

FILED

NOV 8 2002

LANCASTER COUNTY CLERK

**AGENDA FOR JOINT MEETING OF THE
DOUGLAS, LANCASTER & SARPY COUNTY
BOARDS OF COMMISSIONERS
THURSDAY, NOVEMBER 14, 2002 - 8:30 A.M.
STATE CAPITOL BUILDING, ROOM 1126
LINCOLN, NE**

AGENDA ITEMS

- | | | |
|----------|-------------------|---|
| 1 | | ADDITIONS TO AGENDA |
| 2 | 8:30 A.M. | WELCOMING RECEPTION & BREAKFAST |
| 2 | 9:00 A.M. | HIPAA UPDATE |
| 3 | 9:30 A.M. | COST OF CRIMINAL JUSTICE SYSTEM |
| 4 | 10:00 A.M. | LEGISLATIVE AGENDA
a. Douglas County
b. Sarpy County
c. Lancaster County |
| 5 | NOON | LUNCH WITH SENATORS |

**Minutes
Tri-County Retreat
State Capitol Building-Room 1126
Thursday, November 14, 2002
9:00 A.M.**

In Attendance:

Lancaster County

Kathy Campbell, Commissioner
Bob Workman, Commissioner
Ray Stevens, Commissioner
Larry Hudkins, Commissioner
Bernie Heier, Commissioner
Kerry Eagan, Chief Administrative Officer
Gwen Thorpe, Deputy Chief Administrative Officer
Bruce Medcalf, County Clerk
Patricia Owen, Chief Deputy County Clerk
Gordon Kissel, Lobbyist
Amy Prenda, Lobbyist
Dave Kroeker, Budget & Fiscal Director
Deb Schorr, Commissioner-Elect
Diane Staab, Deputy County Attorney

Douglas County

Mike Boyle, Commissioner
Clare Duda, Commissioner
Carole Woods Harris, Commissioner
Carol McBride Pirsch, Commissioner
Kathleen Kelly, Chief Administrative Officer
Patrick Bloomingdale, Assistant Administrator
Kristin Lynch, Administrative Specialist
Sherri Larsen, County Clerk's Office
Mike Kelly, Lobbyist

Sarpy County

Inez Boyd, Commissioner
Jack Postlewiak, Commissioner
Mark Wayne, Chief Administrative Officer
Fred Uhe, Deputy County Clerk/Lobbyist
Tamra Madsen, Deputy County Attorney
Aldona Doyle, Commissioner

Tom Shaw-Omaha World Herald Reporter

(1.) HIPAA UPDATE

Gwen Thorpe, Deputy Chief Administrative Officer and Diane Staab, Deputy County Attorney gave a brief overview and background on the Health Insurance Portability and Accountability Act (HIPAA). Staab discussed where Lancaster County stands right now with respect to compliance with HIPAA requirements. Staab stated that a HIPAA Committee had been put together and surveys have now been distributed to Lancaster County agencies to attempt to determine which agencies would be most affected by the new regulations.

Tamra Madsen, Deputy County Attorney for Sarpy County, indicated that Sarpy has completed a preliminary assessment of their agencies and offered to work with Lancaster County.

Patrick Bloomingdale, Assistant Administrator for Douglas County indicated that Douglas County had formed a steering committee and hired a private consultant to help them through this process. He indicated that Douglas County had made good progress toward meeting the April 2003 Privacy Deadline. Bloomingdale stated that he would be serving as the County's designated Privacy Officer and they would also be hiring a designated Security Officer. In response to a question from Commissioner Larry Hudkins, Bloomingdale said they have currently spent approximately \$100,000 for the services of the private consultant, \$100,000 for legal advice and anticipated another \$50,000 for a project manager. Bloomingdale also indicated Douglas County's willingness to work with the other two counties on their programs.

(2). Cost of Criminal Justice System

Commissioner Bob Workman indicated that Lancaster County has been working with a consultant on issues relating to their Criminal Justice System. Dave Kroeker, Budget & Fiscal Director, distributed copies of the **Lancaster County Justice System Fiscal Data, FY03 Budget Comparison with FY02.** (Exhibit One)

Kathleen Kelly, Douglas County Chief Administrative Officer, stated that Douglas County's Justice System comprised 54% of their budget or \$11,000,000. She indicated that length of stay was a contributing factor in those costs, with state wards averaging a 49 day stay. Kelly remarked that 72 of the 144 incarcerated were state wards. Kelly further stated that Douglas County's current per diem rate was \$123.00. Kelly stated that the potential \$4,000,000 price tag for out-of-home treatment and rehabilitation for juveniles was double that for the previous year. Douglas County spent \$2.2 million on juvenile costs last year Kelley said.

Workman stated that Lancaster County's juvenile program seemed under control for the time being with the construction of the new Juvenile Detention Facility. Kerry Eagan, Lancaster County Chief Administrative Officer, indicated that Families First and Foremost (F3) has had a significant effect in program cost reductions through their array of services for youth. He indicated that the use of 'in-house' assessments, rather than utilizing Geneva or Kearney, had lowered total costs and turn around time.

Mark Wayne, Sarpy County Administrator, commented that Sarpy County had also constructed a new staff secure, 36-bed juvenile justice center and would hopefully be open by January 2003. He indicated that Sarpy also would have an assessment center available. General discussion was held by the three counties regarding the assessment process and the location of court rooms.

(3). Legislative Agenda

Kerry Eagan, distributed the document, **Lancaster County Legislative Proposals 2003 Legislative Session**, (Exhibit Two) and highlighted legislative issues that Lancaster County considered priority issues. Discussion was held on the timing of Post Commitment Patients held at the Crisis Center legislation as well as Juvenile Justice, Inheritance Tax, Transfer of the District Court Clerk to the State and Building Permits for Residences on Farmsteads proposed legislation. Eagan further discussed the interest of Lancaster County in researching the issue of salary comparability versus ability to pay for counties. Eagan briefly reviewed the current Visitors Promotion Committee (VPC) legislation and indicated that Lancaster County would like to see the legislation allow for three representatives of the hotel industry to sit on the committee. Kathleen Kelly, Douglas County Chief Administrative Officer, indicated that they currently have three hotels on their committee as a result of a Douglas County Attorney's opinion that current legislation allows for this. Sarpy County indicated that they only have two at the present time. Sarpy County indicated that they may not be comfortable with the legislation mandating three hotel representatives, but would rather see legislation that allows for the third representative if the county desires.

Kelly, indicated that Douglas County's legislative focus this next session would be more defensive than offensive. She indicated that they will monitor legislation and attempt to protect funding for existing programs and to watch for cost-shifts.

Fred Uhe, Sarpy County Deputy County Clerk/Lobbyist, indicated that Sarpy County would also be taking a defensive stance in the next session. Uhe touched on some draft legislation relating to the County Purchasing Act. Uhe also indicated that issues such as prisoner reimbursement and false alarm fee enabling legislation would be of interest to them.

Discussion was held by the three counties on the issue of a proposed \$0.02 increase in the current gas tax, sponsored by the City of Lincoln.

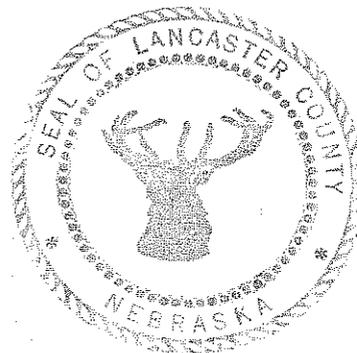
In response to a question from Kathleen Kelly, Dave Kroeker went through the budget development and hearing process for Lancaster County. Workman indicated that this may be a good agenda item for the next Tri-County meeting.

Gordon Kissel, Lancaster County Lobbyist briefly discussed the Medicaid and Medicare task force, the structure of the current mental health regions, the proposed extension of the new state sales tax and commented that he felt the current Special Session would likely bleed over into the regular session to start in January. Kissel also felt that LB775 will be looked at again in the next session as budget issues are addressed.

With no further items on the agenda the Tri-County meeting was adjourned.



Bruce Medcalf
Lancaster County Clerk



JUST03

**LANCASTER COUNTY
JUSTICE SYSTEM FISCAL DATA
FY03 BUDGET COMPARISON WITH FY02**

	FY03			FY02	CHANGE	
	TOTAL BUDGET	OTHER REVENUES	TAX FUNDED	TAX FUNDED	AMOUNT	%
CLK OF DIST CT	1,073,897	350,000	723,897	718,871	5,026	0.70%
COUNTY COURT	663,929	62,386	601,543	601,490	53	0.01%
JUV CT	1,026,352	0	1,026,352	1,131,019	(104,667)	-9.25%
JUV PROBATION	179,997	0	179,997	171,890	8,107	4.72%
DIST CT	1,808,703	146,150	1,662,553	1,536,987	125,566	8.17%
PUB DEFENDER	2,315,112	121,386	2,193,726	2,016,798	176,928	8.77%
INDIGENT DEFENSE SCREENER	53,209		53,209	47,106	6,103	12.96%
SHERIFF	6,624,052	1,131,350	5,492,702	5,277,982	214,720	4.07%
ATTORNEY	4,846,104	995,422	3,850,682	3,397,280	453,402	13.35%
CORRECTIONS	8,592,636	2,945,000	5,647,636	5,139,383	508,253	9.89%
ADULT PROB	266,055		266,055	242,999	23,056	9.49%
JUSTICE SYSTEM MISC	1,942,633	0	1,942,633	1,812,392	130,241	7.19%
JUVENILE DETENTION	4,325,849	1,447,000	2,878,849	2,733,906	144,943	5.30%
DP CJIS	50,151		50,151	90,745	(40,594)	-44.73%
EMERGENCY MANAGEMENT	280,568	165,534	115,034	120,750	(5,716)	-4.73%
DEBT SERVICE	1,690,578		1,690,578	1,690,278	300	0.02%
MENTAL HEALTH BOARD	145,966		145,966	143,484	2,482	1.73%
TOTAL	35,885,791	7,364,228	28,521,563	26,873,360	1,648,203	6.13%

			INCREASE	
			AMOUNT	PERCENT
(1) TAX FUNDED	FY03	28,521,563	1,648,203	6.13%
(1) TAX FUNDED	FY02	26,873,360	3,575,272	15.35%
(1) TAX FUNDED	FY01	23,298,088	2,522,747	12.14%
(1) TAX FUNDED	FY00	20,775,341	1,494,665	7.75%
TAX FUNDED	FY99	19,280,676	1,925,733	11.10%
TAX FUNDED	FY98	17,354,943	1,541,002	9.74%

(1) CORRECTIONS REVENUE INCLUDED 250,000 IN FY00, 600,000 IN FY01, 750,000 IN FY02 AND 700,000 IN FY03 FOR STATE PRISONER REIMBURSEMENT. THIS LOWERED THE INCREASE IN THE TAX FUNDED PORTION OF THE BUDGET.

BUDGETS FOR MAJOR CAPITAL IMPROVEMENTS SUCH AS THE NEW JUVENILE DETENTION FACILITY ARE NOT REFLECTED IN THIS SCHEDULE.

LANCASTER COUNTY LEGISLATIVE PROPOSALS 2003 Legislative Session

Introduction

Budget concerns continue to be Lancaster County's primary focus as the 2003 legislative session approaches. Last year the County lost over \$1.5 million of State funding. This year's session could result in even greater reductions of State aid. The inevitable result will be increased pressure on the property tax.

Accordingly, the County must begin preparing its budget for next fiscal year in conjunction with its preparation for the 2003 legislative session. Every County department must identify programs which could be affected by additional reductions of State funding. Priorities for the preservation of existing State funding sources must be established so our lobbyist can be instructed accordingly. In addition, a reduction in force plan will be prepared. If necessary the County may need to eliminate some services and programs entirely.

Against this background, County legislative priorities which carry a fiscal impact on the State are not likely to receive favorable consideration from the Legislature. While the County needs to press forward with such issues as the elimination of post commitment patient days at the Crisis Center and the creation of comprehensive community-based juvenile services, the County also needs to focus on proposals which can help manage our budget with existing resources. For example, the comparable pay statute should be modified to include the ability to pay, and we will need to identify and protect important revenue streams from State budget cuts.

Given the tight budget situation at both the State and local level, this session may provide an opportunity for the County to more vigorously pursue proposals important to the administration of county government which do not impact the State treasury. This year a number of proposals have been identified which fall into this category, including a ban on ultimate fighting, additional time for the Board of Equalization to decide appeals, and expansion of the number of hotel representatives on the Visitors Promotion Committee.

EXISTING PRIORITIES

1. Post Commitment Patients Held at the Crisis Center

Lancaster County continues to experience serious problems caused by post commitment patients held at the Crisis Center. LB 708 was introduced in 1999 for the purpose of limiting county liability for patients who remain in county custody after being committed by a mental health board because the State refuses to accept them. After the fiscal impact of LB 708 was examined under LR 56, it was reintroduced in 2001 as LB 479 by Senator Carol Hudkins. Thirty-two senators joined Senator Hudkins in sponsoring this Bill. Although LB 479 failed to advance in 2001, the Legislature did appropriate \$1.5 million under LB 692 to assist with the

“...maintenance and treatment of persons in emergency protective custody under the Nebraska Mental Health Commitment Act until such persons are admitted for treatment pursuant to an order of commitment by a district court or a mental health board under section 29-1823 or 83-1037.” See 2001 Neb Laws LB 692, section 20(3). However, this funding does nothing to alleviate Lancaster County’s substantial exposure to liability for holding patients beyond the limitations of the Mental Health Commitment Act and for our inability to provide full treatment at the Crisis Center. Moreover, this risk is uninsurable. LB 692 funds would be better spent on expanding State post commitment resources.

Given the severe budget restrictions in 2002, LB 479 failed to advance. However, the County’s need for relief in this area remains as strong as ever. The Crisis Center simply cannot serve its function of providing emergency protective custody when its beds are filled with post commitment patients.

2. Juvenile Justice

Lancaster County firmly believes community-based juvenile services are more effective and less costly than incarceration followed by out-of-home placements. The County also believes an effective State-County partnership is essential to build and sustain a community-based system. The passage of LB 640 in 2001 was a giant step in the right direction. However, recent budget cuts have drastically reduced available funding under LB 640.

The loss of LB 640 funding comes at a critical juncture for the future of juvenile justice in Lancaster County. As the federal grant supporting Families First and Foremost (F3) draws to an end, replacement funding must be found to sustain the wraparound system of care which has been developed in our community. Recently, the County contracted with Health and Human Resources to provide wraparound services to State wards. The funding source for this contract is Medicaid. Taken together, LB 640 funding and Medicaid could provide the financial engine for sustaining the system of care developed by F3. It will be a County priority to protect these funding streams in the upcoming session.

3. Oppose Elimination of County Inheritance Tax

Additional cuts in county funding is a strong possibility in the upcoming legislative session. Thus it becomes more imperative to preserve the county inheritance tax.

4. Transfer of the District Court Clerk to the State

Lancaster County continues to support the transfer of the District Court Clerk to the State and its elimination as an elected county position. Bailiffs should be included in the transfer, and the function of jury commissioner should remain with the office of election commissioner.

5. Update Roadhouse Statutes

Counties are required to issue licenses for roadhouses under Neb. Rev. Stat. §23-813 through 818 (Reissue 1997). Lancaster County also relies on these statutes to issue licenses for mass gatherings. However, the provisions of the roadhouse statutes are antiquated and do not provide adequate guidance limiting the discretion of counties in the issuance of such licenses.

Updated legislation could possibly assist counties in regulating conduct such as nudity or ultimate fighting.

6. Amend Neb. Rev. Stat. §23-114.03 (Building Permits for Residences on Farmsteads)

In 2001 the Legislature passed LB 366 for purpose of giving counties the right to determine whether building permits should be required for residences located on farmsteads. The specific language of the amendment provided, "Counties may determine whether nonfarm buildings used as residences shall be subject to a county's respective zoning regulations and permit requirements." Unfortunately, this language creates ambiguity with regard to the legislative intent of the amendment because counties already have the right to regulate all nonfarm buildings.

Although the County asked for a clarification of the language in 2002, the Legislature did not have adequate time to address the issue. Accordingly, we are again asking for an amendment to §23-114.03 which clearly states the legislative intent. Possible amendments include simply changing the word "nonfarm" to "farm", or changing the language to read, "Counties may determine whether buildings located on farmsteads used as residences shall be subject to a county's respective zoning regulations and permit requirements."

BUDGET-RELATED PROPOSALS

The difficulties experienced by Lancaster County in preparing this year's budget are likely to confront the County as we begin preparing for the next budget year. The causes of these difficulties include a sharp reduction in State funding and double digit increases in employee wages and benefits. The following legislative proposals are intended to give the County some additional tools to help meet the budgetary challenges which lie ahead.

1. Amend Neb. Rev. Stat. §48-818 to Include Ability to Pay

The terms, conditions and wages of governmental service are subject to review and modification by the Commission of Industrial Relations in accordance with the provisions of the Industrial Relations Act, Neb. Rev. Stat. §§48-801 through 842 (Reissue 1998). Pursuant to §48-818, "...the Commission of Industrial Relations shall establish rates of pay and conditions of employment which are comparable to the prevalent wage rates paid and conditions of employment maintained for the same or similar work of workers exhibiting like or similar skills under the same or similar working conditions..."

Conspicuously missing from this statutory formula is the ability to pay. In other words, the County may be required to fund large increases in wages and benefits, regardless of the impact on the budget. This problem is exacerbated by reductions in State funding and budget lids. Moreover, strict adherence to comparability can lead to large increases in wages and benefits for the government sector while wages in the community remain steady or decline due to recession.

To remedy this problem, local governments need some flexibility in setting wages and establishing benefits. In other words, the ability to pay should be included in the factors utilized by the Commission in setting wages and conditions of employment under §48-818.

2. Partial Payment for Public Defender

While defendants represented by the public defender generally lack the financial resources to hire private counsel, some do have the means to help defray some of the costs of their representation provided by the taxpayers. These defendants should be required to reimburse the appropriate county for all or a portion of the costs of such representation, depending on their ability to pay. This would provide a direct funding source to help cover the costs of the service being provided.

MISCELLANEOUS PROPOSALS

The Lancaster County Board has received a number of suggestions from elected officials and department heads for legislative changes related to the administration of county government. Many of these suggestions do not have a fiscal impact on the State. The following list is a summary of these proposals.

1. Amend Purchasing Act to Allow Cooperative Purchasing Agreements

In the 2002 session LB 1123 was introduced by Senator Ron Raikes to allow the waiver of competitive bidding when the price of goods or services is established pursuant to a cooperative purchasing agreement with other governmental entities. This provides counties with a way to obtain competitive pricing without incurring the expenses and delays of requiring sealed bids. The Bill was referred to the Government, Military and Veterans Affairs Committee and then indefinitely postponed. The County continues to support this legislation.

2. Ultimate Fighting

In recent years ultimate fighting has made its way into Lincoln bars. Local authorities have attempted to block it with existing criminal statutes and ordinances. A legal action was filed seeking to enjoin the City's efforts to prohibit the activity. The Honorable Paul Merritt issued an opinion in that case holding that ultimate fighting is subject to regulation by the State Athletic Commission.

During the 2002 session Senator Hartnett introduced LB 1034 to prohibit ultimate fighting. Due to conflicting schedules, key City and County personnel were unable to attend the hearing and voice support. The Bill was indefinitely postponed. However, it remains a high priority for local law enforcement agencies and the County Attorney.

3. Visitors Promotion

a. Visitors Promotion Committee

In 1999 Neb. Rev. Stat. §81-1255 was amended to give counties the discretion to increase the size of their visitors promotion committee (VPC) from 5 to 7 members. However, the number of hotel representatives on the committee was left at 2. If a county decides to expand their VPC to 7, then the number of hotel representatives should be increased to 3. This would provide greater representation on the VPC from the industry which collects the visitors promotion tax, without giving it a majority on the VPC. This would be consistent with the legislative history of 1980 Neb Laws LB 499.

b. Oppose 2002 Neb Laws LB 1240

LB 1240 authorizes an additional 2% tax on hotel rooms to fund a Local Visitors Improvement Fund. The proceeds are to be used to improve the visitors attractions and facilities in the county. Language may be added to allow expenditure of funds on the construction of new tourism facilities, in addition to improving existing facilities. The hotel community has expressed qualified support for LB 1240, so long as the proceeds of the additional 2% tax are spent on a convention center.

Other provisions of LB 1240 authorize the City of Lincoln to assume control of the Visitors Promotion Fund and the Visitors Improvement Fund. Lancaster County believes control of the hotel tax should remain with the County, and therefore opposes the transfer provisions of LB 1240.

4. Civil Liability for Dishonored Checks

The Lancaster County Attorney devotes a staff attorney to the prosecution of dishonored checks. If budget shortfalls continue, this position may be eliminated. Unfortunately, the high costs of collection preclude private collection of bad checks through civil court. Other states have statutes which allow holders of dishonored checks to recoup these costs, including attorneys fees. Such legislation would provide a remedy for businesses and individuals who are victimized by bad check writers, as well as free up resources in the County Attorneys Office.

5. Extend Time for Board of Equalization to Decide Protests

The property valuation protest process set forth under Neb. Rev. Stat. §77-1502 does not provide adequate time for the Lancaster County Board of Equalization to hear and decide protests. This is especially the case in years when county-wide reappraisals are conducted by the Assessor. One possible solution to this problem is to move up the filing deadline for protests. For example, the filing deadline under §77-1502 could be set at June 20 rather than June 30.

6. Eliminate Responsibility of Counties to Pay HHS Rent

When the State assumed responsibility for welfare, a legislative provision was added requiring counties to maintain facilities for HHS as they existed on April 1, 1983. Counties should be relieved of this responsibility. The fiscal impact on the State could be softened by either phasing in the change or delaying the effective date.

7. Amend Neb. Rev. Stat. §77-1507(4)

In 1999 this statute was amended by LB 194 to prohibit counties from adding omitted

property to the tax rolls which was properly reported to the assessor after June 25 of the year or years in which the property was omitted. The intent of LB 194 was to end the practice of some county assessors of equalizing values beyond the deadline of June 25 by use of omitted value provisions. The restriction is written so broadly that counties are prohibited from capturing omitted value on properties for previous years. The County believes this amounts to an unconstitutional commutation of taxes.

A possible solution to this problem is to amend §77-1507(4) to limit the ability of counties to collect interest and penalties on property which was properly reported but inadvertently left off the tax rolls.

8. Tax Exemption Status for Assisted Living Facilities

In the case of *Bethesda Foundation v. Buffalo County Board of Equalization*, 263 Neb. 454 (2002), the Nebraska Supreme Court expanded Nebraska law to grant tax exempt status to a nonprofit assisted living facility. The ramifications of this decision could result in a large number of properties being taken off the tax rolls in Lancaster County. Many assisted living facilities are presently operating for profit. By simply changing their status to nonprofit they will now be able to claim exemption from property taxes. The County Attorney's Office believes legislation is needed to prevent this reduction of the property tax base.

9. Repeal Neb. Rev. Stat. §23-346.01

This statute requires county clerks to estimate annual supplies for the operation of county government. The Clerk in Lancaster County has not performed this function for many years and §23-346.01 should be repealed.

10. Authority of Counties to Enact Regulations by Resolution

For many years counties have established regulations by resolution. Recent court challenges have questioned the legality of this practice. Although the challenge would appear to be nothing more than an argument over semantics, the problem can be solved by specifically stating the counties have the power to enact regulations by resolution, so long as the regular procedural requirements for exercising legislative power are followed.

One possible solution would be to include language under Neb. Rev. Stat. §23-103 or §23-104 setting forth the general police powers of counties which can be enacted by resolution and the procedure to be followed in enacting the resolutions. At a minimum the procedure should include holding a public hearing with adequate notice to the public, asking for comments favoring or opposing the proposed resolution. Also, it should be clarified that any resolutions enacted in this manner shall have the force and effect of law.

11. Payment in Advance of Services on State Contracts

Lancaster County contracts with the Nebraska Department of Probation for electronic monitoring services relating to juvenile pre-adjudication release and drug court. Probation will not provide services to the County unless payments are made prior to the performance of services. However, State law prohibits the County from auditing and paying claims in advance of services.

In 2002 Senator Ray Aguilar introduced LB1115 for the purpose of creating enabling

powers to create drug courts and to establish program requirements. Lancaster County asked for an amendment to this Bill authorizing the County to pay in advance of services from Probation relating to drug court. At the request of Senator Aguilar, LB 1115 was indefinitely postponed on April 19, 2002.

Regardless of whether LB 1115 becomes law, the County would still need to address the problem of paying the State in advance on the contract for juvenile pre-adjudication monitoring. A broad solution would be to amend Neb. Rev. Stat. §23-135 to include the following language:

The county board may pay in advance of services being rendered if it is pursuant to a contract entered into with the State of Nebraska which meets the provisions and requirements of the Interlocal Cooperation Act.

Another possibility would be to amend Neb. Rev. Stat. §13-804 by adding the following phrase:

Notwithstanding any other provision, a county board may authorize payment to a state agency prior to services being rendered upon the execution of an agreement between the parties which meets the requirements of subsection(3).

12. Emergency Protective Custody Powers for Juvenile Detention

Juvenile Detention Director Dennis Banks has identified a serious problem with regard to the inability of juvenile detention facilities to place youth in emergency protective custody (EPC). He is proposing an amendment to Neb. Rev. Stat. §83-1020 to allow personnel in youth detention facilities to authorize EPC of juveniles in their facilities.

13. Civil Protective Custody

A law enforcement officer has the power to place an intoxicated person in civil protective custody (CPC) pursuant to Neb. Rev. Stat. §53-1,121. Cornhusker Place, which provides CPC services to Lancaster County, has expressed its concern that the CPC statute applies only to alcohol and not to drugs. Thus the authority of a law enforcement officer to place a person into CPC should be expanded to include drugs.

14. Nudity in Bars

The right of Lancaster County to regulate nudity in liquor establishments has been questioned in recent litigation. Specifically, the right of the County to promulgate any regulations with regard to the sale of alcohol was at issue in the case of DLH, Inc., Doing Business As Coaches Sports Bar & Grill v. The Lancaster County Board of Commissioners, No. S-01-557. Unfortunately the Supreme Court did not reach the merits of that claim. Instead, the Court found that County Resolution No. 3557 (which regulates nudity in bars) did not constitute a valid regulation. See Proposal No.10 above.

The County Board believes it should have the same authority to regulate nudity in bars as is held by cities. Appropriate legislation would remove any doubt on this issue.

15. Avoidance of Motor Vehicle Sales Tax

The Lancaster County Treasurer's Office has expressed concern regarding the practice of avoiding sales tax on new vehicle purchases by having a nominee purchase the car and then make

a gift to the intended purchaser. Although this practice is illegal, State officials have been reluctant to enforce it. The Treasurer is seeking the right to directly impose sales tax on the fraudulent gift.

16. Human Services

Human Services Director Kit Boesch has raised a number of legislative topics related to the administration of human services funding and specific issues or programs. These topics include:

- a. Remove Lancaster County from Region V and make it a separate region;
- b. Establish an adult offender community corrections program with separate funding, administered by State Probation;
- c. Lower the age of emancipation from 19 to 18; and
- d. Expand charitable gaming.

17. Inmate Medical Costs

Counties which operate a jail are statutorily obligated to pay the medical expenses of their inmates. See Neb. Rev. Stat. §47-103 (Reissue 1998). For many years Lancaster County has paid at Medicaid rates for inmate medical expenses. However, this practice has been questioned by the local hospital which provides medical services to County inmates. There is no law which requires hospitals to accept payment at Medicaid rates. If the County pays the full cost of inmate medical care, expenses would more than double. Since most of the inmates are Medicaid eligible, and since nonprofit hospitals are considered to be charitable and therefore exempt from paying property taxes, the practice of paying at Medicaid rates is justifiable. Legislation may be necessary to preserve this long-standing benefit for County taxpayers. One possible solution would be to authorize payment of inmate medical expenses through general assistance.

18. Mental Health

Dean Settle, Community Mental Health Director, has compiled an extensive list of legislative proposals and funding concerns. A copy of the list is attached.

19. Corrections

A number of legislative issues have been raised by Corrections Director Mike Thurber. A copy of these issues is also attached.

M E M O R A N D U M

RECEIVED

To: Kerry Egan
From: Dean Settle
Subject: Legislative Proposals and Concerns for the 2003 Legislative Session
Date: October 4, 2002

OCT 08 2002

LANCASTER COUNTY
BOARD

- With regard to Legislative concerns in the area of mental health, we have many. At the Community Mental Health Center, we remain concerned about the increasing General Assistance numbers and the capped service units at Region V. Additional service units are needed and will continue to be needed throughout this year and next year for Medical Services, Day Treatment, Outpatient, Day Rehab, and Vocational Support. Again, we are beginning to see a referral and wait list, beginning for Community Support/Case Management, even after the seven new Case Managers hired with Tobacco Settlement money.
- We have great concerns about the State's commitment to treating the dual diagnosed, mentally ill and substance abuse addiction individuals. We also need to straighten out the credentialing for CADAC, the alcohol and drug addiction counselors that are sorely needed statewide. Currently, we are unable to even recruit provisionally certified CADAC's, they are needed to serve the dually diagnosed that we work with. Our new contract with HHS and Region V requires a CADAC credentialed person on our staff.
- Last year, fifteen budget areas sustained increased costs and had to be dealt with. We need to begin considering cost of living adjustments for mental health. There is no way that we can continue to respond to increases in insurance, personnel, food, technology, HIPAA compliance, laundry costs, facility costs, contractual increases i.e. nursing, without additional revenues to do our job better.
- The State needs to take seriously, the funding of community-based sex offender treatment programs.
- The State also needs to reimburse costs for interpreters, as we are seeing increased numbers of persons who do not speak English, in levels of our program.
- Support the State's review and consideration of streamlining the number of State hospitals for the mentally ill. I think the same number of beds are needed, but question the three campuses, three administrations, and any savings that could be found and should be diverted and devoted to community-based mental health and substance abuse services.

- Medicaid in the State of Nebraska and our behavioral health regulations do not line up. We need to be able to seek Medicaid authorization reimbursements for eligible and billable Medicaid approved services in a timely manner.
- Additional dollars are needed for elderly, mentally ill individuals. Our Harvest Project funded by Community Health Endowment will end July 1, 2003. We need to find new service units and new revenues at the State level to handle this unique and needy population.
- The State needs to assist the County in any way possible to deal with mental health jail diversion issues. As you know, a grant has been applied for, and we hope to hear soon, but it's a time limited grant for three years, and not all costs will be covered by the Federal grant. We will need assistance in this area.
- The Mental Health Managed Care Contract winner, Magellan, is not responsive at this point, and our numbers being served, do not line up with their turn-around document. Authorizations are inconsistent and late, and this is not a good situation to be in. We would hope for more responsiveness, more immediacy in feedback to the provider.

LANCASTER COUNTY CORRECTIONS DEPARTMENT

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MICHAEL THURBER, DIRECTOR

TO: Kerry Eagan
Chief Administrative Officer

FROM: Michael Thurber ^{M.T.}
Corrections Director

DATE: October 9, 2002

RE: Legislative Concerns

The following issues could be further developed for Legislative changes concerning Lancaster County Department of Corrections.

1. Good Time Calculation - Currently offenders in all Nebraska Jails are granted seven days of Good Time Credit per every thirty days of Court ordered sentenced jail time. Offenders sentenced to the Nebraska Department of Corrections earn one day for each day they are sentenced. With this difference, persons can actually serve more time in a County jail sentence than if they were housed at a State Department of Corrections for an identical conviction and sentence.

Good Time Credits are to be used as an aide for jails and prisons to manage incarcerated individuals. Keeping the options open for offenders to stay disciplinary free while they are incarcerated is being a basis for many of them to remain crime free once they have returned to their community. Working with offenders we have found, taking small steps such as granting them Good Time while they are incarcerated can make a difference in them remaining discipline free while they are in jail. This tool allows jails to manage incorrigible individuals with a minimal amount of disruption to the public and/or public safety. This change only asks for the identical system currently in place for State sentenced offenders.

2. Jail Credit on Fines and Fees - The issue of allowing a person to sit in jail or in lieu of financially paying their fines or fees has been an issue discussed many times before in our County. Our Department's Needs Assessment Consultant made mention of this practice of allowing offenders to sit out fines and fees as being one of the reasons of overcrowding in our

facility. We have experienced longer jail stays due to allowing offenders to "sit out" their court ordered fines and fees. The current \$60.00 per day, allows offenders to extend their stay or turn themselves in order "sit out" judgments against them without having to financially pay their court ordered judgment. We feel strongly this should be discontinued by Statute.

3. Work Release Decisions - In discussions with other counties, they have suggested research be conducted to allow departments of Corrections to grant work release actions once an offender is sentenced to their department, and have met the classification criteria of being a possible candidate for work release programming. This would allow departments to be more flexible for sentenced populations that have overcrowded maximum security facilities. Departments having work release beds could then manage their population in a more cost effective facility.
4. In 1998, the Legislature passed LB333; this bill was created to assist agencies housing individuals to allow them to return unused prescription medication for credit instead of destroying unused meds. At this time the State Pharmacy Board has stated county jails do not qualify under this bill. They have stated that jails are not categorized as "long term" facilities. The department feels we need assistance in changing that ruling or legislation to allow jails to participate in the credit of unused meds.

MT/lo