenda to pay Dr. Nadala. His contract has been renewed but the start date was September 1 and the claim goes back to August 25 and into September. Contract reminders will be set up in the new software system to cover things in advance of expiration dates. Let me know if you need me to come downAs I will be up on the third floor. Thanks.

Scott