

Tri-County Meeting Agenda

Monday, November 19, 2012 8:30am
The Bellevue Medical Center
Southwest Corner of Highway 370 and South 25th Street
http://www.bellevuemed.com/Our_Location.html
Garden Level Conference Center

- 8:30am Reception and Breakfast Buffet
- 9:00am Welcome, Open Meetings Law Announcement, Bellevue Medical Center Overview, Introductions
- 9:15am Presentation from Open Sky Policy Institute, Renee Fry, Executive Director, <http://www.openskypolicy.org/>
- 10:00am Break
- 10:15am Review of Legislative Issues and Agendas
1. Douglas County
 2. Lancaster County
 3. Sarpy County
 4. NACO – Larry Dix, Executive Director
- 12:00pm Lunch (continue Legislative Agenda discussion, open discussion, or Other Topics)
- 1:00pm Other Topics
1. Budgeting strategies and issues
 - a. Across the Board budget cuts
 - b. Current and anticipated cost drivers
 2. Lancaster County Community Mental Health Center Invitation to Negotiate
 3. Unfunded Mandates
 4. Appointment of Elected Officials by the County Board, rather than being elected
 5. Update on Douglas-Sarpy 911 Communications Shared Services Study Initiative
 6. County Employee health care coverage
 - a. Wellness Programs
 - b. On-site Health Clinics
 - c. Post-Employment Health Plans
 - d. Other alternatives, benefits, cost control opportunities
 7. Sarpy County Bob Gibson Heritage Project Presentation
<http://www.bobgibsonproject.org/>



**MINUTES
TRI-COUNTY MEETING
DOUGLAS, LANCASTER AND SARPY COUNTY BOARDS
THE BELLEVUE MEDICAL CENTER
2500 BELLEVUE MEDICAL CENTER DRIVE, BELLEVUE, NEBRASKA
THURSDAY, NOVEMBER 19, 2012
8:30 A.M.**

Douglas County: Mary Ann Borgeson, County Commissioner; Clare Duda, County Commissioner; Marc Kraft, County Commissioner; P.J. Morgan, County Commissioner; Pam Tusa, County Commissioner; Kathleen Kelley, Chief Administrative Officer; Patrick Bloomingdale, Deputy Chief Administrative Officer; Marcos San Martin, Labor Relations Specialist; Joe Lorenz, Budget & Finance Director; Rick Kubat, Assistant County Manager; Tom Cavanaugh, County Clerk/Comptroller; Ellen M. Sechser, Administrative Assistant, Douglas County Clerk's Office; Diane Battiato, Register of Deeds; Larry Miller, Chief Deputy Register of Deeds; Mike Goodwillie, Chief Deputy County Assessor; John Friend, Clerk of the District Court; Mike Kelley and Sean Kelley, Douglas County Lobbyists

Lancaster County: Larry Hudkins, County Commissioner; Jane Raybould, County Commissioner; Deb Schorr, County Commissioner; Brent Smoyer, County Commissioner; Roma Amundson, County Commissioner-Elect; Kerry Eagan, Chief Administrative Officer; Gwen Thorpe, Deputy Chief Administrative Officer; Dennis Meyer, Budget and Fiscal Officer; Dan Nolte, County Clerk; Ann Taylor, County Clerk's Office; Gordon Kissel, Lancaster County Lobbyist

Sarpy County: Rusty Hike, County Commissioner; Jim Nekuda, County Commissioner; Tom Richards, County Commissioner; Jim Thompson, County Commissioner; Jim Warren, County Commissioner; Brenda Carlisle, County Commissioner-Elect; Don Kelly, County Commissioner-Elect; Wayne Bena, Election Commissioner; Deb Houghtaling, County Clerk; Fred Uhe, Chief Deputy County Clerk and Lobbyist; Mark Wayne, County Administrator; Scott Bovick, Deputy County Administrator; Brian Hanson, Fiscal Administrator; Lee Polikov, County Attorney

Also in attendance was Larry Dix, Nebraska Association of County Officials (NACO) Executive Director

1 RECEPTION & BREAKFAST

A reception and breakfast was held, beginning at 8:30 a.m.

2 WELCOME, OPEN MEETINGS LAW ANNOUNCEMENT, BELLEVUE MEDICAL CENTER OVERVIEW; INTRODUCTIONS

Mark Wayne, Sarpy County Administrator, opened the meeting at 8:56 a.m. and announced the location of a copy of the Nebraska Open Meetings Act.

3 PRESENTATION FROM OPEN SKY POLICY INSTITUTE - RENEE FRY, EXECUTIVE DIRECTOR

Renee Fry, Executive Director, Open Sky Policy Institute gave a presentation on the Open Sky Policy Institute's primer on Nebraska's budget and tax policy, noting the following (Exhibit A):

- Education and Health Care Top Spending
- Decrease in State Spending
- Decrease in Spending in Three Largest Budget Areas: Health and Human Services, Including Medicaid and Children's Health Insurance Program (CHIP); K-12 (Primary and Secondary) Education; and Higher Education
- Decline in Transportation and Infrastructure Spending
- Majority of Revenue Comes from Sales and Individual Income Taxes
- State and Local Tax Revenues
- Property Taxes Have Exceeded Inflation
- Greater Reliance on Federal Revenues
- Tax Expenditures are Greater than General Fund Spending
- Sales Tax Base is Eroding
- Revenue Collections Fall Short of the Cost of Services
- Nebraska's Tax System is Regressive
- County Spending has not Increased in Recent Years

Fry also discussed the inheritance tax issue. **NOTE:** The Governor has proposed repeal of Nebraska's inheritance tax. Most counties will have to increase property taxes to make up the loss of inheritance tax revenue. She said some counties can temporarily manage the loss of revenue by drawing down their cash reserves but lack the flexibility to raise property taxes when their reserves run out. Other counties have low reserves and cannot raise property taxes to replace the revenue without exceeding property tax limitations (lid or levy, or both) (see Exhibit A). Douglas and Lancaster County have low reserves but have room under the state property tax limitations to increase property taxes. Sarpy County is in a more enviable position because it has greater cash reserves than most counties. Fry said spending cuts are another option but many counties have already made significant reductions to their budgets.

In response to a question from Jane Raybould, Lancaster County Commissioner, Fry said her organization is advocating for a comprehensive tax reform commission.

Mark Wayne, Sarpy County Administrator, noted representatives of Douglas, Lancaster and Sarpy County and the Nebraska Association of County Officials (NACO) plan to meet with the Governor next week to discuss the inheritance tax issue. He said the Douglas and Lancaster County Boards have indicated they are not willing to compromise on the issue. The Sarpy County Board has not taken a position.

Larry Dix, NACO Executive Director, said he had a conversation this summer with a representative of the Governor's Office about a possible phase-out of services counties are mandated to provide in an attempt to reduce or eliminate the inheritance tax. The Governor has since decided to pursue elimination of the tax.

Raybould said the Governor is quoting misinformation when he talks about the inheritance tax, i.e., it is a disincentive for businesses looking to locate in Nebraska and hurts Nebraska's national ranking for retirees. Dix said the ranking that is most referenced is in the Kiplinger Retirement Report. He noted there are seven other states that have an inheritance tax and said in some cases the tax goes directly to the state, not the county, so it is difficult to make a comparison. Dix felt businesses are not making a decision on whether or not to locate in Nebraska based on the inheritance tax. Instead they look at factors such as services, infrastructure, available workforce, crime and natural resources.

Roma Amundson, Lancaster County Commissioner-Elect, asked the Legislature's position on the inheritance tax. Dix said he believes the makeup of the Revenue Committee will be a deciding factor. Mike Kelley, Douglas County Lobbyist, said he doesn't believe the Governor has enough votes to repeal the inheritance tax but counties will need to continue to work the issue.

Kerry Eagan, Lancaster County Chief Administrative Officer, said counties also need to educate the public on the issue. Dix noted the Cattlemen's Association and Farm Bureau have been interested in this issue and said he has provided them with information on who pays the tax and how the counties use the revenue. Deb Schorr, Lancaster Commissioner, noted a press conference in the State Capital Rotunda has also been discussed.

Jim Thompson, Sarpy County Commissioner, felt it would be helpful to know how many of those who pay the tax live outside of Nebraska. Dix explained it is difficult to do a statistical analysis because it would involve going into the court records.

4 REVIEW OF LEGISLATIVE ISSUE AND AGENDAS

A. Douglas County

Rick Kubat, Douglas County Assistant County Manager, reviewed Douglas County's legislative initiatives (Exhibit B):

- 1) Oppose any legislative attempts to eliminate the inheritance tax
- 2) Legislative Bill (LB) 908 (Commission on Public Advocacy)
- 3) Allow specific elected row officers in counties with a city of the metropolitan class to be appointed
- 4) Oppose any attempts for City-County merger
- 5) Support maintaining current state law related to Visitor Improvement Funds
- 6) Support legislation allowing counties ordinance authority in the setting of county fees

He also noted likely legislation that may impact Douglas County (see Exhibit B):

- 1) Expansion of Medicaid under the Affordable Care Act
- 2) Tax Increment Finance (TIF) Districts

B. Lancaster County

Eagan presented 2013 Lancaster County Legislative Priorities (Exhibit C):

- 1) Oppose elimination of the inheritance tax
- 2) Support expansion of Medicaid under the Affordable Care Act
- 3) Eliminate responsibility of counties to pay Nebraska Health and Human Services (HHS) rent
- 4) Modify right to court appointed attorney in Juvenile Court
- 5) Definition and oversight for staff secure juvenile detention facilities

Copies of Lancaster County Legislative Proposals, 2013 Session were also disseminated (Exhibit D).

C. Sarpy County

Fred Uhe, Sarpy County Chief Deputy County Clerk and Lobbyist, presented Sarpy County's legislative priorities (Exhibit E):

- 1) Oppose efforts to eliminate the inheritance tax
- 2) Comprehensive review of all county fees, including adjustments for inflation and the introduction of a Consumer Price Index (CPI) element to future fee increases

- 3) Change state statutes to clarify that the Enhanced 911 (E911) cellular fees can be used to pay costs associated with the Next Generation 911 technology
- 4) Increase the limit found in Nebraska Revised Statute §39-810 regarding the project cost of bridge repairs that can be done in-house
- 5) Oppose efforts to repeal the Build Nebraska Act (LB 84, 2011 Session) or to divert any portion of the state sales tax dollars dedicated to this program
- 6) Oppose legislative or regulatory restrictions on inmate phone costs at the local level
- 7) Monitor changes regarding appropriations and sustainability of the State's Health Care Cash Fund

Uhe said Sarpy County may also seek additional ordinance authority and increases in fees.

D. Nebraska Association of County Officials (NACO)

Dix discussed NACO's legislative priorities (Exhibit F):

Pursue

- Repeal regulation of locksmith licenses
- Eliminate reporting of general assistance work programs
- Authorize the payment of premiums on tax sales certificates
- Revise jury commissioner population statutes
- Change personal property tax filing deadlines
- Grant counties ordinance authority to set fees
- Remove population restriction from all-mail elections

Further Review and Evaluation

- Revise controlling account responsibilities

Dix noted that NACO plans to concentrate its efforts on inheritance tax this session.

Dix disseminated a list of possible sources of replacement revenue if inheritance taxes are eliminated (Exhibit G).

Mary Ann Borgeson, Douglas County Commissioner, felt counties need to pursue having Medicare eligibility continue for individuals who were arrested until their sentencing occurs. Dix said he is scheduled to discuss this issue with State Senator Campbell.

OTHER TOPICS

D. Appointment of Elected Officials by the County Board, Rather Than Being Elected

Schorr asked which offices Douglas County would like to see appointed (see Douglas County's list of legislative initiatives). Pam Tusa, Douglas County Commissioner, said she would like to see the County Clerk/Comptroller, Clerk of the District Court, Register of Deeds and the County Treasurer become appointed positions by 2016. She said she has pursued this issue for the past three years. The last time she brought it before the Douglas County Board was in January, 2012 and it was tabled. Dix said he believes it may be a constitutional issue rather than a legislative issue and disseminated copies of a Nebraska Attorney General's opinion issued in 1996 that addresses the issue of whether a constitutional amendment is necessary to alter Nebraska's current form of County governance (Exhibit H). Patrick Bloomingdale, Deputy Chief Administrative Officer, felt the legal opinion was not on point and suggested consideration be given to requesting another opinion.

5. LUNCH

The meeting was recessed for lunch at 11:04 a.m.

The meeting resumed at 11:40 a.m.

SARPY COUNTY BOB GIBSON HERITAGE PROJECT PRESENTATION

Uhe discussed the Bob Gibson Heritage Project, which involves plans to commemorate Gibson, a Baseball Hall of Fame pitcher who was born in Omaha, with a statue at Werner Park, the metro area's new minor league baseball stadium (Exhibit I).

6. OTHER TOPICS

E. Update on Douglas-Sarpy County 911 Communications Shared Services Study Initiative

Larry Lavelle, Director, Sarpy County Emergency Management, appeared and discussed the Douglas-Sarpy County 911 Communications Shared Services Study Initiative (a study to look at having the region share infrastructure for 911 services).

A. Budgeting Strategies and Issues

1. Across-the-Board Budget Cuts

Wayne noted Douglas County sought across-the-board budget cuts and asked whether that effort was successful and if it anticipates similar measures in the future. Joe Lorenz, Douglas County Budget & Finance Director, said Douglas County asked for

4% across-the-board budget cuts for two years. Last year the Douglas County Board held departments to a flat budget. He said with limited resources, the Douglas County Board has decided not to take that approach going forward and instead prioritize services in making funding decisions.

Dennis Meyer, Lancaster County Budget and Fiscal Officer, said the Lancaster County Board tried across-the-board budget cuts the last three years but is past that point now. He said they are now forced to look at non-mandated functions.

Wayne said Sarpy County has never tried across-the-board budget cuts but has tried to maintain a tight budget.

2. Current and Anticipated Cost Drivers

The following were mentioned as having a large impact on the counties' budgets: labor costs, 911/emergency communications, law enforcement, courts, jails, roads, declining federal revenues, and the cost of holding elections.

B. Lancaster County Community Mental Health Center (CMHC) Invitation to Negotiate (ITN)

Eagan gave an overview of Lancaster County's plans to transition its Community Mental Health Center (CMHC) to a private provider, utilizing the Invitation to Negotiate (ITN) process (Exhibit J). He said Lancaster County sees this as an opportunity to integrate behavioral health care with primary health care.

C. Unfunded Mandates

Lancaster and Sarpy County disseminated lists of services they provide to the State without reimbursement (unfunded mandates) (Exhibits K and L).

Douglas County did not provide copies of its list but Lorenz said the major items are costs paid out of the General Fund for corrections, the courts and General Assistance (GA).

D. Appointment of Elected Officials by the County Board, Rather Than Being Elected

E. Update on Douglas-Sarpy County 911 Communications Shared Services Study Initiative

Items D and E were moved forward on the agenda.

OTHER ITEMS

Wayne introduced Paulette Davidson, Chief Executive Officer, Bellevue Medical Center.

RETURNING TO OTHER TOPICS

F. County Employee Health Care Coverage

1. Wellness Programs

The following wellness programs were mentioned: smoking cessation, employee physicals, diabetes checks, assistance with weight management, and blood chemistry profiles.

2. On-Site Health Clinics

It was noted there is an on-site health clinic in the Omaha City Hall/Douglas County Courthouse that is open to City and County employees, as well as the public. The clinic is operated by Alegant Creighton Clinic, with the space donated by the City of Omaha.

3. Post-Employment Health Plans

Wayne said Sarpy County is looking at providing a Post-Employment Health Plan (PEHP) as it might encourage employees to retire earlier.

Eagan said Lancaster County has a plan in place but it no longer covers the employees represented by the American Federation of State, County & Municipal Employees (AFSCME).

4. Other Alternatives, Benefits, Cost Control Opportunities

Suggestions included wellness committees, health fairs, health surveys, screenings, negotiate discounted rates for fitness centers, and offer employees incentives to take advantage of wellness programs, such as opportunities to earn points to reduce their health care premiums.

7. SARPY COUNTY BOB GIBSON HERITAGE PROJECT PRESENTATION

8. OTHER BUSINESS

Items 7 and 8 were moved forward on the agenda.

9. ADJOURNMENT

There being no further business, the meeting was adjourned at 2:21 p.m.

Dan Nolte

Dan Nolte
Lancaster County Clerk



EXHIBIT
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A



Clear thinking for a stronger Nebraska

About OpenSky Policy Institute

We are a non-partisan think tank focused on fiscal policy in Nebraska.

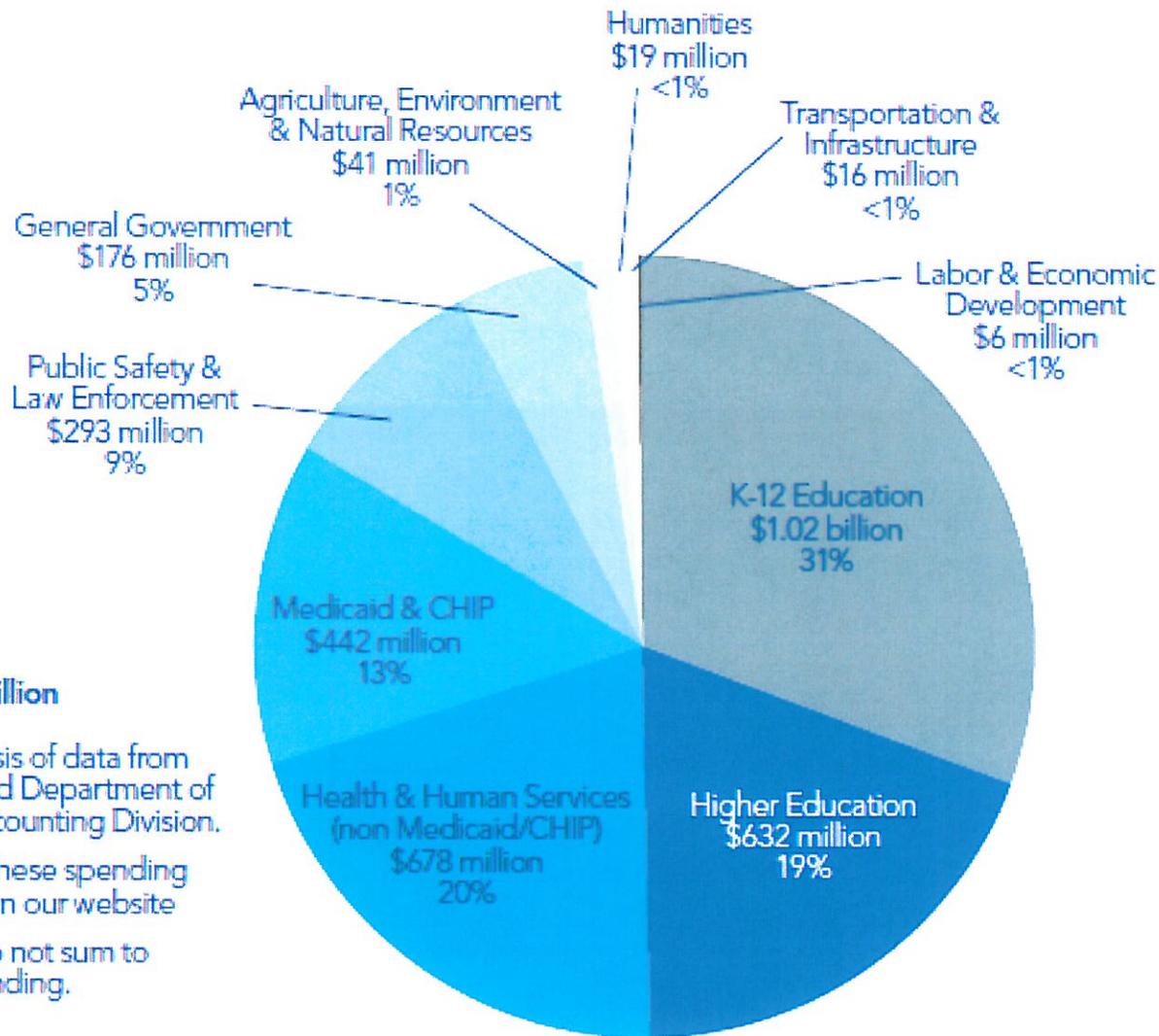
Our mission is to improve opportunities for every Nebraskan by providing impartial and precise research, analysis, education, and leadership.

Importance of the State Budget

- Over 280,000 acres of surface water in lakes and reservoirs, 18,000 miles of rivers and streams, 108,000 irrigation wells, and 2,100 dams are monitored and inspected for water quality, dam safety, floodplain management, and public recreation purposes;
- The State Patrol drives more than 10 million miles of Nebraska's roadways annually, improving public safety, enforcing traffic and drug laws and investigating crimes;
- Nearly 300,000 students are educated by 22,000 teachers in over 1,000 public schools each year
- More than 107,000 students attend the University of Nebraska, state colleges, and community colleges each year
- Almost 10,000 miles of highway and over 3,500 bridges are maintained (enough road to reach nearly halfway around the earth)
- More than 137,000 children receive health care through Medicaid each month
- More than 7,000 Nebraskans are cared for in state nursing facilities each month
- More than 4,500 inmates are housed each month in the state correctional system
- 175,000 professional licenses are overseen, including for more than 7,500 physicians, 35,000 nurses, 3,500 pharmacists, 7,000 mental health professionals, 1,500 dentists, and 1,000 veterinarians.

Education, Health Care Top Spending

General Fund Expenditures, FY 10-11



Total: \$3.32 billion

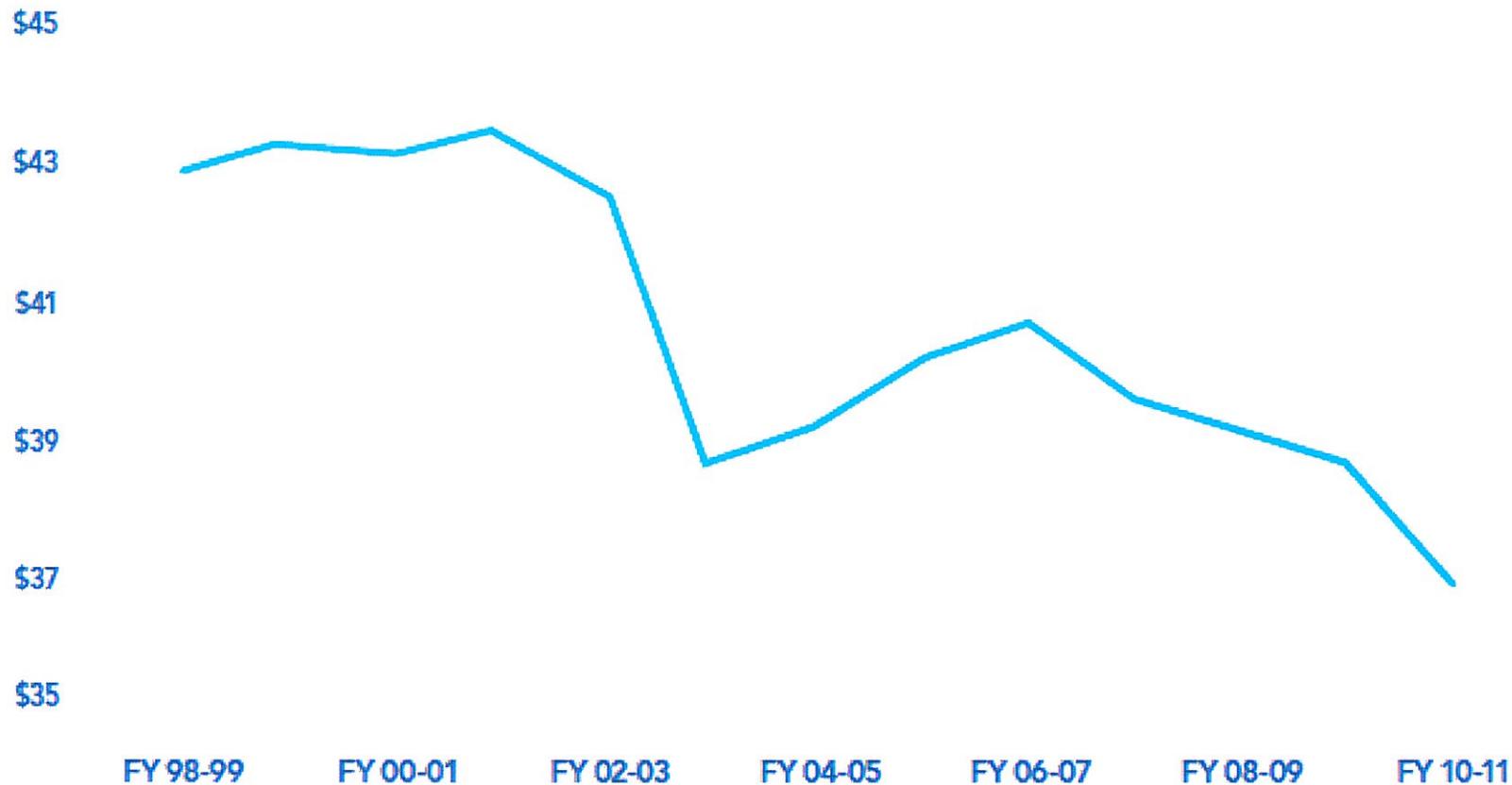
Sources: OpenSky analysis of data from Legislative Fiscal Office and Department of Administrative Services Accounting Division.

▶ More information on these spending categories is available on our website

Note: Percentages do not sum to 100 due to rounding.

State Spending in Nebraska Has Fallen

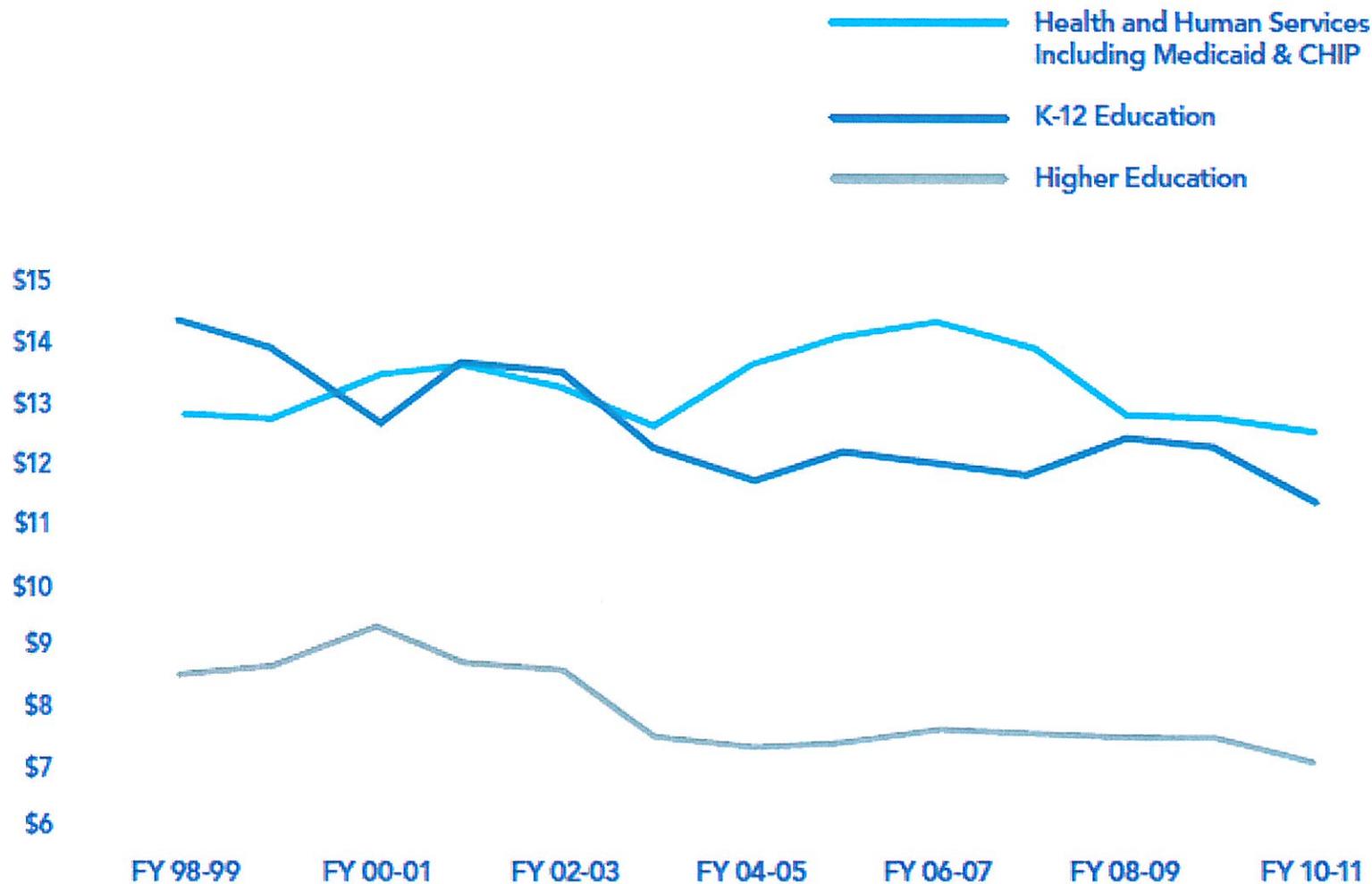
General Fund Spending per \$1,000 of Nebraska GDP



Sources: OpenSky analysis of Department of Administrative Services Accounting Division, Legislative Fiscal Office, and US Bureau of Economic Analysis data.

Drop in Spending on Three Largest Budget Areas

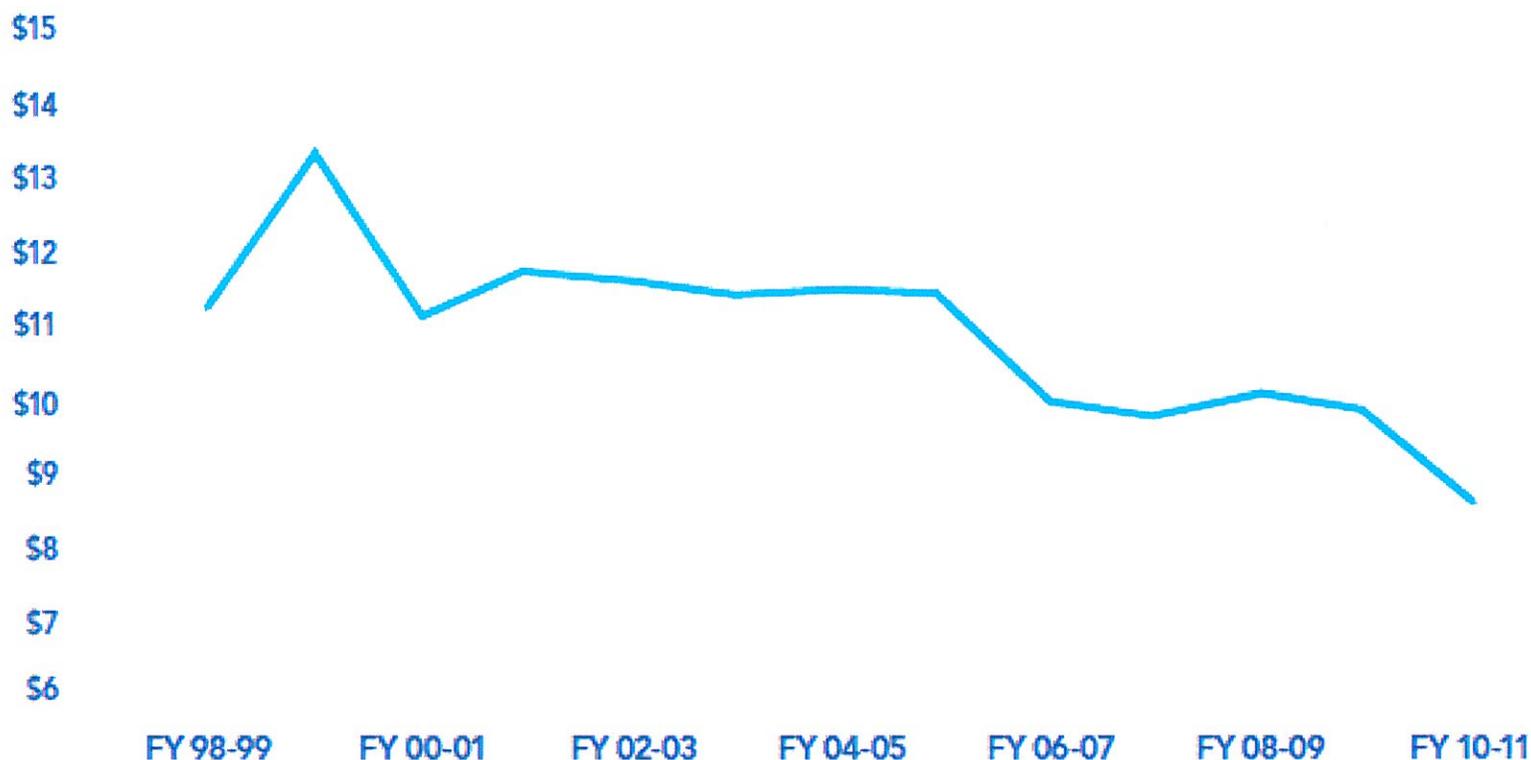
General Fund Spending per \$1,000 of Nebraska GDP



Sources: OpenSky analysis of Department of Administrative Services Accounting Division, Legislative Fiscal Office, and US Bureau of Economic Analysis data.

Transportation and Infrastructure Spending has Declined

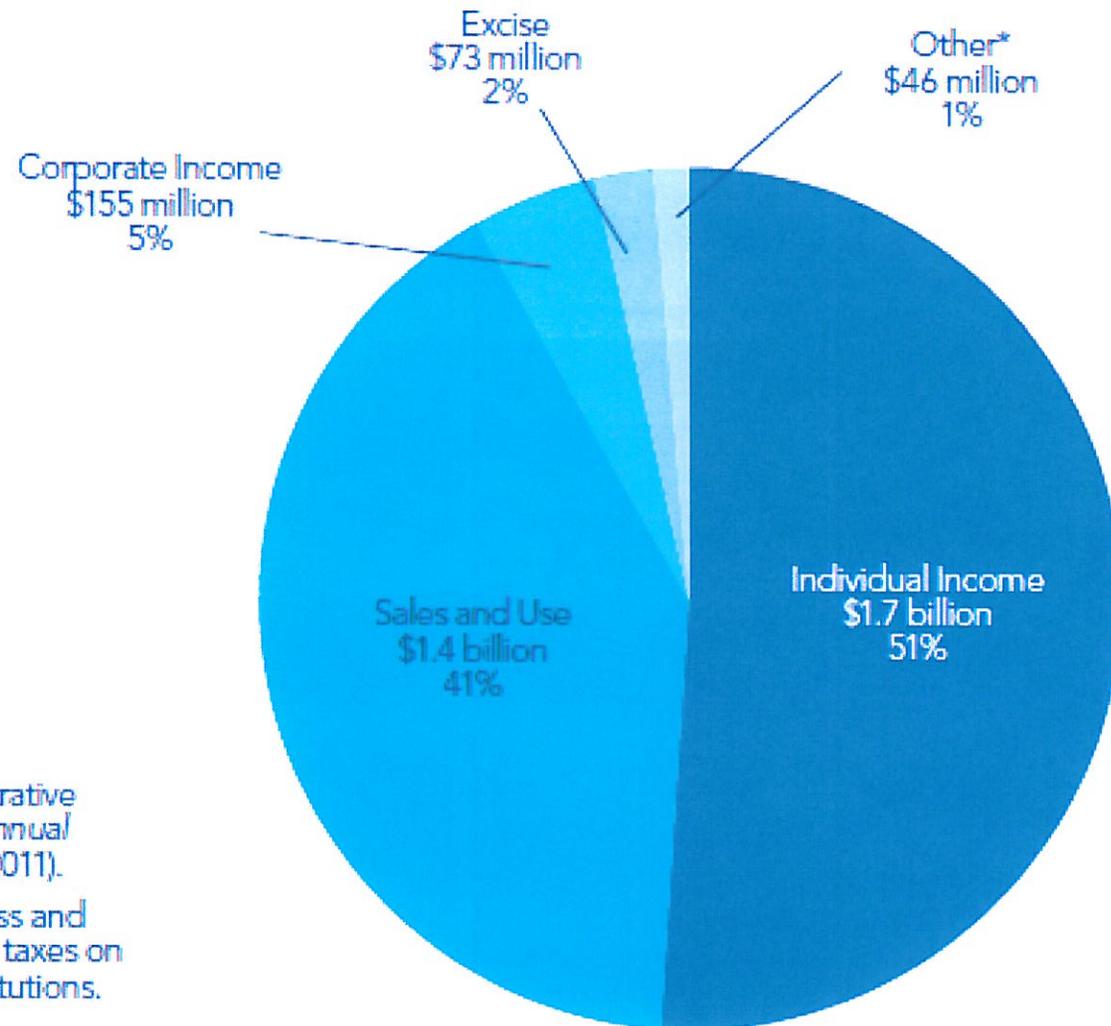
General and Cash Fund Spending per \$1000 of Nebraska GDP



Sources: OpenSky analysis of Department of Administrative Services Accounting Division, Legislative Fiscal Office, and US Bureau of Economic Analysis data.

Most Revenue Comes from Sales and Individual Income Taxes

General Fund Tax Revenues, FY 11



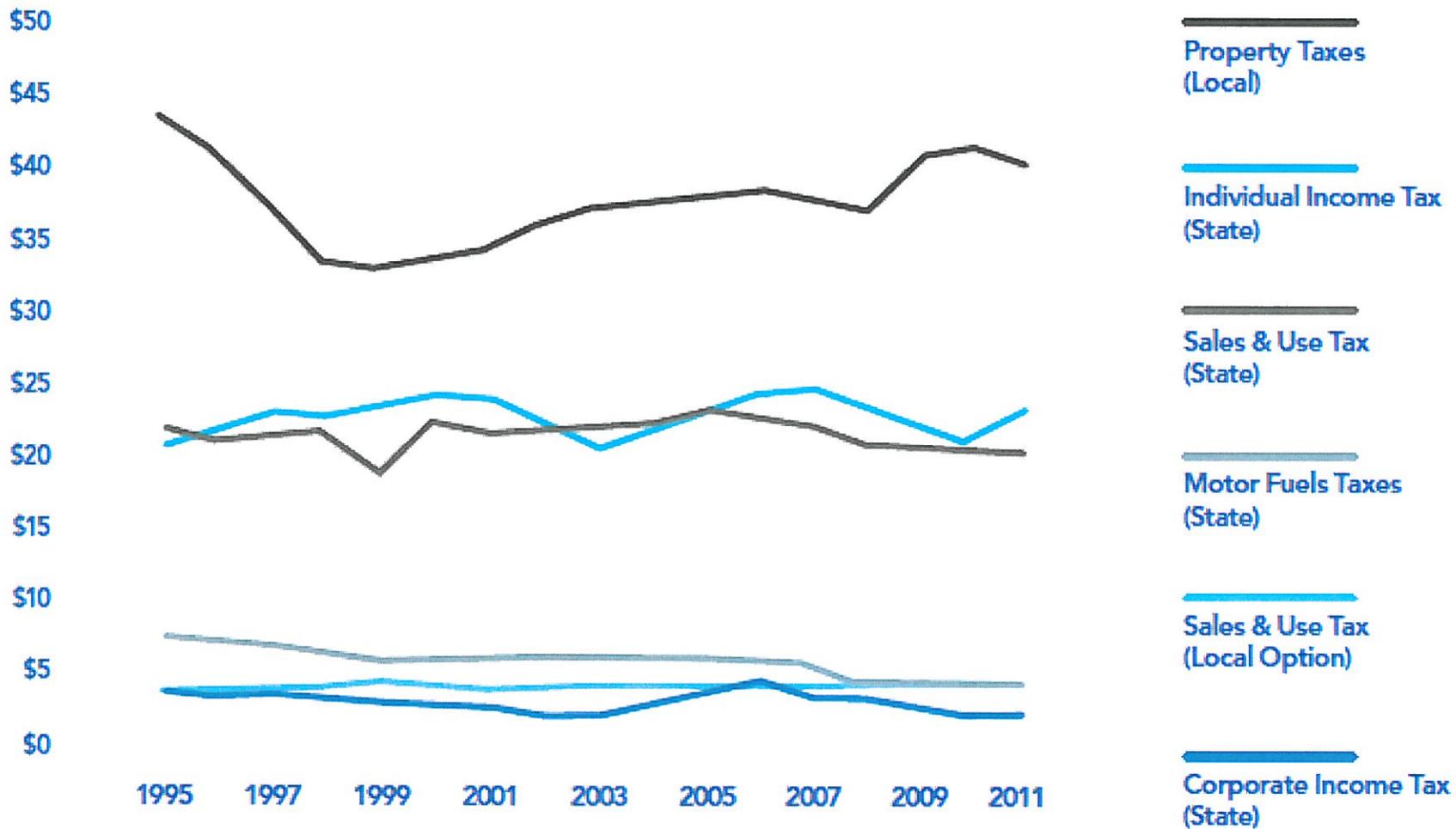
Total: \$3.37 billion

Source: Department of Administrative Services Accounting Division, Annual Budgetary Report (December 2011).

*Other taxes are primarily Business and Franchise Taxes and special income taxes on fiduciary income and financial institutions.

Major State and Local Tax Revenues

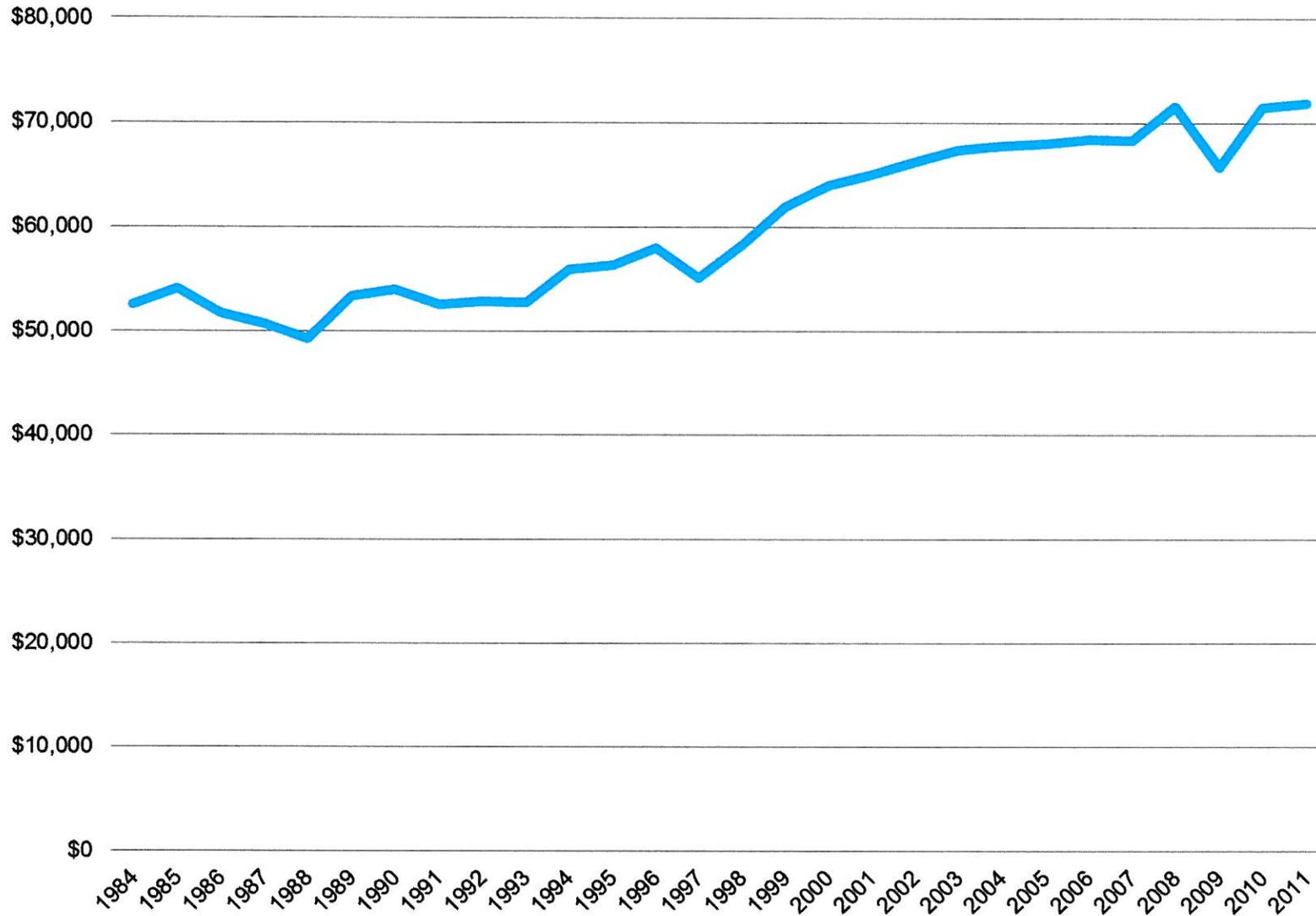
Taxes per \$1,000 of Nebraska Personal Income, 1995-2011



*State data are for fiscal years (2011 = FY 10-11); local data are for calendar years.
Sources: Department of Administrative Services Accounting Division, *Annual Budgetary Reports*, and Department of Revenue Property Assessment Division, *2011 Annual Report*.

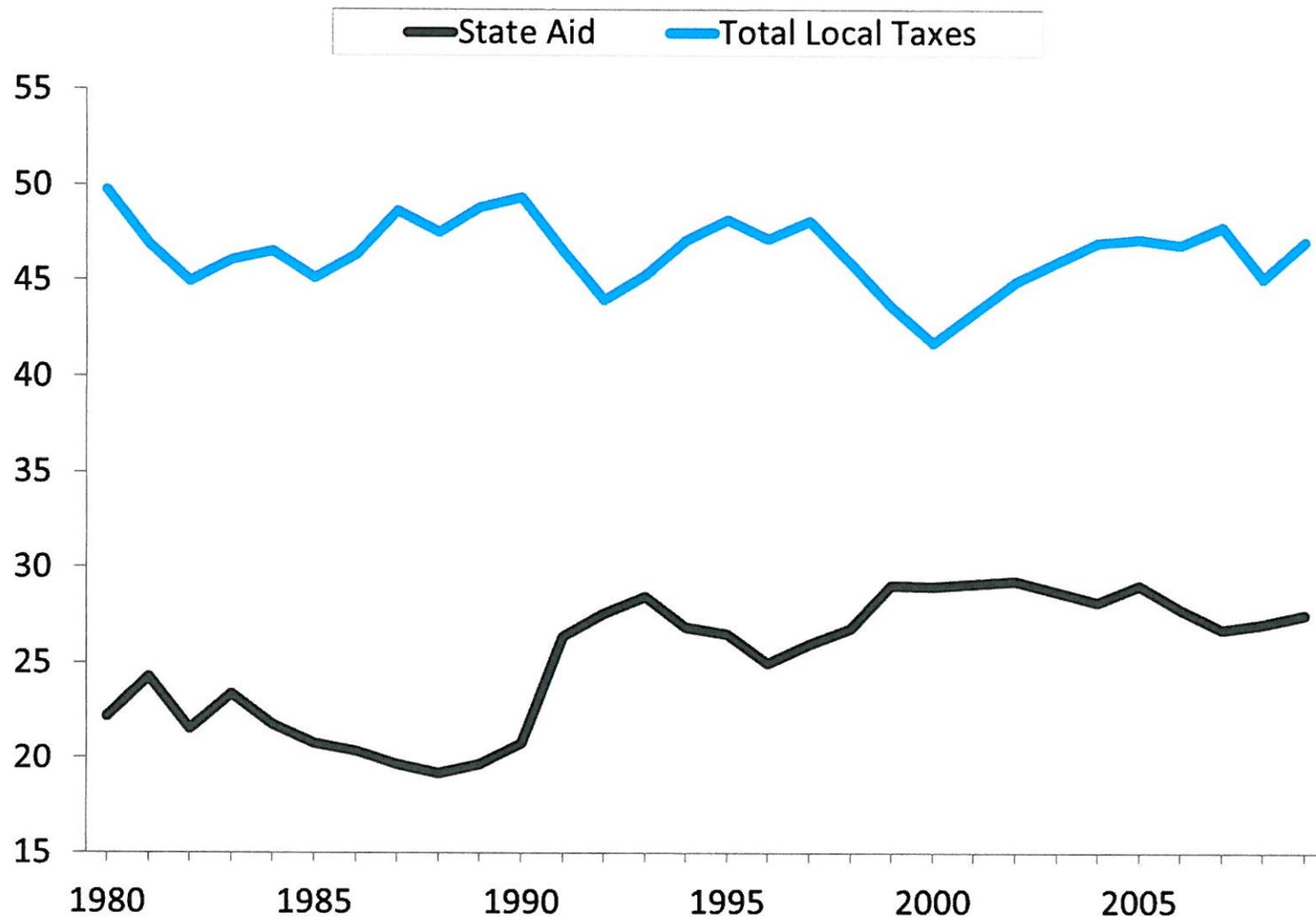
Property Tax Base Has Exceeded Inflation

Taxable Property per capita, Inflation-Adjusted



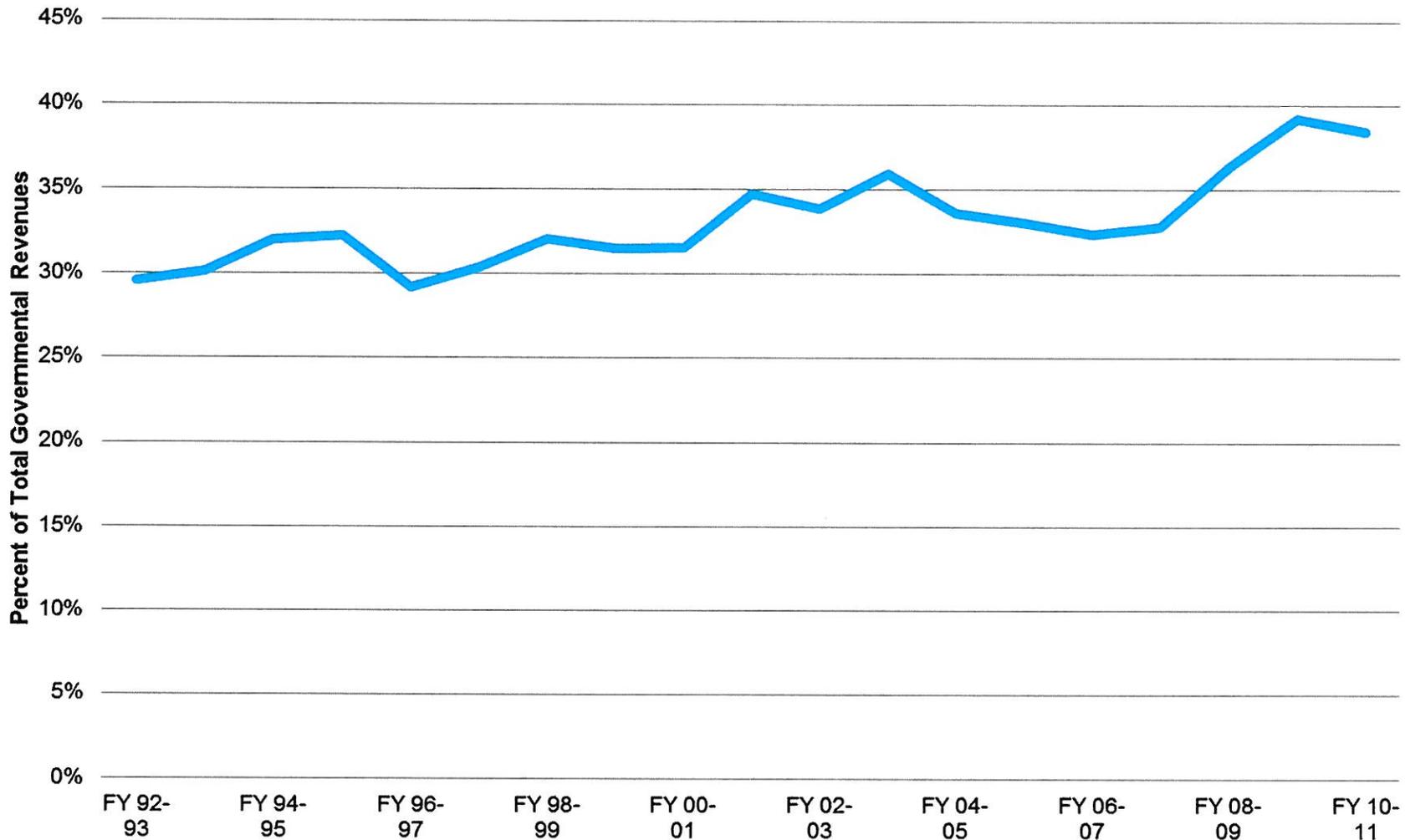
State Aid and Local Taxes Have Mirrored Each Other

Aid and Taxes per \$1000 of Nebraska Personal Income



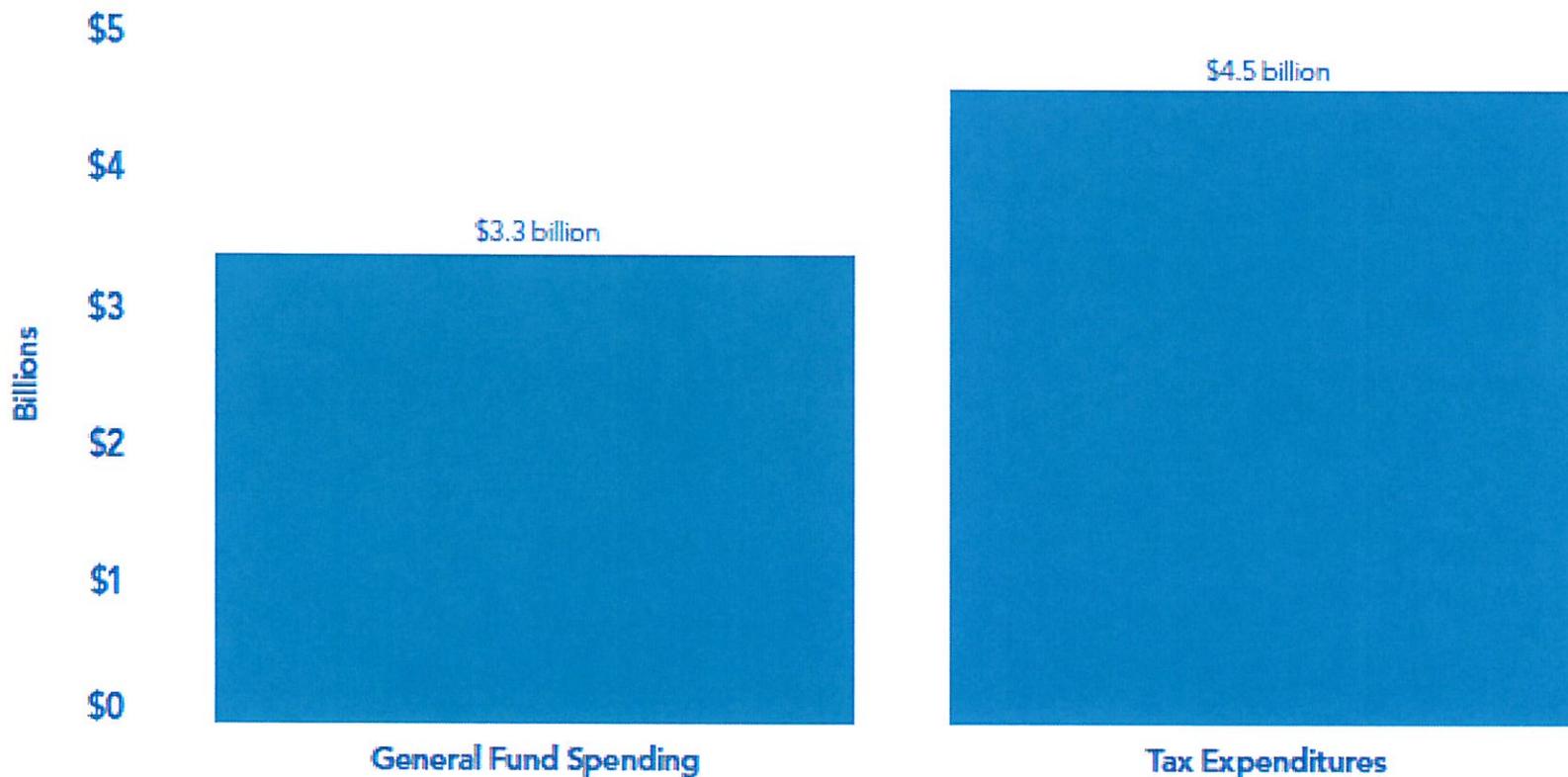
Sources: US Census Bureau, *Survey of State & Local Governments*; US Bureau of Economic Analysis

Federal Revenues Have Grown as Share of Nebraska Budget



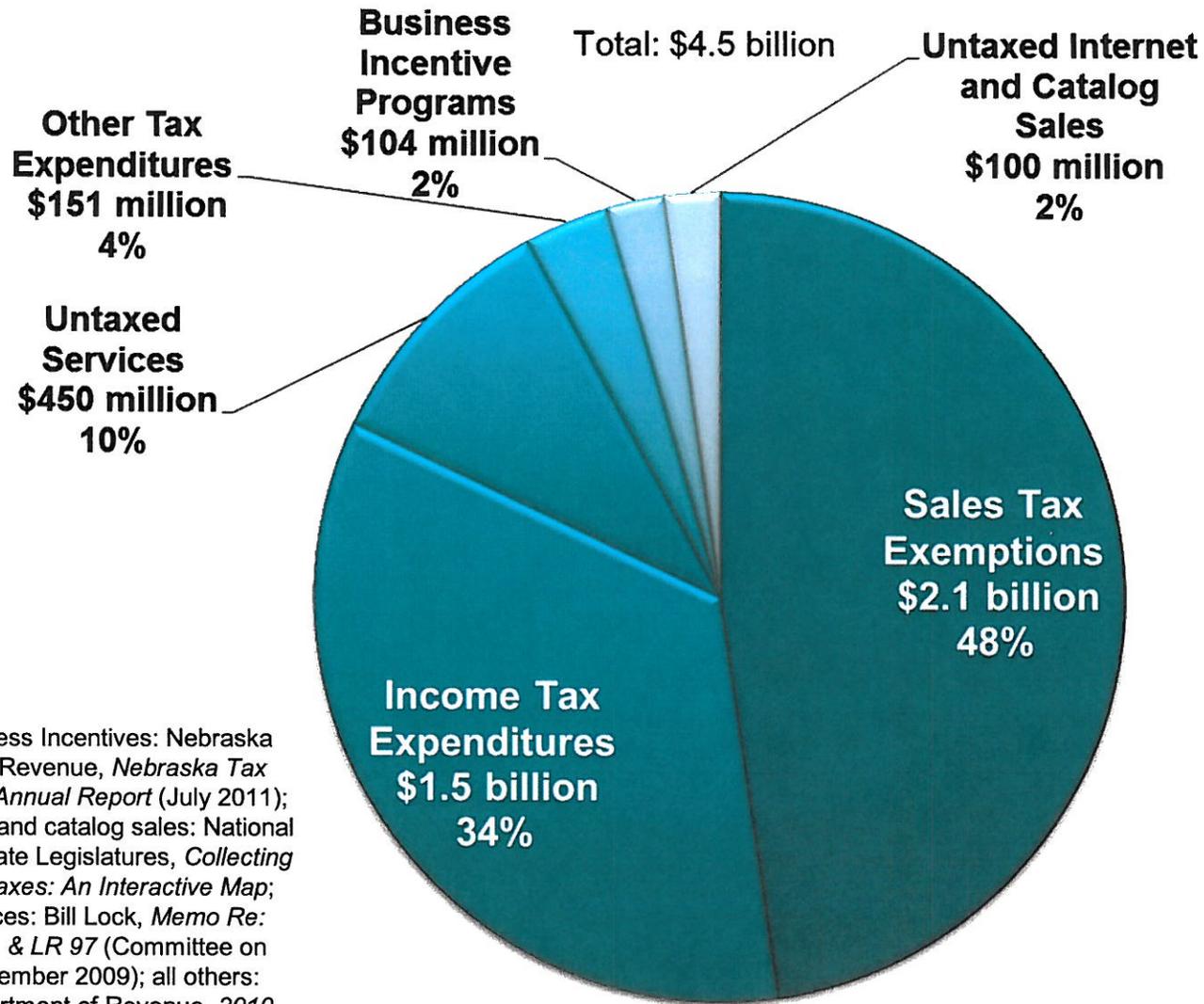
Source: Department of Administrative Services Accounting Division, *Comprehensive Annual Financial Report* (December 2011)

Tax Expenditures Edge General Fund Spending, FY 09-10



Note: For data availability reasons, this figure represents FY 09-10.

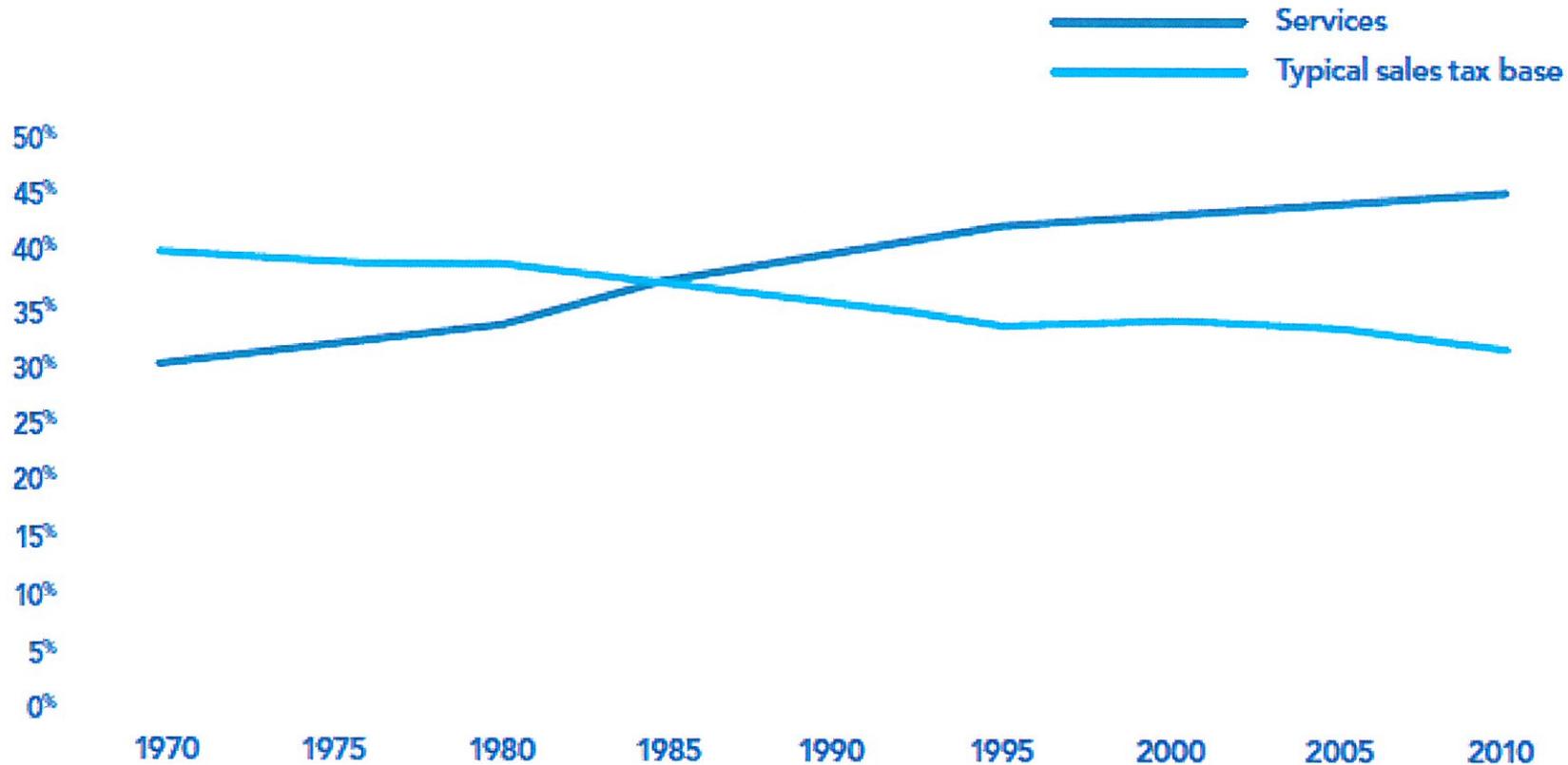
Tax Expenditures by Type, FY 09-10



Sources: Business Incentives: Nebraska Department of Revenue, *Nebraska Tax Incentives 2010 Annual Report* (July 2011); Untaxed Internet and catalog sales: National Conference of State Legislatures, *Collecting E-Commerce Taxes: An Interactive Map*; Untaxed Services: Bill Lock, *Memo Re: LR161, LR166, & LR 97* (Committee on Revenue: December 2009); all others: Nebraska Department of Revenue, *2010 Tax Expenditure Report* (October 2010); 2010 data were used where possible.

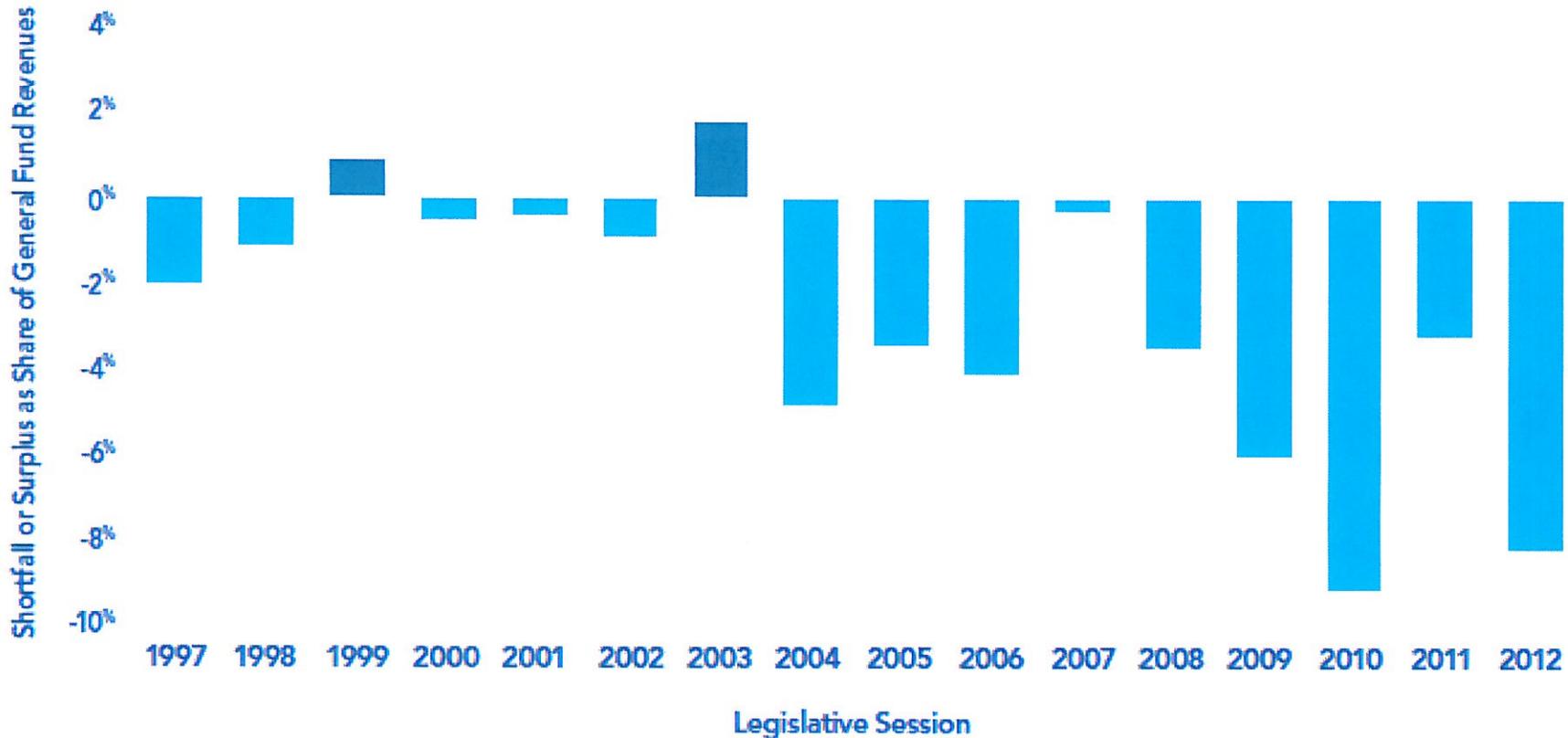
Sales Tax Base Eroding

Goods and Services as Share of Household Consumption



Sources: OpenSky analysis of data from Center on Budget and Policy Priorities, and US Bureau of Economic Analysis, *National Income and Product Accounts*, Table 2.4.5U

Revenue Collections Fall Short of Cost of Services

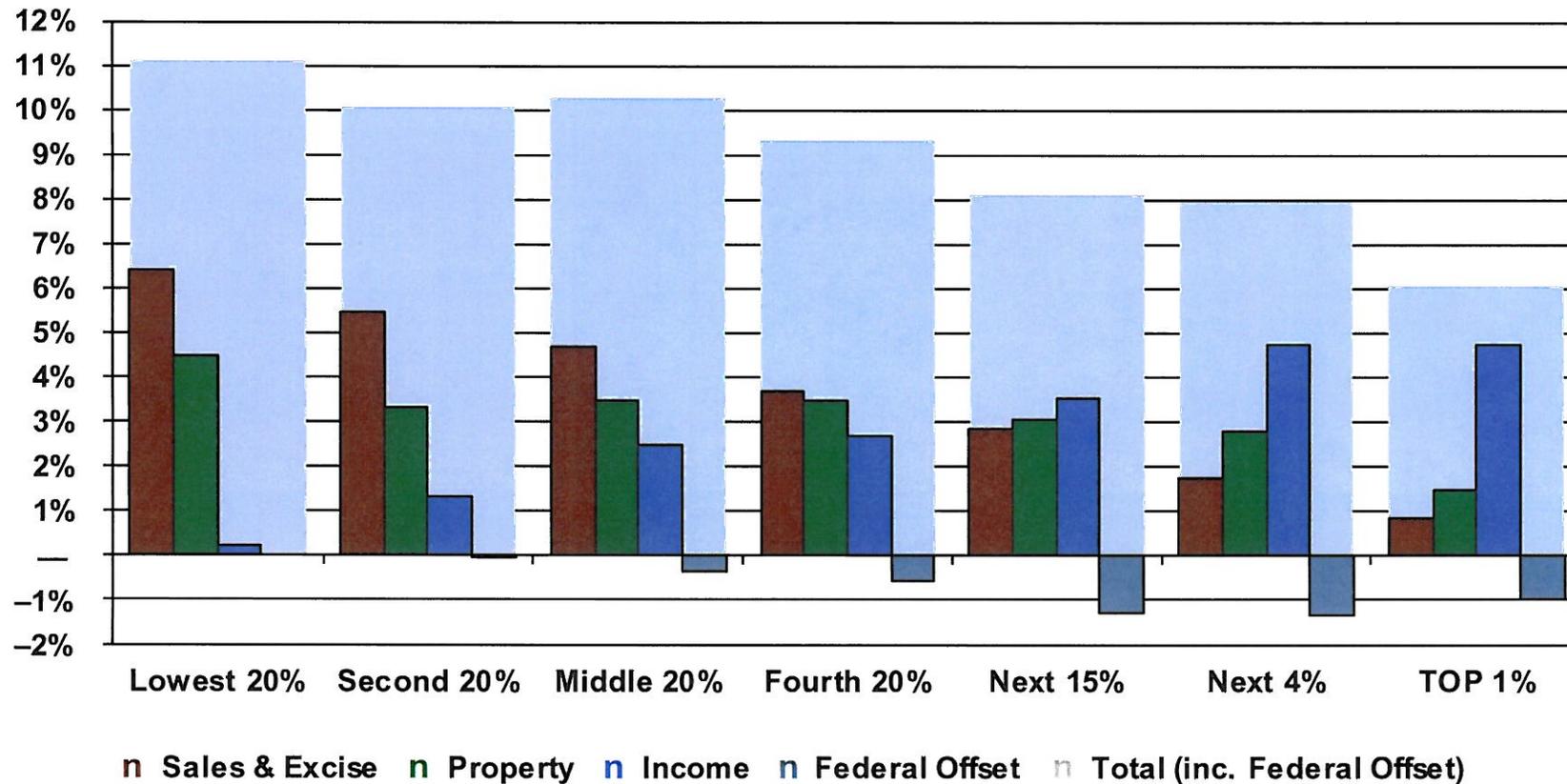


Sources: Legislative Fiscal Office, *Biennial Budget Reports* (1991-2012).

Nebraska's Tax System is Regressive

State & Local Taxes in 2007

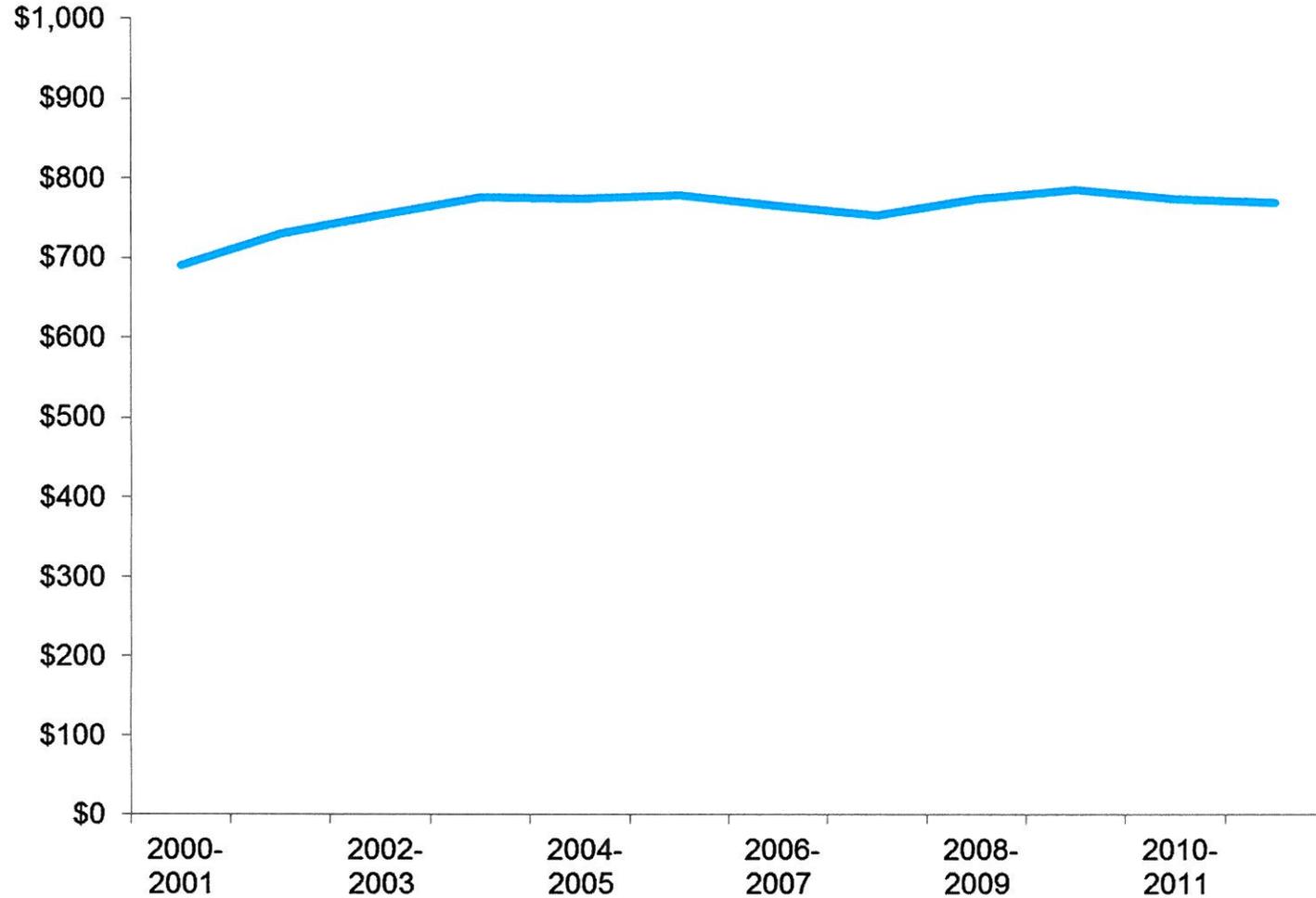
Shares of family income for non-elderly taxpayers



Source: Institute for Taxation and Economic Policy

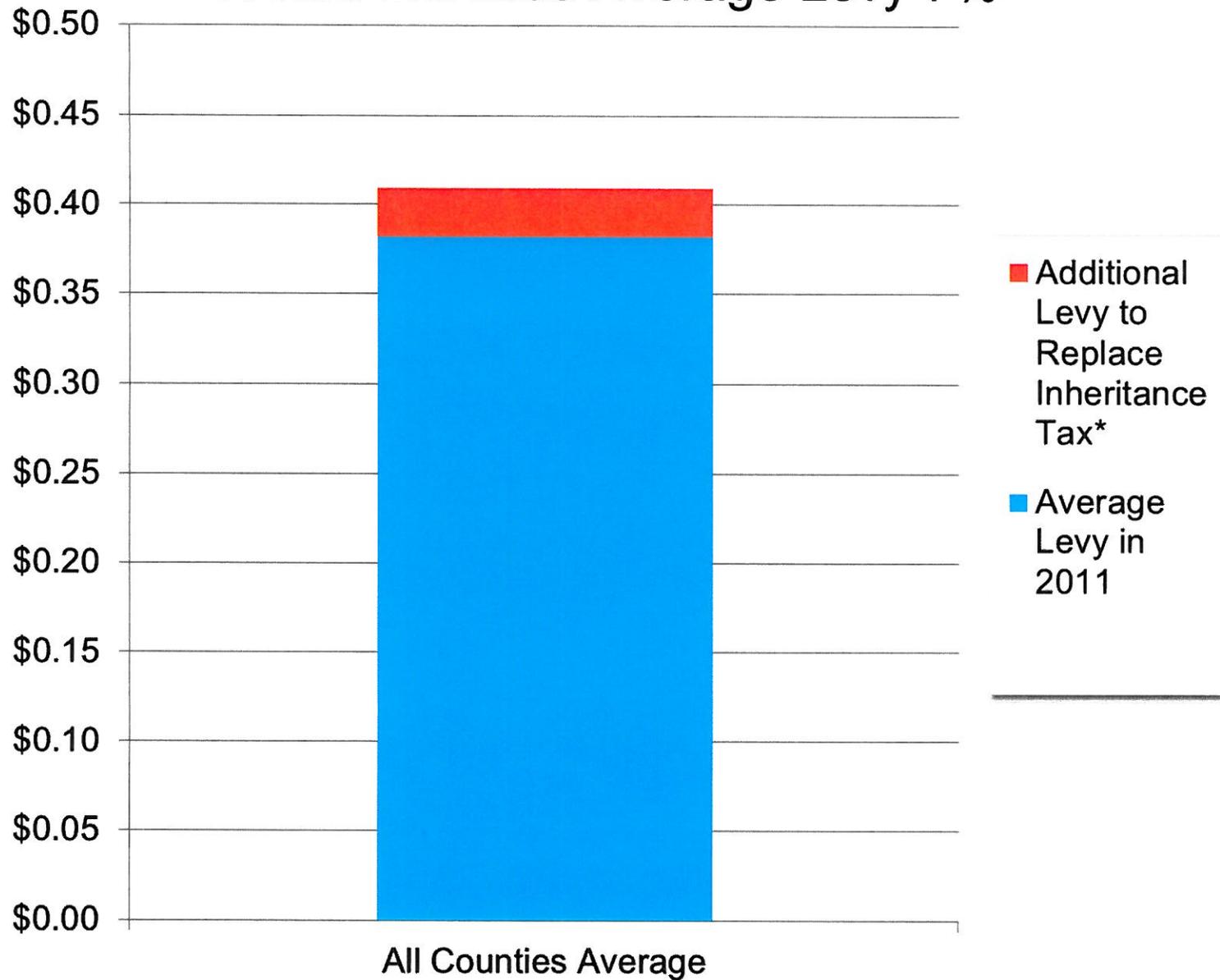
County Spending Has Not Increased in Recent Years

Inflation-Adjusted County Operating Expenses Per Capita



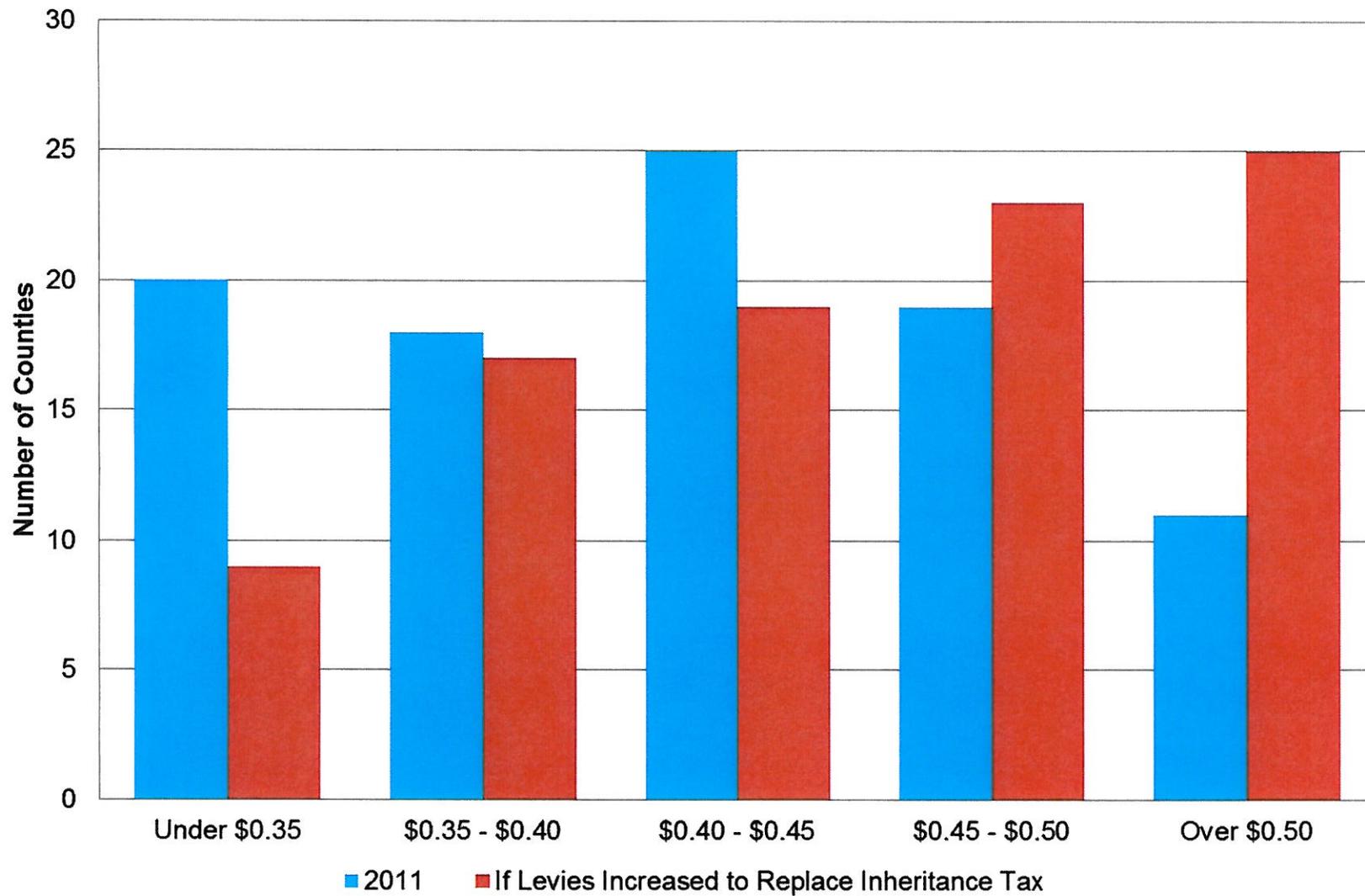
Sources: Nebraska Auditor of Public Accounts County Budget Data

Replacing Inheritance Tax Revenues with Property Taxes Would Increase Average Levy 7%



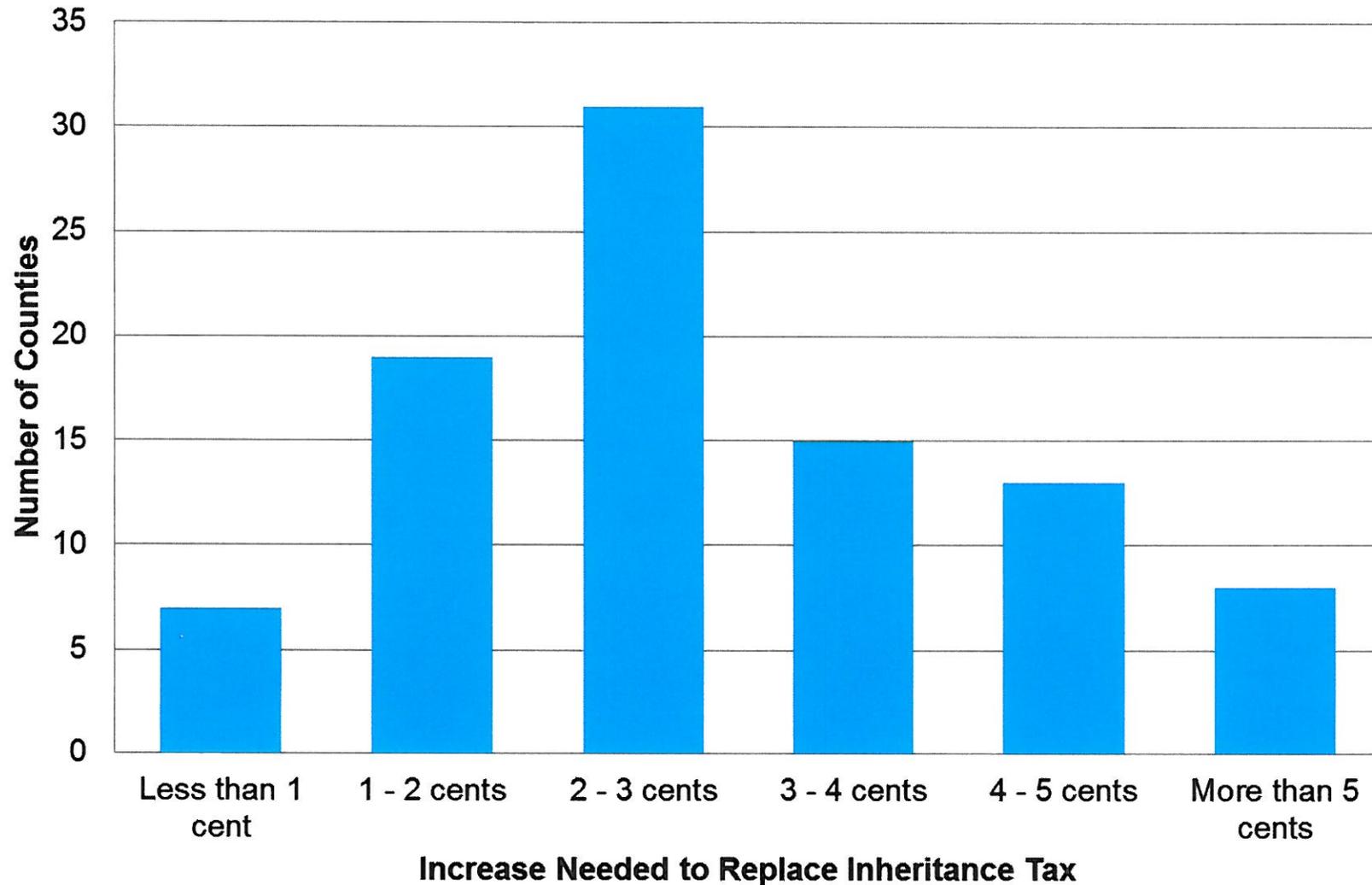
* Inheritance tax replacement based on 2011 inheritance tax revenues

Replacing Inheritance Tax with Property Tax would Take 14 More Counties over a 50 Cent Average Levy*



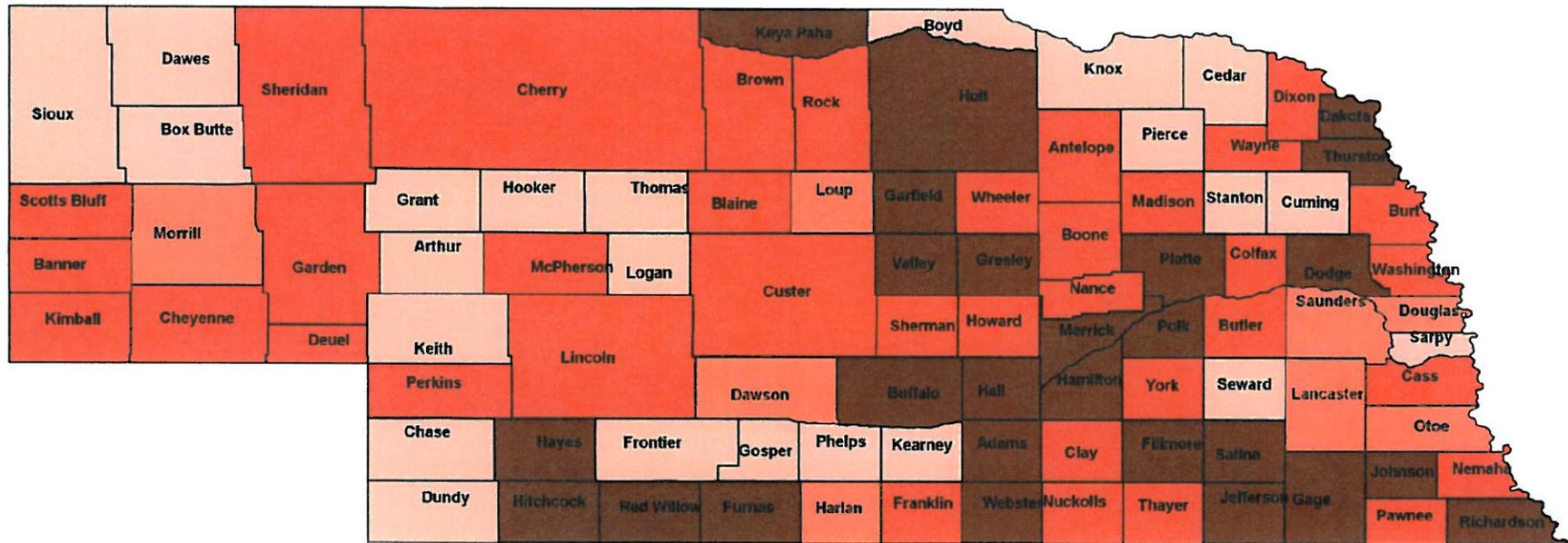
* Inheritance tax replacement based on 3-year average inheritance tax revenues for each county

Replacing Inheritance Tax Revenue with Property Tax Would Increase Levies more than 5 cents in some Counties



* Inheritance tax replacement based on 3-year average inheritance tax revenues for each county

Inheritance Tax Repeal Would Affect Counties Throughout Nebraska



- Counties with the most flexibility to manage the loss of revenue
- Counties that have low reserves but do have room under state property tax limitations to replace the revenue through increased property taxes
- Counties that can temporarily manage the loss of revenue by drawing down their reserves but do not have flexibility to raise property taxes when those reserves run out
- Counties that will suffer the most hardship because they have low reserves and cannot raise property taxes to replace the revenue without exceeding property tax limitations

Conclusion

- Our tax code does not reflect our modern, changing economy
- Consequently, we don't collect enough revenue to meet our spending obligations
- Likely cuts to federal aid, income tax cuts and changes to roads funding will put further pressure on our budget priorities
- Cuts to state aid to local governments have resulted in increased property taxes
- Elimination of the Inheritance Tax will likely result in further property tax increases
- Our tax code is regressive and will become more so as we shift the tax burden to sales and property taxes
- We need comprehensive tax reform in order to address the challenges ahead, allowing us to be more strategic in how we invest for the future

How to receive our information

- www.openskypolicy.org
- Sign up for our email updates
- Find us on facebook
- Follow us on twitter
- Contact us:
(402) 438-0384 or (402) 250-4518
rfry@openskypolicy.org

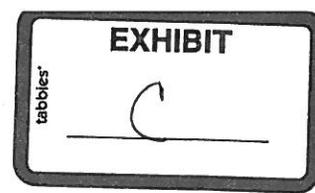
2013 Douglas County Board's Legislative Initiatives as of October 30, 2012

1. **Oppose any legislative attempts to eliminate the inheritance tax** - In fiscal year 2011/12 Douglas County collected \$12,373,104 of inheritance tax. Loss of the inheritance tax would have a substantial impact on the county's budget and would likely result in a significant property tax hike.
2. **LB 908 Commission on Public Advocacy (Commission)** – The County supports legislation to retain a portion of its' own citizens funds to help defray its' own indigent defense costs. The Commission provides criminal counsel for indigent persons and is funded by a fee of three dollars for every filing in County or District Court. The Commission was created by the legislature to assist rural counties in their criminal defense costs. Douglas County's annual contribution of roughly \$390,000 equates to 38% of the Commission's budget of \$1.1 million. According to legislative testimony, the Commission has roughly \$1.7 million in reserves and has handled 720 cases in Lancaster County and 23 cases in Douglas County over the last ten years.
3. **Allow specific elected row officers to be appointed** – Permit the Counties with a city of the metropolitan class to appoint County Officers who are currently elected. Current structure hinders the County's ability to establish county wide policies and priorities.
4. **Oppose any attempts for City-County merger**
5. **Support maintaining current state law related to Visitor Improvement Funds**
6. **Support legislation allowing Counties ordinance authority in the setting of County fees**

Likely 2013 Legislation Impacting Douglas County

1. **Expansion of Medicaid under the Affordable Care Act (ACA)** – Douglas County is responsible for uninsured indigent medical care at the County's General Assistance Office and the Community Mental Health Center. If Medicaid is expanded under the ACA, Douglas County estimates substantial cost savings if said care becomes covered by Medicaid. Douglas County will also experience cost savings for those patients in need of mental health treatment that previously were uninsured and now will be able to purchase affordable health insurance on the ACA mandated Exchange.
2. **Tax Increment Finance (TIF) Districts** – The City of Omaha has increasingly used TIF projects for economic development. Taxing entities, including counties are being denied essential tax revenue on the valuation increase of the redevelopment during the tenure of TIF notes, which can be up to 15 years. Counties and other political subdivisions should have some input into the establishment of TIF districts.

2013 LANCASTER COUNTY LEGISLATIVE PRIORITIES



1. **Oppose Elimination of Inheritance Tax**

Elimination of the inheritance tax would have a devastating effect on Lancaster County. In FY 2010-11 Lancaster County collected \$6,685,528 of inheritance tax, the equivalent of a 3.5¢ property tax levy and almost 14% of the entire property tax levy for that budget year. In FY 2011-12 the County collected \$8,185,277 of inheritance tax, the equivalent of a 4.3¢ levy and 17% of the entire levy.

2. **Support Expansion of Medicaid under the Affordable Care Act**

Lancaster County expends over \$2 million a year for General Assistance medical services. If Medicaid is expanded under the Affordable Care Act, virtually all of these medical services would be covered by Medicaid.

3. **Eliminate Responsibility of Counties to Pay HHS rent**

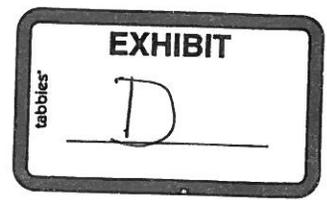
When the State assumed responsibility for welfare, a legislative provision was added requiring counties to maintain facilities for the Department of Health and Human Services (HHS) as they existed on April 1, 1983. See Neb. Rev. Stat. §68-130. Although some relief from this antiquated statute was provided in 2011 Neb. Laws LB 234 (allowing payment reductions for HHS space eliminated since 1983 and determining whether additional space can be eliminated), the use of local property tax to pay for HHS facilities should be eliminated in its entirety. This is especially true in light of the State's total elimination of state aid to counties.

4. **Modify Right to Court Appointed Attorney in Juvenile Court**

The increasing cost of court appointed attorneys is a major concern to the Lancaster County Board. This cost can be lowered by reducing the number of appointments through a statutory change clarifying that non-custodial parents, parents against whom there are no allegations filed, or even custodians of children who have no legal relationship to the children do not have the right to a court appointed attorney.

5. **Definition and Oversight for Staff Secure Juvenile Detention Facilities**

Lancaster County has successfully operated a staff secure facility for preadjudicated juvenile detention since February of 2002. Staff secure detention provides an ideal solution for low-risk law violators and status offenders. Although the Nebraska Juvenile Code specifically refers to staff secure facilities as an authorized type of non-secure detention, there are no statutory provisions defining these facilities or how they should be regulated. Given the function of staff secure detention, the County believes general oversight should be placed with the Jail Standards Division of the Nebraska Commission on Law Enforcement.



LANCASTER COUNTY LEGISLATIVE PROPOSALS 2013 SESSION

INTRODUCTION

The signature issue of the 2012 legislative session for Lancaster County was Governor Heineman's proposal to eliminate the inheritance tax under LB 970. Although LB 970 was killed by the Revenue Committee, the Governor intends to reintroduce elimination of the inheritance tax in the 2013 session. In FY 2010-11 the county collected \$6,685,528 of inheritance tax, which is equivalent to a property tax levy of 3.5¢ per \$100,000 of value and almost 14% of the entire property tax levy for that budget year. In FY 2011-12 the County collected \$8,185,277 of inheritance tax, the equivalent of a 4.3¢ levy and 17% of the entire levy. Loss of this revenue would be devastating to Lancaster County. Preservation of the inheritance tax will be a top priority in 2013.

In addition to the defeat of LB 970, the County accomplished a number of other legislative objectives in the 2012 session:

- LB 865 allows jurors to waive the jury service fee;
- LB 881 clarifies the arresting governmental agency is responsible for injuries or wounds suffered during the course of apprehension or arrest, and not the facility where the individual is lodged;
- LB 722 authorizes a court or magistrate to deduct fines or costs from a cash bond posted by the offender; and
- LB 867 gives Lancaster County the discretion to lower the County's pension match to at least 100% of the employee's contribution, instead of 150%.

Regarding other County priorities for the 2012 session, LB 787 was introduced to clarify that juvenile staff secure facilities fall under the jurisdiction of the Nebraska Jail Standards Board and not the Health and Human Services Department. Although LB 787 was placed on general file, it did not get addressed before the Legislature adjourned. The County may want to reintroduce this Bill in 2013. Other priorities which did not get addressed in 2012 include:

- Expand 2011 Neb. Laws LB 465, which provides legal permanent residents are not eligible for Medicaid for five (5) years, to include General Assistance
- Amend Neb. Rev. Stat. §29-2022 to give judges discretion on jury sequestration
- Increased funding for sex offender treatment and tracking
- Review all county fees and raise where appropriate
- Adequate funding for behavioral health, including restoration of the 2.5% Medicaid cut

As the Legislature begins the first year of a new budget cycle, the Lancaster County Board will have a number of new proposals to consider for the priority list. But as with the previous session, defeat of the Governor's proposal to eliminate the inheritance tax will require the County's full attention in 2013.

NEW PROPOSALS

1. **Expansion of Medicaid under the Affordable Care Act**

Lancaster County expends approximately \$2 million a year for General Assistance medical services. If Medicaid is expanded under the Affordable Care Act, virtually all of these medical services will be covered by Medicaid.

2. **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 the Department of Health and Human Services (HHS) as they existed on April 1, 1983. See Neb. Rev. Stat. §68-130. Although some relief from this antiquated statute was provided in 2011 Neb. Laws LB 234 (allowing payment reductions for HHS space eliminated since 1983 and determining whether additional space can be eliminated), the use of local property tax to pay for HHS facilities should be eliminated in its entirety. This is especially true in light of the State's total elimination of state aid to counties.

3. **Modify Right to Court Appointed Attorney in Juvenile Court**

The increasing cost of court appointed attorneys is a major concern to the Lancaster County Board. One possibility to help lower this cost is reducing the number of appointments through a statutory change clarifying that non-custodial parents, parents against whom there are no allegations filed, or even custodians of children who have no legal relationship to the children do not have the right to a court appointed attorney.

4. **Eliminate Jail Time on Appropriate Low-Level Misdemeanors**

The Legislature should conduct a study on misdemeanor penalties to determine whether jail time is necessary to protect the public safety on low-level criminal offenses. The study should include both state law and city ordinances. The reduction in the County jail population could result in a significant savings.

5. **Examine Allowing Pretrial Diversion for Driving While Intoxicated (DWI)**

Neb. Rev. Stat. §29-3604 provides that no person charged with driving while intoxicated shall be eligible for pretrial diversion. However, Sarpy County has been allowed to continue its grandfathered DWI diversion program in spite of this blanket prohibition. The Legislature should conduct a study to examine the effectiveness of the Sarpy program and determine the feasibility of allowing other counties to offer DWI diversion. The recidivism rate of first-time DWI offenders is low. It is possible a well-run program could enhance public safety and result in a substantial savings to counties.

6. Increase the Indigent Defense Fee

Neb. Rev. Stat. §33-156 provides for a three dollar indigent defense fee which is taxed as costs for each case filed in each county court and district court, and credited to the Public Advocacy Operations Cash Fund. Pursuant to Neb. Rev. Stat. §29-3933, this Fund is used to reimburse counties for a portion of their indigent defense system expenditures. Increasing the indigent defense fee would help defray the growing cost of providing indigent defense.

7. Tax Incentives for Compressed Natural Gas (CNG)

The County is investigating the possibility of converting a portion of its motor vehicle fleet to CNG. However, conversion costs are high and state tax incentives could help speed the switch to this more efficient fuel.

8. 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.

9. Increase Behavioral Health Funding

Additional state funding for behavioral health can help reduce County costs for mandated functions such as law enforcement, emergency protective custody, corrections, and General Assistance. Lancaster County should monitor LR's 508 and 549, and should support efforts to strengthen the Nebraska Health Care Cash Fund. The County should also oppose any proposed rate cuts to behavioral health providers in the Governor's budget.

10. Corrections Booking Fee

A significant portion of the cost for housing inmates is incurred during the booking process. The Lancaster County Corrections Department has recommended the imposition of a booking fee to help recoup these expenses. However, legislation is needed to create statutory authority for the County to charge booking fees.

11. Increase the Cigarette Tax

The average cost per pack of cigarettes in the United States is \$1.49, and the Nebraska tax on a pack of cigarettes is only 64¢. Statistics indicate price increases on cigarettes cause adults to

quit smoking and prevent teenagers from starting to smoke.

12. Clarify Election Commissioner's Responsibilities When Caucus System Used to Select Delegates to County Convention During a Presidential Election Year

Neb. Rev. Stat. §32-707 should be amended to clarify the responsibilities of the election commissioner, including that the election commissioner is taken out of the process once a political party has chosen to use the caucus system to select delegates to the county convention in a presidential election year. The County would realize a small savings with this legislation.

13. Eliminate the Option for a Class III School District to Nominate Candidates by District or Ward

Lancaster County currently has one Class III school district (Norris) which nominates board members by district or ward in a statewide primary election and elects at a statewide general election. Preliminary research by the Election Commissioner indicates Norris may be the only Class III school district in the state that uses this process. Amending Neb. Rev. Stat. §§79-543 and 79-550 to eliminate this option would save ballot space and result in a small savings.

EXISTING PROPOSALS

1. Review All County Fees and Raise Where Appropriate

A number of county statutory fees have not been raised for many years. Lancaster County should work with NACO to review all county fees and submit legislation proposing to raise fees which are too low or inadequate. Examples include the fee for issuing a locksmith license, marriage license, and an amusement license under Neb. Rev. Stat. §23-816.

2. 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. 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 and thereby undermining the fairness of the trial.

3. 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.

4. Increase Funding for Sex Offender Treatment and Tracking

All sex offenders are transferred to the Lincoln Regional Center prior to release from state custody. This policy results in a disproportionate number of sex offenders in our community. Since state policy is increasing the number of sex offenders in the County, additional funding should be provided by the State to address this problem.

Also, the Lancaster County Sheriff is statutorily required to register sex offenders under the Sex Offender Registration Act, Neb. Rev. Stat. §29-4004 (Reissue 2008). The Sheriff devotes a full time employee to perform this mandated function. Likewise, the Corrections Department has additional duties under §29-4007. To help defray these costs sex offenders should be required to pay a registration fee.

5. Provide a Definition and Oversight Responsibility for Staff Secure Juvenile Detention Facilities

Lancaster County has successfully operated a staff secure facility for preadjudicated juvenile detention since February of 2002. Staff secure detention provides an ideal solution for low-risk law violators and status offenders. Although the Nebraska Juvenile Code specifically refers to staff secure facilities as an authorized type of non-secure detention, there are no statutory provisions defining these facilities or how they should be regulated. Given the function of staff secure detention, the County believes general oversight should be placed with the Jail Standards Division of the Nebraska Commission on Law Enforcement.

6. Reintroduce Transfer of Development Rights

Although LB 33 was killed in committee during the 2010 legislative session, enabling legislation is still needed to give the County authority to allow the voluntary transfer of noncontiguous residential development rights. Such transfers could assist the County in maximizing the use of existing infrastructure, preserving natural resources, and preventing development in flood plains.

7. Review and Revise the Criminal Code Regarding Appropriate Use of Jail Time

LR 272 was enacted by the Legislature for the purpose of studying the fiscal impact of the criminal law on counties, especially new criminal laws and procedures. LR 272 will also examine

if the criminal law is effectively addressing the problems it is trying to solve, and whether a cost-benefit analysis could be performed prior to enacting new criminal offenses and enhanced criminal procedures. Criminal offenses which carry jail time increase county costs for jails and indigent defense, and the Legislature very seldom if ever appropriates funding to assist counties with these costs. The criminal justice system continues to grow at an alarming rate, and Lancaster County could benefit from a sensible approach to the creation of new jailable offenses, as well as a review of the effectiveness of the imposition of jail time on existing offenses.

8. 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

Tax increment financing 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 project after redevelopment. Any property taxes collected as a result of the increase in the value of the parcel because of the redevelopment 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. 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.

9. Clarify Inheritance Tax Rules on Treatment of Non-Children as Children for Purposes of Determining Tax Rate

Nebraska law allows a more favorable tax rate with regard to recipients with which the decedent had a close relationship resembling that of a parent and child, even though the recipient was not the actual child of the decedent. Additional clarification should be provided in the statutes for when this favorable treatment is appropriate.

10. 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.

11. Amend Neb. Rev. Stat. §32-1203(2) to Allow Recovery of Ballot Costs

Although counties can recover from political subdivisions some of the cost of producing ballots, the cost recovery formula described in §32-1203(2) does not adequately reimburse counties for their actual costs. This section should be amended to allow counties to recover all expenses, such as the cost of programming counting machines, as well as other actual costs not addressed in the existing formula.

12. Create the Position of Magistrate

In 2009 the Legislature passed LR 183 to examine the creation of a specialized magistrate for the State's largest courts. The magistrate would have authority to issue search warrants, subpoenas, arrest warrants, summonses, and set bail. The purpose for creating this position is to help reduce jail populations, as well as reduce the need for new judges.

13. County Input in the Approval of Tax Increment Finance Districts Which Affect the County Tax Base

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. Essentially, property tax increases within a TIF district attributable to valuation increases from redevelopment projects are deposited into a special fund and used to pay the cost of financing the projects for up to fifteen (15) years. Consequently, 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.

14. Occupation Tax on Wineries

Neb. Rev. Stat. §53-132(4) gives authority to cities, villages and counties to charge an

occupation tax on retail, craft brewery, and microdistillery licenses. However, no such authority exists for farm winery licenses. Given the growing number of farm wineries, it may be advisable to authorize an occupation tax on farm winery licenses.

15. Amend Neb. Rev. Stat. § 83-1,103.04 to Provide for the Appointment of a Private Attorney Rather than the Public Defender

When the Office of Parole Administration determines an amendment of the conditions of community supervision is necessary for an individual subject to lifetime supervision, if the person requests legal counsel and is indigent, an attorney from the public defender office is appointed. Since this proceeding is civil in nature, appointment of the public defender is not appropriate. Also, the cost of appointing a private attorney should be borne by the State.

16. Clarify How the County Visitors Improvement Fund Can be Spent

Lancaster County established the County Visitors Improvement Fund in 2005. Neb. Rev. Stat §81-1255 generally authorizes the Improvement Fund to be used to improve the visitor attractions and facilities in the county. However, if the Visitors Promotion Committee (VPC) determines visitor attractions in the county are adequate and do not require improvement the Fund can also be used to promote, encourage, and attract visitors to the county to use its travel and tourism facilities.

The implementation of this statute is cumbersome, requiring the VPC to repeatedly make specific findings regarding the adequacy of travel and tourism facilities prior to the funds being used for such worthwhile purposes as targeted promotion for large events. The statute should be amended to streamline the procedure for using the Improvement Fund for specific promotional purposes.

17. Authorize Posting Noxious Weed Notices Online or On-site

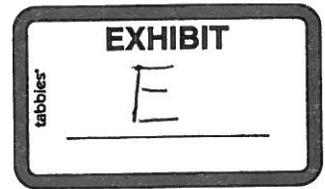
Allowing noxious weed notices to be published on-line or on-site would help cut costs and streamline enforcement of noxious weed violations.

18. Revise Consolidation Statutes to Facilitate Governmental Mergers

A number of state laws authorize the consolidation of governmental functions, including the Interlocal Cooperation Act, the Joint Public Agency Act, and the Consolidation of Counties and Offices Act. These statutes should be reviewed and revised to remove possible barriers to potential tax saving consolidations, including mergers such as City Public Works/County Engineer and City Police/County Sheriff.

19. Review County Elected Positions

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



2013 Proposed Sarpy County Legislative Initiatives

- 1) Oppose efforts to eliminate the inheritance tax- Sarpy County receives a little over \$1 million a year in inheritance taxes and the loss of this revenue would likely result in service cuts or tax increases. Additionally this proposal came on the heels of the elimination of State aid to counties from the 2011 legislation session. In visiting with economic developers and estate attorneys this tax is not an onerous impact on the recipients and needs to not be confused with the Federal estate tax.
- 2) Comprehensive review of all county fees including adjustments for inflation and the introduction of a CPI element to future fee increases. Most county fees have not been adjusted in several years, 20-30 years for some and this will prevent the cost of services from being a property taxpayer burden instead of a being user driven.
- 3) Change statutes to clarify that the E911 cellular fees can be used to pay costs associated with the Next Generation 911 technology. This fund has a substantial balance and the surcharge has recently been reduced from 50 cents to 45 cents by the Public Service Commission.
- 4) Increase the limit found in 39-810 regarding the project cost of bridge repairs that can be done in house. The current statutory limit is \$60,000 and most of this work is done in the "off season" as weather permits and can be done effectively by county staff instead of a public bid process. Sometimes the work is done piecemeal to allow it to proceed on an orderly basis but this is not an effective use of county staff time. This section has not been amended since 1988 and using the BLS inflation calculator the current dollar value of that amount would be about \$117,000.
- 5) Oppose efforts to repeal the Build Nebraska Act (LB84, 2011 Session) or to divert any portion of the State sales tax dollars dedicated to this program. Roads infrastructure is critical to the economic development of Sarpy County, the metro area and the State as a whole.
- 6) Oppose legislative or regulatory restrictions on inmate phone costs at the local level. With the loss of the State Jail Reimbursement program and ever increasing incarceration costs borne by the counties, this is not a time to further restrict revenue sources no matter how small.
- 7) Monitor changes regarding appropriations and sustainability of the state's Health Care Cash Fund. This fund provides dollars for biomedical research, children's health insurance, public health (including the Sarpy-Cass Dept of Health and Wellness), behavioral health and substance abuse services, as well as other needs. Currently the funding is scheduled to be reduced from \$59 million to \$50 million in FY16.



2013 NACO Legislation

Pursue

- Repeal regulation of locksmith licenses
- Eliminate reporting of general assistance work programs
- Authorize the payment of premiums on tax sales certificates
- Revise jury commissioner population statues
- Change personal property tax filing deadlines
- Grant counties ordinance authority to set fees
- Remove population restriction from all-mail elections

Further review and evaluation

- Revise controlling account responsibilities



Nebraska Association of County Officials 7th Annual Legislative Conference

Possible Sources of Replacement Revenue

The following list contains possible sources of replacement revenue if inheritance taxes are eliminated. These ideas have been suggested for discussion purposes without evaluation of their feasibility or political implications. This list reflects some federal unfunded mandates imposed upon the state of Nebraska that have been subsequently delegated to counties but does not include broad federal mandates that affect all employers or governmental entities, such as the Fair Labor Standards Act or the federal health care law.

Revenue

- Revise motor vehicle fee distribution – examine redistribution of a portion of school share to counties
- Enact a county sales tax or give counties a share of state sales tax
- Increase sales tax collection fee
- Increase fees collected and retained by counties
- Move some/all of the following outside of county levy/constitutional/budget limits: miscellaneous districts; official and employee health insurance; costs for murder trials

Assessment

- Expand central assessment
- Eliminate required review of all property every 6 years for assessment purposes

Courts/Law enforcement

- Provide funding for public defense for the indigent, other court appointments
- Provide state funding for a judicial district public defender system
- Eliminate county prosecution of state crimes, costs of appeals
- Shift bailiffs to the state
- Increase court fees and eliminate county payment of state fees for in forma pauperis filings
- Provide for state-funded appointment of counsel in juvenile cases
- Shift county court expenses
- Provide funding for coroner and autopsy expenses
- Provide funding for DNA collection from felons
- Revise juvenile justice/truancy plans involving county attorneys
- Relax jail standards
- Provide funding for medical costs for inmates
- Shift responsibility for transportation of inmates to other facilities and court functions
- Provide support for regional jails

Human Services

- Eliminate or shift general assistance - Eliminate county obligation as payor of last resort
- Provide funding for indigent burials
- Shift responsibility for additional community services that were assumed by counties following closure of regional centers
- Provide funding for regional entities
- Shift responsibility for advocacy and treatment for the mentally ill, including emergency protective custody
- Eliminate public health department monitoring of meth lab site cleanup

Elections

- Provide state funding for election equipment maintenance
- Provide state funding for polling place accessibility

Roads

- Provide state assistance for bridge inspection and repair
- Require the state to take care of right of way adjacent to county roads

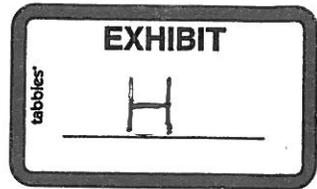
Operations

- Shift enhanced and wireless enhanced 911 service – communications, equipment and dispatch
- Eliminate verification of employment eligibility
- Shift responsibility for care of abandoned and pioneer cemeteries
- Reinstate motor vehicle inspections
- Shift responsibility for solid waste management
- Shift responsibility for animal control
- Eliminate requirements to provide office space to state agencies, i.e. courts, probation, motor vehicles
- Eliminate microfilming of documents for records preservation
- Provide incentives for merger or regionalization of offices
- Eliminate funding of extension, county fairs and ag societies
- Eliminate funding for museum, library and senior care programs



STATE OF NEBRASKA
Office of the Attorney General

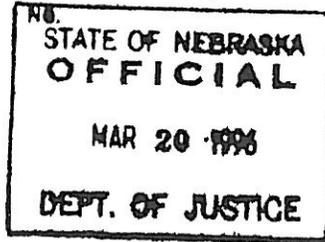
2115 STATE CAPITOL BUILDING
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DON STENBERG
ATTORNEY GENERAL

#96024

STEVE GRASZ
LAURIE SMITH CAMP
DEPUTY ATTORNEYS GENERAL



DATE: March 14, 1996
SUBJECT: Whether a Constitutional Amendment is Necessary to Alter Nebraska's Current Form of County Governance
REQUESTED BY: Senator Joyce Hillman
Nebraska State Legislature
WRITTEN BY: Don Stenberg, Attorney General
Lauren L. Hill, Assistant Attorney General

You have requested an opinion from this office as to whether passage of a constitutional amendment is necessary to alter the state's current form of county governance by instituting an optional "county administrator" system of government. This inquiry is directed specifically to your legislation, LR 46CA, which would place upon the November, 1996, general election ballot a proposal to amend Article IX, § 4 of the Nebraska Constitution.

The Constitution & Proposed Amendment

Pursuant to the Nebraska Constitution, "[t]he Legislature shall provide by law for the election of such county and township officers as may be necessary. . . ." Neb. Const. art. IX, § 4 (1989). Your legislation, if enacted and approved by a majority of voters, would retain the current provisions of Article IX, § 4, and add the following new text:

The Legislature may provide by law for a county administrator form of government in which county officers may be appointed, but such form shall be optional with

David K. Arterburn
L. Jay Bartel
J. Kirk Brown
David T. Bydalek
Dale A. Comer
James A. Elworth
Lynne R. Fritz
Royce N. Harpor

Lauren L. Hill
Jay C. Hinsley
Amy Hollenbeck
William L. Howland
Marilyn B. Hutchinson
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Paul N. Potadle
Jonathan Robitaille
Hobert B. Rupe
James D. Smith
James H. Spears
Mark D. Starr
Martin Swanson

Timothy J. Taxel
John R. Thompson
Barry Waid
Terri M. Weeks
Alfonza Whitaker
Melanie J. Whittamore-Mantzios
Linda L. Willard

each county and shall occur in any county only upon adoption by a majority vote of the registered voters of the county voting on the question.

LR 46CA (as amended by AM0016). During recent debate on your legislation, a question arose as to whether, under the current language of Article IX, § 4, the Legislature is already vested with authority to enact legislation implementing your proposal. Debate on that issue prompted your request for this opinion.

Standard of Review

Our analysis of Article IX, § 4 is governed by several canons of constitutional construction which have been adopted by the Nebraska Supreme Court. First, we are bound by the cardinal rule that the state Constitution must be applied and enforced as it is written. *State ex rel. Spire v. Conway*, 238 Neb. 766, 472 N.W.2d 403 (1991). Next, the provisions of the Constitution must be read as a whole. *Jaksha v. State*, 222 Neb. 690, 385 N.W.2d 922 (1986). "Moreover, constitutional provisions are not open to construction as a matter of course; construction of a constitutional provision is appropriate only when it has been demonstrated that the meaning of the provision is not clear and that construction is necessary." 238 Neb. at 774-775, 472 N.W.2d at 408-409; *In re Application A-16642*, 236 Neb. 671, 463 N.W.2d 591 (1990).

If a provision must be construed because its meaning is not clear, then "its words are to be interpreted in their most natural and obvious sense, although they should receive a more liberal construction than statutes. . . ." 238 Neb. at 775, 472 N.W.2d at 409; *State ex rel. Spire v. Public Emp. Ret. Bd.*, 226 Neb. 176, 410 N.W.2d 463 (1987).

The intent and understanding of [the] framers [of a constitutional amendment] and the people who adopted it as expressed in the instrument is the main inquiry in construing it. . . . It is permissible to consider the facts of history in determining the meaning of the language of the Constitution. . . . It is also appropriate and helpful to consider, in connection with the historical background, the evil and mischief attempted to be remedied, the objects sought to be accomplished, and the scope of the remedy its terms imply.

State ex rel. Spire v. Beermann, 235 Neb. 384, 389-90, 455 N.W.2d 749, 752 (1990) (quoting *State ex rel. State Railway Commission v. Ramsey*, 151 Neb. 333, 340-41, 37 N.W.2d 502, 507 (1949)) (citations omitted); see also *State ex rel. Douglas v. Beermann*, 216 Neb. 849,

347 N.W.2d 297 (1984); *Dwyer v. Omaha-Douglas Public Building Commission*, 188 Neb. 30, 195 N.W.2d 236 (1972).

Finally, because the Nebraska Constitution "is not a grant but, rather, a restriction on legislative power, . . . the Legislature is free to act on any subject not inhibited by the Constitution." *State ex rel. Stenberg v. Douglas Racing Corp.*, 246 Neb. 901, 905, 524 N.W.2d 61, 64 (1994); *State ex rel. Creighton Univ. v. Smith*, 217 Neb. 682, 353 N.W.2d 267 (1984); *Cf. Lenstrom v. Thone*, 209 Neb. 783, 789, 311 N.W.2d 884, 888 (1981). In so acting, however, the court has established that "[t]he people of the state, by adopting a Constitution, have put it beyond the power of the [L]egislature to pass laws in violation thereof." *State ex rel. Randall v. Hall*, 125 Neb. 236, 243, 249 N.W. 756, 759 (1933); *see also State ex rel. Stenberg v. Murphy*, 247 Neb. 358, 527 N.W.2d 185 (1995) (holding that "constitutional language controls legislative language, not the other way around."); *State ex rel. Caldwell v. Peterson*, 153 Neb. 402, 45 N.W.2d 122 (1950) (holding that the Legislature cannot lawfully act beyond limitations of the Constitution).

Discussion

Pursuant to these guidelines, we now address your inquiry. Originally, the state Constitution contained no provisions pertaining to counties. However, "[c]ounties were apparently already in existence pursuant to territorial law. In 1873, the Legislature confirmed the boundaries of [those] and created others. It likewise made provision for the government of counties and made provision defining the powers and duties of counties and their officers." *Dwyer v. Omaha-Douglas Public Bldg. Cmms'n*, 188 Neb. 30, 37, 195 N.W.2d 236, 241 (1972); *see also State ex rel. Harte v. Moorhead*, 99 Neb. 527, 156 N.W. 1067 (1916). Limitations on the Legislature's power to create new counties or to change existing county boundaries were incorporated into the Constitution in 1875. *Id.*, 195 N.W. at 242; *see also* Neb. Const. art. X, § 1 - § 3 (1875). The provision requiring the Legislature to provide by law for the election of county officers was also incorporated into the Constitution in 1875. *See* Neb. Const. art. X, § 4 (1875). That provision has remained unaltered since its inception.¹ Based upon inclusion of these provisions in the state's Constitution, the Nebraska Supreme Court has found that "counties as subdivisions of government did and do occupy a unique place in the eyes of the drafters [of the Constitution] and the

¹ Following the 1968 general election, text was added to Article IX, § 4 which granted authority for the consolidation of county offices. *See* 1967 Neb. Laws, LB 85. That amendment did not affect the preexisting language pertaining to county officers.

people, the ratifiers, of the Constitution." 188 Neb. at 43-44, 195 N.W.2d at 245.

The supreme court has long held that, pursuant to the Article IX, § 4 provision, "[t]he number and character of county offices that may be created rests in the discretion of the [Legislature]." *Dinsmore v. State*, 61 Neb. 418, 429, 85 N.W. 445, 448 (1901) (holding, in light of a criminal defendant's challenge to his first-degree murder conviction, that Neb. Const. art. X, § 4 (1875) vested the Legislature with the power to establish the office of county attorney); *Cf. Fitzgerald v. Kuppinger*, 163 Neb. 286, 79 N.W.2d 547 (1956); *Conroy v. Hallowell*, 94 Neb. 794, 144 N.W. 895 (1913). Thus, the Legislature has enacted a comprehensive set of statutes which create various county officers and enumerate their powers and duties.² Your inquiry raises the issue of whether, once created, those county officers may be appointed by a county administrator or county board, rather than being elected by a vote of the people.

The issue has been addressed by the supreme court in *State ex rel. O'Connor v. Tusa*, 130 Neb. 528, 265 N.W. 524 (1936). The controversy in that case centered on an individual's attempt to file as a candidate for the office of Douglas County Register of Deeds for the 1936 primary election. The county election commissioner refused to accept the filing due to the fact that, two years earlier, a majority of Douglas County voters had adopted a county manager form of government which had been provided for by the Legislature. *Id.* at 529, 265 N.W. at 525. The election commissioner asserted that adoption of the county manager form of government "suspended the election of a register of deeds in Douglas County . . . until such time as the county managerial form of government [was] legally abandoned. . . ." *id.*, because the duties of that and other county offices would be performed by the county manager or his appointees.

Similar to the proposal set forth in LR 46CA, the county manager statutes examined in *Tusa* "purport[ed] to organize a new optional form of county government without in any way destroying or interfering with the former [law]. Those counties which [did] not adopt the county manager form of government [would] continue to

² See, e.g., Neb. Rev. Stat. § 23-105 (county board); Neb. Rev. Stat. § 23-1201 (county attorney); Neb. Rev. Stat. § 23-1301 (county clerk); Neb. Rev. Stat. § 23-1501 (register of deeds); Neb. Rev. Stat. § 23-1601 (county treasurer); Neb. Rev. Stat. § 23-1701 (county sheriff); Neb. Rev. Stat. § 23-1901 (county surveyor/engineer); Neb. Rev. Stat. § 23-3201 (county assessor); Neb. Rev. Stat. § 23-3301 (county superintendent); Neb. Rev. Stat. § 23-3401 (public defender).

Senator Joyce Hillman
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operate under the old law, as [would] those that . . . subsequently abandon[ed] the county manager plan." *Id.* at 530, 265 N.W. at 525-526. Thus, the Legislature's enactment had provided for two separate and distinct forms of county government. *Id.*; see 1933 Neb. Laws, ch. 35, LB156, § 1 - § 27 (codified at Neb. Rev. Stat. § 26-2001 - § 26-2018 (Supp. 1933)). The court examined provisions of the county manager statutes at length and found that, while the statute may have transferred the duties of the office of register of deeds to the county manager, the statutes had not expressly abolished the office of register of deeds. *Id.* at 535, 265 N.W. at 526.

Next, the court examined whether, by adoption of a county manager form of government, the office of register of deeds had been implicitly abolished. In order to make that determination, the court analyzed the meaning of the term "office." The court determined that

[t]he words "office" and "officer" are terms of vague and variable impact, the meaning of which necessarily varies with the connection in which they are used, and, to determine it correctly in a particular instance, regard must be had to the intention of the statute and the subject-matter in reference to which the terms are used.

. . . .

One of the most important criteria of a public office is that the incumbent is vested with some of the functions pertinent to sovereignty, for it has been frequently decided that in order to be an office the position must be one to which a portion of the sovereignty of the state, either legislative, executive, or judicial, attaches for the time being.

Id. at 535-536, 265 N.S. at 528 (citations omitted); see also *State ex rel. Spire v. Conway*, 238 Neb. 766, 771-72, 472 N.W.2d 403, 407 (1991) (affirming the *Tusa* analysis and defining a public office as "a governmental position, the duties of which invest the incumbent with some aspect of the sovereign power").

Based upon this broad definition, the court held that the register of deeds was a public, county "office," the abolition of which had been neither expressly nor implicitly provided for by the Legislature's enactment of statutes providing for a county manager form of government. The court further determined that, as outlined in the legislative enactment, the county manager position also constituted a county officer. 130 Neb. at 536-537, 265 N.W. at 529. Since those officers, under the county manager statutes, were appointed to office, rather than elected, the supreme court

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declared the legislative enactment to be an unconstitutional violation of Article IX, § 4. *Id.* at 536, 265 N.W.2d at 528.

The court's *Tusa* decision is consistent with its ruling in an earlier case which involved a challenge to statutes governing the establishment of county commissioner districts in Douglas County. In *State ex rel. Harte v. Moorhead*, 99 Neb. 527, 156 N.W. 1067 (1916), a candidate for one of the county board seats instituted the action to contest the validity of the apportionment of the district which had been established by the Legislature. Resolution of the dispute centered upon the court's construction of several provisions of the Constitution. The court ultimately concluded that the districting plan was unconstitutional. *Id.* at 546-547, 156 N.W. at 1071. The court's reasoning included a finding that

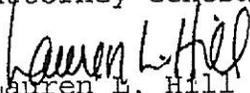
[c]ounty governments are local in nature, and the Constitution protects them in their right of local self-government. . . . The Constitution makers had something definite in mind when they provided that county officers should be elected.

Id. at 534, 156 N.W. at 1069 (emphasis supplied).

Based upon the supreme court's analysis of Article IX, § 4 and of the Legislature's 1933 attempt to institute an optional "county manager" system of county government, we conclude that a similar attempt to implement your proposal, without first amending the text of Article IX, § 4, would be deemed unconstitutional. While the Legislature is vested with broad authority to determine which county offices will exist, once those offices have been established, the people have retained the right to elect the individuals who will occupy those offices.

Sincerely,

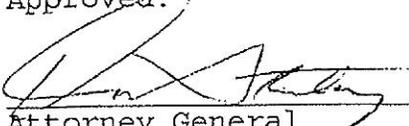
DON STENBERG
Attorney General

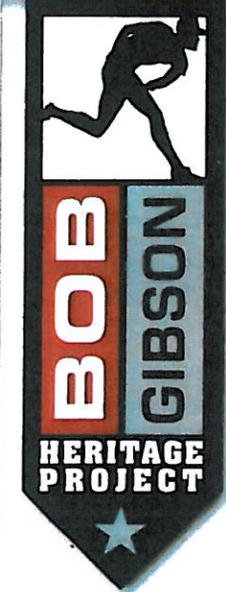

Lauren L. Hill
Assistant Attorney General

24-24-14.op

cc: Patrick J. O'Donnell
Clerk of the Legislature

Approved:)


Attorney General



Join The Team!

From Omaha Tech and Creighton University standout to World Series champ and Baseball Hall of Famer, Bob Gibson is one of Omaha's true sports heroes. His is an inspiring story of raw talent, rugged determination and historical significance.

Now you can be a part of that heroic heritage!

The Bob Gibson Heritage Project is bringing together fans, community leaders and local businesses to fund a statue commemorating Gibson's story and to build a foundation for generations to come. A foundation that encourages them to play their hardest, follow their dreams and never give up.

We'd like to invite you to join the team!

Receive a link to an exclusive video "Thank you" from a surprise MLB player! Heres' how:

just visit BobGibsonProject.org and make a simple online donation!



The Mighty Pitch.

It takes a world-class artist to capture the athleticism and determination that Bob put into every pitch. After reviewing the work of artists nationwide, the perfect sculptor ended up being surprisingly close to home.

Littleton Alston has been sculpting for nearly three decades. His work in bronze has captured the energy and spirit of such notables as Dr. Martin Luther King, Saint Ignatius of Loyola, George Washington Carver and numerous mythic figures. Amazingly, he is also a current associate professor of sculpture at Bob Gibson's alma mater, Creighton University.



For the Bob Gibson statue, Alston has created a study of balance and form just moments after the release of a mighty pitch. Here you can see images of the scale maquette produced for reference.

The final statue will be eight feet tall and installed in its own courtyard at Werner Park.



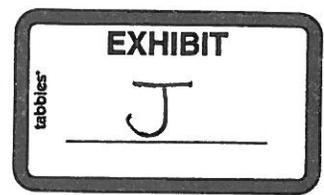
You can be a part of big league history! And help install a bronze Gibson statue right here in Bob's hometown! Donate \$4.50 or more and get an exclusive online video "Thank you" from a surprise big leaguer.

Visit BobGibsonProject.org to donate



Community leaders have pledged matching funds to cast and install the statue if the Project can raise equal amounts from individual fans. We need your help!

Visit BobGibsonProject.org to donate



INVITATION TO NEGOTIATE
Specification No. _____
Community Behavioral Health Services
Integrated with Primary Health Care

I
INTRODUCTION

A. PURPOSE

This invitation to Negotiate (ITN) is issued by Lancaster County and Region V Systems for the purpose of gathering cooperative and creative proposals for the transition of the Lancaster County Mental Health Center (CMHC) to a new recovery-based service model. The model should integrate behavioral health services and primary health care, with peer supported programming and extensive consumer involvement.

B. INVITATION TO NEGOTIATE PROCESS

The ITN is intended to function as an open process for groups and organizations interested in submitting proposals, and is less rigid than a formal Request for Proposals (RFP). Collaboration among providers is encouraged. Proposals will be evaluated based on responsiveness to the requirements of this document and a demonstrated ability to perform. It is possible the County and Region V will negotiate with more than one entity in order to develop a service system which best fits the needs of the community. Groups and organizations submitting successful proposals will enter into service contracts with Region V Systems.

C. BACKGROUND

The Community Mental Health Center (CMHC) was established by Lancaster County in 1976 through a federal grant under the Comprehensive Community Mental Health Centers Act for the purpose of treating persons with severe and persistent mental illness in the community rather than in state institutions. Original services included inpatient care, outpatient care, medical services, consultation and evaluation, children's services (no longer provided), and program evaluation. Today the CMHC offers a wide variety of additional behavioral health services, including:

- Service coordination
- The Heather, a transitional living program for patients moving from the Lincoln Regional Center (LRC) to the community
- The Sexual Trauma Offense Prevention Program (STOP)
- The Outsider Arts Program

- The Harvest Program, a collaboration with CenterPointe and Aging Partners providing services to mentally ill elderly persons with substance abuse issues
- Assertive Community Treatment (ACT), a collaboration with CenterPointe and Lutheran Family Services providing specialized services in the community and at home to clients who have not responded well to traditional outpatient care
- Mid-Town Center, which provides psychiatric rehabilitation and other related services
- Homeless/Special Needs Outreach Program
- Emergency services, including a 24-hour crisis line, mobile crisis service, walk-in services, and with availability of services and phone contact after regular business hours

A description of the programs offered at the CMHC, including budget information, number of FTE's, persons served, services, and funding sources can be found in Attachment ____.

Although the CMHC has effectively provided a broad range of community based behavioral health services for many years, it is becoming increasingly difficult for Lancaster County to sustain the existing level of service. In response to this problem, the Lancaster County Board of Commissioners established the Community Mental Health Center Planning Committee to review the operations of the CMHC and provide the Lancaster County Board with an effective, sustainable long-term plan for the CMHC. A copy of the Planning Committee's report and recommendations to the County Board is available at _____. The delivery and coordination of mental health services in Lancaster County was also addressed in a report prepared by the Health Management Associates (HMA) for the Community Health Endowment. The HMA report is entitled, "A comprehensive plan to address appropriate, effective and sustainable health care services for the uninsured and Medicaid populations in Lincoln, Nebraska." The HMA report specifically addressed the CMHC and provided the County Board with a recommendation on how to provide services in the future. A copy of the HMA report can be found at _____.

Based upon the information and recommendations provided by the Planning Committee and HMA, and recognizing an opportunity to improve services, Lancaster County Board and Region V are proceeding with this ITN to identify the best proposals for providing integrated community-based behavioral health and primary care services.

D. NEW SERVICE MODEL REQUIREMENTS

Major Requirements

The goal of the County and Region V is to establish a new service model for the CMHC which is highly effective and financially sustainable. Major requirements for the new service system include:

1. Integration of behavioral health and primary care services - Proposals must address how the integration of behavioral health services and primary health care will be accomplished.
2. Core services - Proposals must identify the core behavioral health programs and services which will be offered at one central location, and which services can be effectively offered at other locations throughout the community.
3. Consumer involvement and peer support - Proposals must include a plan for how consumer involvement and peer support will be incorporated in all phases of design, development, implementation, and operation, and delivery of programming.

Relationship with Lancaster County

Although Lancaster County will no longer be a provider of community-based behavioral health services at the CMHC, the County will still have a direct interest in how effectively those services are provided by the new provider. The new provider(s) will need to maintain an excellent working relationship with the County. Areas of mutual interest include:

- Location of CMHC facility - To help guarantee a smooth transition, the new provider(s) will be allowed to remain at the existing location of 2201 S. 17th Street for least two (2) years.
- Midtown Center - Lancaster County also owns the Midtown Center at 2966) Street, which houses CMHC programs for psychiatric rehabilitation and other related services. The County will consider proposals for the continued use of this property for this or other behavioral health services.
- CMHC Staff - All efforts should be made to retain as many of the current CMHC staff members as possible. CMHC employees are highly trained and have years of experience providing specialized care, often to consumers with severe and persistent mental illness. Retaining existing staff will also provide a continuity of care which is important to many consumers.
- Crisis Center - Lancaster County will continue to operate the Crisis Center. For the immediate future the Crisis Center will remain on the 2nd floor of the CMHC building. Preliminary planning is now under way to relocate the Crisis Center to the County's old Intake and Detention building after Corrections, which will be extensively remodeled and renamed as the Justice Center South. The new provider(s) will need to demonstrate the ability to work closely with the Crisis Center.
- Community Corrections - The CMHC presently provides supportive services to individuals under the supervision of the Lancaster County Community Corrections

Department. The County's Behavioral Health Jail Diversion Program, which was previously located at the CMHC, is now operated by Community Corrections. The new provider(s) will need to address how they will continue to provide these services.

- General Assistance - Behavioral health services are provided to County General Assistance clients by the CMHC. With the integration of behavioral health services and primary medical care, the new provider(s) will need to demonstrate how they would provide both behavioral health and primary medical care to General Assistance clients.

Evaluation Criteria

Proposals will be evaluated on a number of considerations including, but not limited to, the following:

- Use of effective partnerships in delivering mental health, substance abuse, and primary care services
- Effective plan for integration of behavioral health and primary care services
- Active participation of consumers is clearly demonstrated
- Peer supported programming
- Recovery-based model for all services
- Trauma informed approach to all services
- Comprehensive plan for assessment of all consumers
- The capacity to evaluate services that demonstrate recovery-based outcomes; program efficiency and effectiveness; and, overall consumer satisfaction
- Either onsite treatment or active referral for substance abuse
- Effective plan for the transition of consumers for the Lancaster County CMHC to the new provider(s), including a communication plan
- Active use of supportive living
- Ability to work effectively with Medicaid and the introduction of a managed care approach, and thorough understanding of potential changes under the Affordable Care Act
- Efficient and streamlined admission process for all levels of service

- Use of a medical home model similar to the one being promoted by the Center for Medicaid Services (CMS) for individuals with more than one chronic health condition
- Demonstrate an active relationship with the Lincoln Police Department
- Cultural and linguistic competency
- Inclusion of wellness and prevention programs

E. REGION V SYSTEMS

The group(s) or organization(s) selected under this ITN will contract with Region V Systems to provide the services. Region V Systems, a political subdivision of the state of Nebraska, has the statutory responsibility for organizing and supervising comprehensive mental health and substance abuse services in the Region V Systems area which includes 16 counties in southeast Nebraska.

Region V Systems, one of six regional behavioral health authorities in Nebraska, along with the state's three Regional Centers, make up the state's public mental health and substance abuse system, also known as the Nebraska Behavioral Health System (NBHS). Region V Systems is governed by a board of county commissioners, who are elected officials from each of the counties represented in the Regional geographic area. The Regional Governing Board (RGB) is under contract with the Nebraska Department of Health and Human Services System (DHHS), the designated authority for administration of mental health and substance abuse programs for the state.

Each RGB appoints a regional administrator (RA) to be the chief executive officer responsible to the RGB. The RGB also appoints an advisory committee for the purpose of advising the Board regarding the provision of coordinated and comprehensive behavioral health services within the Region to best meet the needs of the general public. In Region V, the Behavioral Health Advisory Committee (BHAC) is comprised of 15-20 members including consumers, concerned citizens, and representatives from other community systems in the Region.

Region V Systems' purpose is to provide coordination, program planning, financial and contractual management, and evaluation of all mental health and substance services funded through a network of providers.

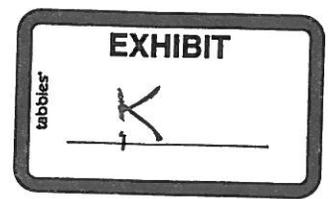
Region V Systems is responsible for the development and management of a provider network that serves the behavioral health needs of southeast Nebraska. Currently, Region V Systems has 12 providers in its network who have met the minimum standards required to be a member of the network; each provider has a contract with Region V to deliver a variety of behavioral health services.

Region V Systems, as payor of last resort, primarily serves financially eligible adults and youth with or at risk of serious mental illness, substance abuse, and/or substance dependence.

Region V's geographical area includes Butler, Fillmore, Gage, Jefferson, Johnson, Lancaster, Nemaha, Otoe, Pawnee, Polk, Richardson, Saline, Saunders, Seward, Thayer, and York counties in southeast Nebraska.

II

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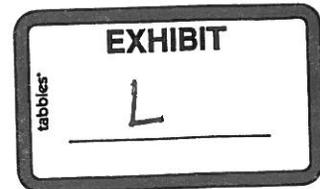
Lancaster County, Nebraska
Services Provided to the State of Nebraska

County Treasurer	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.		
West O Building	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.	\$	60,636
Motor Vehicle Building	Lancaster County provides 1,651 square feet to the State. This includes utilities and custodial services. The cost per sq/ft is \$7.47.	\$	12,334
Register of Deeds	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)	\$	1,555,000
Election Commissioner	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.		
County Court (BU 6280)	Lancaster County is required to remit certain court costs to the State. If those fees cannot be collected from defendants, the County must pay.	\$	145,000
County Court	All County Court staff are state employees. Lancaster County pays for operating expenses, computers, and office equipment.	\$	399,770
	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)	\$	469,654
Juvenile Court	Juvenile Court Judges are state employees. The County pays for a Court Administrator, 3 Clerk Typists, and 4 bailiffs. (Personnel Costs)	\$	519,554

	Lancaster County also pays for Court Appointed Attorneys, Boarding contracts, and other operating expenditures.	\$	1,053,948
	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.	\$	190,623
District Court	Lancaster County is required to remit certain court costs to the State. If those fees cannot be collected from defendants, the County must pay.	\$	62,250
	District Court Judges are state employees. The County pays for a Court Administrator, 2 Law Clerks, and 8.75 bailiffs. (Personnel Costs)	\$	811,186
	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.	\$	1,110,979
	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.	\$	499,954
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.	\$	85,000
Corrections	The Jail has provided 859 DNA tests for the State over the last 2.5 years.	\$	4,500

	The Jail has completed 7,175 full sets of fingerprints for the State system (NSP) over the last 2 years.	\$	33,400
	The Jail has completed 22 sex offender registrations over the last 2 years.	\$	1,100
	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.	\$	15,000
	The Jail has completed approximately 18,000 warrant checks on offenders before releasing over the last 2 years.	\$	42,000
	Time and staff effort to send inmate medical files to the State of Nebraska over the last 2 years.	\$	1,900
	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	\$	7,070,523
	Amount unable to be billed because funding ended: FY12 1,809,255 FY13 - 10-31-12 669,305	\$	2,478,560
Juvenile Probation	Juvenile Probation staff are state employees. Lancaster County pays for operating expenses, computers, and office equipment. This also includes contracts with the State Probation Office. The Juvenile Drug Court was funded by the State with grants but the County started funding in FY05.	\$	223,425
	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.	\$	60,591
Adult Probation	Adult Probation staff are state employees. Lancaster County pays for operating expenses, computers, and office equipment. This also includes a contract with the State Probation Office.	\$	149,303

	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.	\$	251,816
Community Corrections	Drug Court - reimbursement for employees. Dollar amount of reimbursement has not changed over 6 years - despite Kim's request. Employee Costs - \$276,156 State Reimb - \$183,839	\$	92,317
Youth Services Center	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.	\$	715,000
General Assistance	Lease agreement with Health & Human Services - 41,267 square feet x 13.60 per sq ft. x 51.62% nonfederal share = \$289,707.55 (Included on legislative list)	\$	292,000
County Fees	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 marriage license handgun permits motor vehicle inspection fees		
Other Court Related Costs	Clerk of the District Court	\$	1,579,711
	Jury Commissioner	\$	147,694
	Mental Health Board	\$	149,170



Sarpy County, Nebraska
Services Provided to the State of Nebraska/ Unfunded Mandates
October 22, 2012

Following is a partial list of services provided to the State of Nebraska without reimbursement and unfunded mandates.

Treasurer/Clerk	About one year after Sarpy County constructed a \$7MM addition to the Courthouse to house the County Treasurer and County Clerk, among other offices, the State Department of Motor Vehicles decided that the County Treasurer should issue motor vehicle titles instead of the County Clerk. Major remodeling was required. The one time cost was over \$100,000	\$100,000
Drivers License	Sarpy County provides 1,374 square feet to the State Department of Motor Vehicles Drivers License Examiners. This includes all services such as utilities and custodial. At an estimated square foot cost of \$18, the annual cost of this space is \$24,732.	\$24,732
Register of Deeds	The Sarpy County Register of Deeds office does nearly all of the work required to file land records in the County, yet was required to send over \$1.1MM of the documentary stamp tax collected to the State in the 2012 FY.	\$1,123,243
Clerk of the District Court (CDC)	The Sarpy County CDC is required to remit certain court costs to the State. If those fees cannot be collected from defendants in the case, the County is required to provide funds for those fees including Filing Fees, Judges Retirement and Law Enforcement Improvement Fund. Amount shown is the estimated costs for the 2012 FY.	\$58,056
County Court Clerk	Sarpy County is required to provide 3,436 square feet of space for this department including all custodial services and utilities. At a square foot cost of \$18, the value of this space is estimated at \$61,848.	\$61,848
County Court	All County Court staff are employees of the State	\$118,390

	of Nebraska. Sarpy County is required to provide the operating budget for the Sarpy County Court including supplies, court costs (as described in the Clerk of District Court above), attorney fees, and equipment including computers (See Note 1).	
Juvenile Probation	Sarpy County is required to provide 2,802 square feet of space for this department including all custodial services and utilities. At a square foot cost of \$18, the annual cost of this space is estimated at \$50,436	\$50,436
Juvenile Probation	Juvenile Probation staff are State employees. Sarpy County is required to provide some operating expenses for this department such as office and medical supplies, computers and furniture. (See Note 1).	\$19,050
District Judge	The Sarpy County District Court Judges are State employees. Sarpy County is required to pay for the bailiff (personal secretary) for each judge and for a law clerk that is shared by all three judges. Personnel costs are \$285,609. Sarpy County also pays for expenses such as Court Appointed Counsel, law library costs, supplies, computers and furniture. (See Note 1).	\$566,700
Juvenile Judge	The Sarpy County Juvenile Court Judges are State employees. Sarpy County is required to pay for the bailiff (personal secretary) for each judge and for a file clerk and a part-time receptionist. Personnel costs are \$186,040. Sarpy County also pays for Court Appointed Attorneys, evaluations and supplies. (See Note 1).	\$541,382
Courtrooms	Sarpy County is required to provide courtrooms for each County, Juvenile and District Courts including custodial services and utilities. At a square foot cost of \$18 , the annual cost of these spaces are estimated as follows: County Court: 11,553 square feet - \$207,954 Juvenile Court: 4,190 square feet - \$75,420 District court: 14,545 square feet - \$261,810	\$545,184
Courtroom Security	Sarpy County is required to provide security in all	\$1,033,872

courtrooms. This includes sworn deputies, civilian security officers and various security equipment. Actual budgeted cost for Court Services Department for 2013 FY is \$1,378,497. At least 75% of this cost was for court security. (See Note 1).

Adult Probation	Adult Probation staff are State employees. Sarpy County is required to provide some operating expenses for this department such as wireless cards, supplies, computers and furniture. (A portion of the cost is covered by Cass & Otoe Counties). (See Note 1).	\$89,240
Adult Probation	Sarpy County is required to provide 7,140 square feet of space for this department for offices and drug testing including all custodial services and utilities. At a square foot cost of \$18, the annual cost of this space is estimated at \$128,520. In addition, Sarpy County provides 4,500 square feet at 36 th and Chandler for the Reporting Center at an annual cost of \$48,250 (excluding utilities and custodial services).	\$176,770
Health & Human Services	Department of Health and Human Services staff are State employees. Sarpy County is required to provide 4,000 square feet at no charge, including custodial service and utilities. At a square foot cost of \$18, the annual cost of this space is estimated at \$72,000	\$72,000
Jail	Sarpy County houses prisoners on behalf of the State of Nebraska. Effective with the passage of LB 383, Sarpy County no longer receive any reimbursement for the housing of State prisoners. For the first quarter ending 9/30/2010 Sarpy County received a payment of \$97,755, which was based on a rate of \$35/day which equates to 2,793 prisoner days per quarter or 11,172 prisoner days per year. The true cost of holding a state prisoner as calculated in the County's Indirect Cost Allocation Plan is \$117.42. The 11,172 prisoner days multiplied by a daily rate of \$117.42 equals an annual cost of \$1,311,816.	\$1,311,816

Sales Tax Commission A number of years ago the State reduced the commission the County Treasurer is eligible to retain for collecting sales taxes on motor vehicles. The County's sales tax commission receipts decreased from over \$60,000 to about \$1,700 per year. Even the \$60,000 did not begin to cover the cost of collecting over \$20MM per year that is sent to the State and Cities.

Insufficient Fees Almost all of the fees charged by County offices are set by State Statute. Many of these fees fall short of generating sufficient revenues to cover the cost of providing the required services. A few (not all inclusive) examples are:
 Service Fees-Writs, Warrants, etc-Sheriff
 Motor Vehicle Inspection Fees-Sheriff
 Vehicle Title Fees-Treasurer
 Vehicle Registration Fees-Treasurer
 Marriage Licenses-Clerk

Law Enforcement For many years, the cost of meals provided to
Training Center deputies being trained at the Law Enforcement Training Center was covered by the State. Several years ago, the decision was made to pass that cost on to the entity sending the deputy for training. The cost comes close to \$1,000 per deputy

NOTE 1: Cost shown is budgeted amount for 2013FY