In 2010 NACO formed the 2020 Committee. It was created to determine what efficiencies could be found for county government over the next 10 years. The document you are about to examine is a result of many hours of meetings by the committee and NACO staff. The NACO Board of Directors has unanimously adopted the work of the 2020 Committee.

One fundamental premise of the committee was to preserve the rich heritage of the 93 Nebraska counties. Consolidation across county lines was off the table as that takes on constitutional proportions. Only a majority vote of the people can accomplish the consolidation of counties.

I believe county government to be the most efficient form of government in Nebraska. It is extremely close to the people and is reactive and visionary to the needs of Nebraska taxpayers.

Many of the items in the report may step on toes, bruise egos, and stretch imaginations, but in order to achieve efficiency in future years difficult decisions must be made and legislation must be passed in order to sustain the legacy of Nebraska counties.

Many may say this report goes too far in making changes, and many will say it does not go far enough. The final recommendations by the committee are what they feel could realistically be achieved in the next 10 years given the need for legislative changes and compromise. This resultant report is a subset of issues examined by the 2020 Committee.

As many will note it is rare when a statewide organization takes on such a task, knowing that members of the organization will read this document with concern about the changes that are being recommended as it impacts each of them.

One common theme that kept surfacing is that if counties are given the proper tools for efficiency, and the citizens of the county are requesting change, then counties historically will make the correct decision for their county. They will effect change in a logical progression instead of a mandated fashion that rarely acknowledges the need for local bodies of government to adopt changes that are advantageous to their counties instead of a sweeping admonition of a statewide legislation thinking one size fits all.

Change is difficult, but change is necessary in order to serve the taxpayers of Nebraska in the most economic and efficient manner not only today but into the future. I look forward to your comments after reading this report.

Sincerely,

Larry J. Dix
NACO Executive Director
Introduction

Nebraska's 93 counties serve a unique role in the state's governing structure. As arms of the state created by the Nebraska Constitution, counties act as agents for motor vehicle functions, distribution of funds, and prosecution of crimes. In addition, counties provide office space to courts and probation, issue marriage licenses, and provide public defenders for persons accused of crimes.

As local governments, counties provide services to constituents such as constructing and maintaining roads, conducting local elections, and assessing and collecting taxes. Counties serve as a resource of last resort for their citizens through general assistance and indigent burials. Property taxes pay for most local and some state functions performed by counties.

The 2020 County Government Committee was created in 2010 to examine the role of county government during the next ten years as both an arm of the state and a local government structure. While implementation of the committee's recommendations may help shape county government beyond that time frame, the committee's work focused on the coming decade.

Twelve county officials from across the state were appointed by 2010 NACO President Pam Lancaster to serve on the Committee. The membership is diverse in terms of geography, population, and county office. The Committee met five times during the two-year study.

Members of the 2020 Committee are:
Pam Lancaster, NACO Past President
Steve Erdman, NACO President
LeRoy Janssen, NACO Vice-President
Leon Kolbet, NACO Secretary-Treasurer
Mary Ann Borgeson, Douglas County Commissioner
Charles Daly, Thomas County Commissioner
Jerry McCallum, Madison County Commissioner
Earl McNutt, Red Willow County Commissioner
Cliff Morrow, Burt County Supervisor
Deb Schorr, Lancaster County Commissioner
Jean Sidwell, Buffalo County Treasurer
Dave Sullivan, Hooker County Clerk, Assessor, Election Commissioner, Register of Deeds, Clerk of the District Court, Planning and Zoning Administrator

The Committee was charged with developing and discussing ideas to proactively shape the future of Nebraska's counties. Members were asked to step outside of their own offices and interests to tackle tough, potentially unpopular ideas that could result in increased efficiencies and costs savings for counties. This study does not promote county consolidation. Because many costs of county government are personnel-driven, much Committee discussion focused on specific county offices and the opportunities for cooperative functions. The recommended best practices presented by the Committee are not intended to target individual offices or officeholders, but to make counties aware of options already in statute. Any legislative proposals related to particular offices are intended to expand those opportunities for cooperation and efficiency or offer different structural models.
Because individual recommendations may not be appropriate for every county, the best practices are presented in terms of examining issues to provide an outcome suitable for each county's needs. While much of the discussion is couched in terms of cost savings, any true savings would be subject to many variables.

The report is divided into two distinct parts. The first section contains the committee’s best practice recommendations for county functions and staffing. The second section consists of existing statutory opportunities for counties to create efficiencies.
Part 1: Specific Recommendations from the 2020 Committee

The 2020 Committee examined ideas for efficiency related to county functions and county personnel, as well as reviewing existing options to allow inter- and intra-county cooperation.

Part 1 identifies examples of potential efficiencies in county functions, then outlines examples of potential efficiencies for county officials and personnel. Finally, it notes areas that are outside the scope of the 2020 Committee’s recommendations but may be appropriate for future discussion. The 2020 Committee and NACO are not suggesting that any changes are needed, wanted, or viable in a given county's particular situation, nor should these options themselves be pursued without significant thought or discussion, but these ideas deserve to be examined and considered as counties continue strategic planning for the next decade.

The following best practices were recommended:

Recommendations on County Functions

Elections

**Best Practice Recommendation:** Counties should study all options for voting, specifically including mail and electronic elections

Conducting elections is one of the most fundamental and most regulated functions of county government. Federal requirements control protocols, equipment and personnel; state laws direct implementation of the federal requirements, as well as reflecting the will of state residents relative to recalls, initiatives, and petitions.

Within the last decade, stringent requirements for voting by absentee ballot have been relaxed, which has resulted in increases in early voting in many counties. This option, in conjunction with federal requirements for voting and counting equipment at each polling place, has led to legislation allowing some elections to be conducted by mail, rather than at traditional polling places.

Under existing Nebraska law, counties of less than 10,000 may conduct elections by mail in any or all precincts in lieu of establishing polling places for those precincts. The Secretary of State must approve a written application to hold such an election. Mail elections are limited to issues; election of candidates may not occur by mail.

The 2020 County Government Committee discussed the balance between voters taking responsibility for exercising the privilege to vote and restrictive voting procedures that could disenfranchise voters. The Committee determined that the two areas with the greatest potential for cost-savings and efficiency are reducing personnel costs and finding alternatives to traditional elections. The Committee encourages counties of less than 10,000 to consider mail-in elections when feasible, efficient, and cost effective. Among other factors, counties must examine the cost per vote,
cost per voter, and cost of reporting results in mail versus traditional elections. In addition, counties must be responsive to constituents who may feel the patriotism and camaraderie of visiting a polling place on election day outweighs other factors.

Online voting has been approved in some other states but is not legal in Nebraska. Proponents of online voting cite ease, timeliness and access. Opponents cite the potential for mischief and allegations of fraud. While online elections have had mixed results, the Committee recommends that further study should be done to determine their feasibility for some or all elections in Nebraska.

**Townships**

Best Practice Recommendation: Counties operating under a township form of government should examine existing laws when determining whether the township form is viable and appropriate in their county.

Nebraska's counties operate under two forms of governance: the commissioner form and the township form. The township form is not related to the term township as used in legal descriptions, but rather to distinguish a separate level of local government that is present in counties operating under that particular governmental structure. Nebraska’s Constitution requires the Legislature to provide general laws for township organization and requires a vote of county residents to adopt or discontinue the township form of government.4

Twenty-six counties operate under a township form of government and the other 67 are governed by a commissioner form. (Exhibit 1)

<table>
<thead>
<tr>
<th>Counties with a township form of government</th>
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<tr>
<td>Adams</td>
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<td>Antelope</td>
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Under the township form, the county board is composed of seven supervisors who are responsible for general operations and functions of the county. A separate township board, consisting
of a clerk, treasurer, and chairman, is responsible for township roads, and in some counties, township libraries and cemeteries. In some counties, the township board has chosen to contract with the county to provide those services.

Townships are funded through a levy allocation by the county board. If the allocation is insufficient, the township may hold a townhall meeting or election to increase their levy authority. Township employees and officials are not county employees or officials.

Some counties have experienced difficulty in filling the slate for township elections or appointing residents to serve on township boards. When this occurs, two options are available to alter or discontinue the township form of government. The question of continuing a township form or transitioning to a commissioner form may be placed on the ballot by petition or a resolution of the county board. The petition or resolution must specify whether the proposed county board of commissioners will have five or seven members and the timing of the restructuring. This issue has most recently appeared on the general election ballot in 2010 in Harlan County and in Buffalo, Fillmore, and Phelps counties in 2008. Voters in Phelps County approved the change to a commissioner form, which took effect in 2011. Although the question had appeared on the ballot in several other counties over the years, prior to the election in Phelps County, more than 25 years had elapsed since voters last approved a change from a township form of government to a commissioner form. While statutes provide for commissioner counties to restructure into the township form, it has not occurred.

As an alternative to complete restructuring, if a township board has become inactive and the county board has been unable to fill two or more vacancies on the township board, the county board may take steps to discontinue the individual township. If, after a public hearing, no resident agrees in writing to serve on the township board, the county board may adopt a resolution to terminate the township on the following June 30. If more than 50 percent of the townships in a county have been discontinued through this process, the county board shall file a resolution to place the issue of discontinuance of the township form of government on the next general election ballot.

The 2020 Committee recommends that counties operating under the township form of government evaluate whether the structure is working or if county residents should be given an opportunity to vote on a change to the commissioner form of government. The decision to alter or retain the form of government is best made locally.

Courts

Best Practice Recommendation: Request an opportunity to provide input as court restructuring is studied and take an active role in providing alternatives, if necessary

Like the 2020 Committee, the Nebraska Supreme Court has undertaken a future planning initiative. Many of the concepts presented by the Nebraska Reengineering Committee, such as
implementing and expanding videoconferencing to facilitate electronic hearings in lieu of travel by judges and parties, could have positive effects on county costs and courtroom space, as noted in the 2020 Committee recommendation that follows.

Another Reengineering Committee proposal was enacted by LB 669 (2011). The bill authorizes clerks of district and county courts to enter into formal agreements to provide services in each others’ absence. NACO, Supreme Court officials, and the Legislature’s Judiciary Committee developed procedures that allow for cooperation in counties and courts of all sizes, whether structured as an elected clerk of the district court or an ex officio office.

The 2020 Committee recommends working with the Reengineering Committee to develop procedures and technology that are efficient and economical. Any revisions to the statewide court structure should maintain equal access to court services by all state residents.

**Best Practice Recommendation:** Require counties to consider cooperative and efficient practices for jails and courts, including video arraignments

Many counties have built new jails to alleviate overcrowding and comply with jail standards. As new jail and courtroom facilities are developed, the capacity for video arraignments and other technology should be included. As alternatives to building new jails or to help offset costs of new facilities, counties should consider regional jails, holding inmates for federal agencies, or holding inmates for the state to relieve overcrowding in less-restrictive facilities. In addition, counties should examine house arrest, problem-solving courts and other alternatives to reduce inmate populations. Pay-to-stay and inmate contributions to health care costs should be considered in the future.

**NACO will pursue introduction of legislation to require video arraignment technology in new or remodeled jails and courts.**

**Partnership with State and Federal Governments**

**Best Practice Recommendation:** Reduce or eliminate further unfunded mandates

State and federal budget reductions have led to many responsibilities being passed down to counties. However, necessary funding does not always accompany the new responsibilities and financial assistance from the state and federal government for existing partnerships has often dwindled or been eliminated.

Some unfunded mandates arise through legislation enacted in other areas. For example, the Nebraska Supreme Court recently implemented e-filing of court documents. Although there may be
savings in staff time related to the acceptance of filings, counties may incur additional printing and paper costs for printing out lengthy documents.

Other unfunded mandates are the result of state budget cuts. For example, as the State Patrol cuts the number of troopers in response to the state’s budget deficiencies, county sheriffs are forced to spend more time patrolling and responding to emergencies on state highways and the interstate.

Yet other unfunded mandates are the result of transfers between counties and the state. Beginning in 1996, nine counties transferred the assessment function to the state and several others passed resolutions requesting a transfer. However, legislation was enacted in 2009 to transfer the assessment function back to counties.

The 2020 Committee discussed the blurred line between a good faith partnership and being forced to accept costs and responsibilities touted as in the spirit of cooperation. The Committee recommended that further unfunded mandates should be reduced or eliminated.

**E-Government**

**Best Practice Recommendation: Counties should develop an online presence**

Some Nebraska counties have been categorized as lacking technology because they do not have a website and other websites are not updated regularly. The 2020 Committee encourages all counties to have a website that contains at least minimal, basic information, such as the names of current county officials and contact information. Once this is in place, counties should consider publishing meeting notices, agendas, and minutes on their website. When possible, counties should consider options for conducting business online, such as posting property valuations online and accepting tax payments electronically.

**NACO will pursue introduction of legislation requiring all counties to develop a basic online presence.**

**Recommendations on County Officials and Personnel**

Although the Constitution provides for the election of certain state officials, there are no constitutional requirements for the election of specific county officials. The Legislature is given the general responsibility to "provide by law for the election of such county and township officers as may be necessary." The Legislature has enacted a county structure that includes an elected governing body, elected officials who do not report to the governing body, appointed officials, deputies, and employees. (Exhibits 2-A, 2-B and 2-C)
### Exhibit 2 - A

**Elected County Officers Listed in Nebraska Statutes**

- County Commissioner - §23-150; §32-528
- County Supervisor - §23-268; §32-529
- County Attorney - §23-1201 et seq.; §32-522
  - §23-1201.01 - non-resident may be appointed if vacancy or no resident is elected
- County Clerk - §23-1301 et seq.; §32-517
- Register of Deeds - §23-1501 et seq.; §32-518
  - County clerk is ex officio unless register of deeds is elected - §23-1502
  - In counties with populations greater than 20,000
- County Treasurer - §23-1601 et seq.; §32-521
- County Sheriff - §23-1701 et seq.; §32-520
- County Surveyor/Engineer - §23-1901 et seq.
- County Surveyor - §32-525
- County Engineer - §32-526
- County Assessor - §23-3201 et seq.; §32-519
  - County clerk is ex officio if assessor is not elected
- Public Defender - §23-3401 et seq.; §32-523
  - In counties of 100,000 populations or where counties have approved the establishment of the office
- Clerk of the District Court - §24-337.04; §32-524
  - Elected in counties of 7,000 or more
  - In counties of less than 7,000, county board and district judge may determine if there is an elected office

*Qualifications for county officials are found in Chapter 23. Election provisions are found in Chapter 32.

### Exhibit 2-B

**Appointed Officials Listed in Nebraska Statutes**

- County Comptroller - §23-1401
- Auditor - §23-701
- Jailer - §23-1703
- County School Administrator - §23-3312
- Coroner - §23-1210; §23-1820
- Zoning Administrator - §23-114.04
- Election Commissioner - §32-207; §32-211; §32-218
Exhibit 2-B (Continued)

- Highway Superintendent - §39-1502
- Emergency Manager - §81-829.46
- Weed Control Superintendent - §2-954
- Health Director - §71-1627
- Transportation - §13-1201
- Veterans Service Officer - §80-407

Exhibit 2-C

Deputy Officials Listed in Nebraska Statutes

"When a county officer is compelled by the pressure of the business of the office to employ a deputy, the county commissioners may make a reasonable allowance to such a deputy." §23-1115

- Attorney - §23-1204.03 - deputy county attorneys in counties of 30,000 to 200,000
  - §23-1204.05 - chief deputy and one or more deputies in counties over 200,000
- Clerk - §23-1301.01 - cannot be treasurer, sheriff, register of deeds or surveyor
- Comptroller - §23-1403
- Register of Deeds - §23-1501.01 - cannot be treasurer, sheriff, clerk or surveyor
- Treasurer - §23-1601.02 - cannot be the clerk, sheriff, register of deeds or surveyor
- Sheriff - §23-1704.01 - cannot be the treasurer, clerk, register of deeds or surveyor
- Surveyor - §23-1901.02 - cannot be treasurer, sheriff, register of deeds or clerk
- Assessor - §23-3206 - assessor shall have two deputies in counties over 200,000
- Public Defender - §23-3401 - assistant rather than deputy
- Clerks of District Court - §24-401
- County Clerk for Elections - §32-218

Combining Election Offices

**Best Practice Recommendation:** Counties of 20,000 to 100,000 should evaluate combining the offices of election commissioner and clerk

In counties in excess of 100,000, the election commissioner is appointed by the Governor.12 In counties of 20,000 to 100,000, the office of election commissioner may be created by a resolution of the county board.13 In all other counties, and those without an appointed election commissioner, the county clerk has the powers and performs the duties of election commissioner in an ex officio capacity.14
In counties in excess of 100,000, the election commissioner appoints a chief deputy election commissioner. In counties of 20,000 to 100,000, the appointment of a chief deputy is at the option of the county board. In ex officio counties, the county board may establish the position of deputy county clerk for elections with appointment made by the county clerk. Under the direction of the county clerk, the deputy is primarily responsible for performing the election functions of the county clerk and other duties as assigned by the clerk. In all cases, if a deputy is appointed, he or she must be a member of a different political party than the election commissioner.

The 2020 County Government Committee makes a preliminary best practice recommendation that counties of 20,000 to 100,000 should evaluate whether a separate election commissioner is needed or whether the county clerk can and should perform election functions. If it is determined that the county clerk, in conjunction with an appointed chief deputy for elections, if necessary, can and will perform election functions, the county board should consider elimination of the separate office of election commissioner at the end of the current term of office.

**Elected County Weed District Boards**

**Best Practice Recommendation:** Examine the need for elected county weed district boards

Modern noxious weed control laws were enacted in 1965. The current Noxious Weed Control Act provides for either the county board or an elected five-member county weed district board to establish a coordinated program for control of noxious weeds within the county. The county board or weed district board is deemed the "control authority" for the county and carries out its duties in accordance with the rules and regulations adopted by the Nebraska Department of Agriculture. Each county board must employ at least one certified weed control superintendent to examine all land to determine compliance with the Act, including consulting about methods of noxious weed control and investigating violations of the Act. Because state statutes do not require a separate or full-time weed control superintendent for each county, some counties share a weed control superintendent with another county or assign those responsibilities to a road department employee or other county worker.

To date, 15 counties have elected county weed district boards. At the 2010 general election residents of three counties voted to dissolve the board and shift noxious weed control responsibilities to the county board. In placing the issue on the ballot, county boards have cited the need for a separate quasi-governmental board, issues of liability, and the per diem of not less than $12 per day when engaged in their duties.

**NACO will pursue introduction of legislation to eliminate elected county weed district boards.**

8
Veterans Service Offices

**Best Practice Recommendation:** Encourage examination of the duties, responsibilities, and costs related to the veterans service office

County veterans service officers are appointed by the county veterans service committee, with confirmation by the county board, to assist in providing relief and assistance to veterans. Counties are given specific authority to appoint a part-time officer or share that position with another county. As the demographics and needs of veterans change, counties are encouraged to examine the structure and function of the county veterans service office in order to maximize opportunities for service-related assistance for veterans.

Elected County Surveyors

**Best Practice Recommendation:** Examine statutes requiring the election of a county surveyor in counties of 150,000 or less

If a qualified surveyor within the county will accept the position of county surveyor, if elected, the position must be filled by election in counties of less than 150,000. Due to the possibility of a write-in candidate, it can be difficult to determine whether a qualified candidate would be willing to run for office and serve if elected. The election process for county surveyors should be revised for clarity.

**NACO will pursue introduction of legislation to clarify the election of county surveyors in counties of 150,000 or less.**

Areas for Future Discussion

Because the focus of this study is limited to efficiencies that may be appropriate during the coming decade, a number of the issues considered by the 2020 Committee were not adopted as formal recommendations. However, as counties look beyond 2020, these issues are likely to become part of their strategic plan.

**Issue for Future Consideration:** Develop recommendations for alternative funding sources for counties.
The 2020 Committee reviewed numerous tax studies conducted by the State of Nebraska, Legislature, and private think-tanks, including several examinations of local government funding. Experts on county finance advised the committee on funding mechanisms that are outlined in Part 2 of this report. The 2020 Committee affirmed the need to develop alternative funding sources for counties in the future.

**Issue for Future Consideration:** Examine efficiencies related to appeals to the Tax Equalization and Review Commission (TERC), including the location of hearings

Due to state budget cuts, most appeals of property valuation are heard by the TERC in Lincoln. As a result, county costs for TERC appeals can be substantial. Legislation adopted in 2011 (LB 384) allows appeals of certain property to be heard by a single commissioner. The TERC has indicated a willingness to hold some of those hearings at locations across the state, as well as using computer and videoconferencing technology, to reduce travel for all parties. The 2020 Committee recommends continued consideration of holding some hearings in other locations throughout the state and using technology, including but not limited to videoconferencing, to reduce travel for counties and the Commission.

**Issues for Future Consideration:** Examine additional opportunities for city/county cooperation, including combining specific functions

Since 1805, forty counties and cities in the United States have consolidated into some form of municipal county government. In comparison, the issue has been defeated by voters more than 120 times. In Nebraska, legislation is introduced nearly every year to authorize or mandate cooperation or consolidation of counties, cities and counties, local government offices, or functions.

Traditionally, counties have opposed mandatory consolidation due to the existing statutory options for cooperation and merger. When efficiencies can be achieved through cooperation, counties have initiated agreements or placed measures on the ballot within the existing statutory framework. These efforts have been most successful when similar functions are joined, such as county and city 911 call centers, and the shared process is reviewed periodically. The existing options for cooperation and consolidation are set out in Part 2 of this report.

In addition, counties have traditionally opposed mandatory consolidation of governments because it does not necessarily result in cost savings. Particularly in rural or sparsely populated areas, any potential savings by government side may be shifted to individual taxpayers who have to travel farther for services.

The 2020 Committee recommends that counties and cities considering combining functions look first to the existing statutory framework for interlocal agreements and municipal counties. The Committee strongly discourages legislation mandating consolidation of counties and cities.
**Issues for Future Consideration:** Examine opportunities for cooperation between state and local law enforcement agencies

Under certain circumstances, county, municipal and state law enforcement agencies cross jurisdictional boundaries to enforce the laws of the state.\textsuperscript{19} State and city budget reductions have forced county sheriffs to expand their duties to cover the absence of other law enforcement. Some cities and villages have contracted with the county to provide law enforcement\textsuperscript{20} and others have disbanded their police department and rely upon the sheriff in emergency situations. The 2020 Committee encourages future examination of the roles of local law enforcement, including shared enforcement duties through enhanced mutual aid agreements, joint public safety answering points, and other cooperative efforts. The 2020 Committee encourages future examination of a partnership between the State of Nebraska and counties to make full use of available law enforcement resources.

**Issues for Future Consideration:** Examine boundaries for regional entities

The 2020 Committee examined maps of various regions and district lines to determine whether efficiencies could be created by developing consistent regional boundaries for entities performing related functions. Although many boundaries are statutory, in the future counties may request the assistance of the Legislature to examine the history and logic for regional boundary lines for health and human service entities, court functions, and other services.

**OTHER RESOURCES**

County officials in two other states have engaged in similar studies in recent years. Their conclusions are available on the following websites:

Minnesota Study: http://www.mncounties.org/redesign/index.htm

*Minnesota Redesign*, Association of Minnesota Counties


*Blueprint for Change 2010*, The Wisconsin Way
Part 2: Tools Available to Counties Under Existing Law

Despite repeated legislative attempts to force consolidation of counties, existing law already provides numerous options for counties to cooperate, consolidate, and share functions, should local residents or county boards choose to do so. Part 2 of this report expands upon the 2020 Committee’s recommendation to look first at existing opportunities before proposing the enactment of new legislation.

Best Practice Recommendation: Before recommending new practices, it is essential to review and examine the tools available under existing law.

Tools for Cooperation

Interlocal Agreements §13-801

It is the purpose of the Interlocal Cooperation Act to permit local governmental units to make the most efficient use of their taxing authority and other powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities. Neb.Rev.Stat. §13-802

Counties, cities, school districts, and other political subdivisions can enter into interlocal agreements with each other and state agencies to jointly perform any power or authority that can be exercised individually. The Interlocal Cooperation Act provides a framework for sharing equipment and personnel, as well as working together to perform specific functions that require specialized expertise.

Participation in interlocal agreements does not relieve counties of legal obligations or responsibilities, except to the extent that the function is jointly performed. The agreements are intended to supplement powers authorized by law and to provide an additional, alternative and complete method of performing those responsibilities. Nebraska statutes set out specific guidelines for methods of organizing a joint entity and the terms to be included in the agreement, including duration, general organization, termination, financing procedures, and other matters.

Parties to an interlocal agreement may provide funding for the joint entity through appropriations or other means and offer assistance in the form of personnel or services. The joint entity may issue tax exempt bonds for the specific purpose of the agreement (i.e., fire protection, law enforcement, waste disposal), as well as to create reserves and cover other operational expenses.
Counties may access additional levy authority to provide financing for the county's share of revenue required under an interlocal agreement or joint public agency. The Nebraska Constitution sets a maximum levy for counties of fifty cents per one hundred dollars of taxable valuation. Section 77-3442 provides for thirty cents of levy authority for county use and fifteen cents for allocation to miscellaneous districts or county use. The remaining five cents is designated to finance interlocal agreements or joint public agency projects.

Counties and other participants in interlocal agreements must submit participant information requested by the Auditor of Public Accounts by December 1 each year. (Exhibit 3)

<p>| Exhibit 3 |</p>
<table>
<thead>
<tr>
<th>Examples of Interlocal Agreements</th>
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<tbody>
<tr>
<td>• Provide transportation services to older, handicapped residents</td>
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<tr>
<td>• Invest surplus of excess funds</td>
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<td>• Responsible for coordination of Emergency Protective Custody (EPC)</td>
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<td>• Shared purchases of gravel, gasoline and propane</td>
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<td>• Maintenance of roads, snow removal and mowing, paint striping</td>
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<td>• Risk management</td>
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<tr>
<td>• Law enforcement, narcotics task forces</td>
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<tr>
<td>• Health Department</td>
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<tr>
<td>• Share zoning administrator and enforcement of zoning regulations, rural and urban planning, building inspections</td>
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<tr>
<td>• Emergency management</td>
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<tr>
<td>• Ambulance service</td>
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<tr>
<td>• Administration, organization, supervision and financing for mental health services</td>
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<td>• Animal control, protection from wildlife damage, mosquito control</td>
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<tr>
<td>• Replacement of bridges</td>
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<td>• Library services, bookmobile</td>
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<tr>
<td>• E911/911 emergency telephone communications systems, dispatching, use of towers</td>
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<tr>
<td>• Reduction of waste materials and recycling applicable materials</td>
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<td>• Veterans’ services</td>
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<tr>
<td>• Use of jail facilities, juvenile detention facilities and services</td>
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<tr>
<td>• Mutual aid to protect from fire loss</td>
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<tr>
<td>• Hold motor vehicle fuels for schools</td>
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<tr>
<td>• Provide developmental disabilities services</td>
</tr>
<tr>
<td>• Provide for legal services for enforcement of child support establishment and enforcement</td>
</tr>
<tr>
<td>• Location of a county historical society</td>
</tr>
</tbody>
</table>
### Exhibit 3 (Continued)

- Purchase, construct, maintain, and improve garbage disposal plants, systems or solid waste
- Conduct programs relating to agriculture, family and consumer sciences
- Provide programs supporting 4-H, agriculture and natural resources, cooperative extension services
- Noxious weed control
- Prosecutorial services for city
- Flood control, watershed partnership
- Reconstruct, maintain and operate a recreation area and recreation facilities thereon
- Drainage project, storm water retention
- Community Action Agency programs
- Jointly provide administrative support to district court judge
- Interjurisdictional plan addressing ice jams
- Used oil collection and reuse program
- Capital construction, renovation, repair, improvement and maintenance of county fairgrounds
- Joint funding of airport authority
- General assistance program
- Joint lottery and keno
- Information technology
- Use of firearms/shooting range
- Provide resources for victims of domestic abuse
- County attorneys handle each other's conflict cases
- Grant writer
- Hazmat Response Team Assistance
- Economic development, promotional services

Source: 2002 Auditor of Public Accounts. List is not complete; however, it provides a sampling of Interlocal Agreements used by counties.

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### Case Study - Madison/Pierce County Planning Department

The Madison/Pierce County Planning Department was created by an interlocal agreement between Madison and Pierce Counties in 2001. The department is responsible for the development and use of land within the unincorporated areas of Madison and Pierce Counties and the Madison County cities of Battle Creek, Madison, Newman Grove, Tilden, and the Village of Meadow Grove. These responsibilities include zoning of property, subdivision of land into building lots, issuing zoning permits and conducting inspections. The department also investigates complaints regarding potential zoning violations.
Case Study - Co-Locating Buffalo County/Kearney Law Enforcement Offices

The Buffalo County Sheriff's Office and the Kearney Police Department co-located to a remodeled building in downtown Kearney in July 1993. By sharing resources, both agencies save taxpayers' money as well as establishing a good working relationship between the agencies and their employees. The Sheriff's office oversees the dispatch duties and answers 911 calls for officers of both agencies. The Police Department oversees the records and data processing functions for both agencies. The Buffalo County Sheriff's Office responds calls that occur in the county (outside of Kearney city limits). The Kearney Police Department responds to calls that occur within the city limits. Both agencies assist each other as needed as well as working with law enforcement officers from other local jurisdictions in Buffalo County, Public Safety at the University of Nebraska at Kearney, and the Nebraska State Patrol.

Joint Public Agencies - §13-2501

It is the purpose of the Joint Public Agency Act to permit local governmental units to make the most efficient use of their taxing authority and other powers by enabling them to cooperate with other governmental units on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities. Neb.Rev.Stat. §13-2502

Since 1999, counties, cities, schools, state and federal agencies, and other political subdivisions have been authorized to join together to create new political subdivisions called Joint Public Agencies (JPAs). The Joint Public Agency Act provides a framework for cooperative efforts, as well as the issuance of revenue bonds and refunding bonds.

The governing body of each participating public agency must adopt a resolution determining that a need exists for a joint public agency. When determining whether a need exists, consideration may be given to the present and future needs of the public agency "with respect to the materials, goods, property, and services which a joint public agency may utilize or provide, the adequacy, suitability, and availability of such materials, goods, property, and services to meet the needs of the participating public agency if no joint public agency is formed, and economic or other advantages or efficiencies which may be realized by cooperative action through a joint public agency."

The resolutions are submitted to the Secretary of State for recordation and issuance of a certificate of creation. If other public agencies join the JPA, an additional filing is required. Biennial reports must also be filed with the Secretary of State. Each participating public agency is entitled to appoint at least one representative to the governing board of the JPA and the number of representatives appointed by each participating entity may be altered by amending the JPA's rules of governance.
Like agreements under the Interlocal Cooperation Act, JPAs may perform any governmental service, activity or undertaking which at least one of the participating public agencies is authorized to perform. However, unlike interlocal agreements which fall within the 5 cents of county levy authority designated for interlocal agreements, JPAs are subject to levy authority allocated by the city or county and the agreement may require such allocation by the city or county. Thus, JPAs fall within the 15 cents of levy authority that counties may choose to delegate to miscellaneous districts or retain for their own use.

**Case Study - Lancaster County Event Center**
The Lancaster County Agricultural Society needed additional funds to develop an event center. By law, ag societies are limited to a 3.5 cent levy for operations and a 3.5 cent levy for capital improvements or real property acquisition. To generate more funds for the event center, the ag society entered into a Joint Public Agency (JPA) with Lancaster County. The JPA issued the bonds for the project, with the ag society pledging their 3.5 cents of levy authority as dedicated debt service for the bonds.

**Case Study - Lancaster County Jail**
When Lancaster County voters failed to support the issuance of general obligation bonds to build a new jail, Lancaster County and the City of Lincoln entered into a JPA to fund the project. Under an existing agreement, the city paid the county a per diem amount totaling $1.5 million annually for holding prisoners. In exchange, under the JPA the city agreed to provide taxing authority of up to $3.5 million and the county contributed up to $2 million of taxing authority. The city benefitted by not making payments to hold prisoners from their general fund. The county was able to extend bond payments from the 10-year period that was then authorized for counties to the 20-year payback period that was available to cities.

**Consolidation of Offices Across County Lines - §22-401**

*Any two or more adjoining counties in the state may (1) consolidate if the number of counties is reduced, (2) consolidate one or more county or township offices, or (3) provide for the joint performance of any common function or service, by complying with the requirements and procedure specified in sections 22-402 to 22-407. If two or more counties are consolidating, any county or part of a county may be added to an adjoining county or counties. Neb.Rev.Stat. §22-401*

This statute allows two or more adjoining counties to enter into an agreement to actually consolidate any one or more of their respective county offices, except the office of county commissioner or supervisor, after public hearing and contingent on receiving voter approval for this consolidation. Conceivably this statute provides the legal basis for multiple counties to consolidate in one office the function of various county offices. The consolidation agreement must be presented to voters.
Actual consolidation of the entire county is additionally subject to Art. IX, sec. 4 of the Nebraska Constitution which states, “The Legislature shall provide by law for the election of such county and township officers as may be necessary and for the consolidation of county offices for two or more counties; Provided, that each of the counties affected may disapprove such consolidation by a majority vote in each of such counties.”

Joint Performance of Common Functions or Services - §22-402

The county boards of any two or more adjoining counties may enter into a consolidation agreement for the consolidation of such counties or for the consolidation of one or more county or township offices except the office of county commissioner or county supervisor. The county boards of any two or more adjoining counties may enter into a consolidation agreement for the joint performance of any common function or service. A consolidation agreement shall not be considered an interlocal cooperation agreement pursuant to the Interlocal Cooperation Act. Neb.Rev.Stat. §22-402(1)

Nebraska Revised Statutes §22-402 et seq. give county boards of any two or more adjoining counties the authority to enter into a consolidation agreement for the joint performance of any common function or service. This agreement is not considered an interlocal agreement. This consolidation agreement is adopted by a majority vote of each of the involved county boards, after public hearing, and this agreement can be revised or terminated at a later time. Further, the statutes permit, but do not require, a county board to submit this agreement to the voters for approval, so a public referendum of sorts is specifically allowed.

Consolidation of Offices Within a County - §22-417

Any county may consolidate the office of clerk of the district court, county assessor, county clerk, county engineer, county surveyor, or register of deeds, except that the consolidated officeholder shall meet the qualifications of each office as required by law. The consolidated office shall have the powers and duties provided by law for each office consolidated. The county board may adopt a resolution for the consolidation of any of such offices and submit the issue of the consolidated office to the registered voters for approval at the next general election or at a special election called for such purpose. The county board shall hold a public hearing prior to adoption of a resolution for the consolidation of offices and shall give notice of the hearing by publication in a newspaper of general circulation in the county once each week for three consecutive weeks prior to the hearing. Final publication shall be within seven calendar days prior to the hearing. The notice shall describe the offices to be consolidated and that the holder of the offices to be consolidated shall have his or her term of office end on the first Thursday after the first Tuesday in January.
following the general election in which the holder of the consolidated office is elected. Neb.Rev.Stat. §22-417

Yet another option can be found in Neb. Rev. Stat. §22-417. This statute permits any one county board to adopt a resolution calling for the consolidation of the offices of clerk of the district court, assessor, clerk, engineer, surveyor, and register of deeds, or any combination thereof, into one county office within that county. This, too, requires public hearing and voter approval to be come effective.

**Municipal Counties - §13-2801**

One or more counties and at least one of the municipalities in each county may create a municipal county to carry out all county services and all municipal services. The process of creating a municipal county shall begin by passage of a joint resolution by the governing bodies of the counties and municipalities involved. The joint resolution may be initiated by the governing bodies or by petition as provided in subsection (2) of this section. Neb.Rev.Stat. §13-2801(1)

Counties and cities can join to form a municipal county to carry out all county and municipal functions under Neb.Rev.Stat. §13-2801 et seq. Approval of this form of government requires the passage of a joint resolution, formation of a commission to prepare a plan, and at least one public hearing prior to an election. The votes are tabulated four ways: all votes on the question, voters in each municipality and county, voters in each county but outside of any municipality, and voters in each county but outside of any municipality or sanitary and improvement district. The municipal county is not formed if a majority of voters on the question or in any of the four categories oppose the issue.

**Tools for Funding**

This section presents several funding mechanisms discussed by the 2020 Committee.

**Nebraska Revised Statute §23-120**

The county board shall acquire, purchase, construct, renovate, remodel, furnish, equip, add to, improve, or provide a suitable courthouse, jail, and other county buildings and a site or sites therefor and for such purposes borrow money and issue the bonds of the county to pay for the same. Agreements entered into under section 25-412.03 shall be deemed to be in compliance with this section. The board shall keep such buildings in repair and provide suitable rooms and offices for the accommodation of the several courts of record, Nebraska Workers’ Compensation Court or any judge thereof, Commissioner of Labor for the conduct and operation
of the state free employment service, county board, county clerk, county treasurer, county sheriff, clerk of the district court, county surveyor, county agricultural agent, and county attorney if the county attorney holds his or her office at the county seat and shall provide suitable furniture and equipment therefor. All such courts which desire such accommodation shall be suitably housed in the courthouse. . . Neb.Rev.Stat. §23-120

County boards are granted limited authority to levy for certain jail, courthouse and other capital construction projects without submitting the project to a vote of the people. Subject to the constitutional 50 cent levy limit, section 23-120 allows counties greater than 250,000 to levy up to $2 million, counties of 100,000 to 250,000 to levy $1 million, counties of 30,000 to 100,000 to levy $300,000 and smaller counties to levy $150,000 within a one year period without a vote. If a county has no bonded debt payable from its general fund levy on the day it initiates a project funded by this section, it may levy up to an additional 2.5 cents. The county board must designate the project, the period of years (up to 20), the tax years, and number of cents of the levy for each year. The county board can designate more than one project, with levies running concurrently or consecutively. If voters submit a petition to place the issue on the ballot, the increased annual levy may be up to 17.5 cents.

Railroad Transportation Safety Districts

Whenever, in a county in which is located a city or cities of the primary or first class, it will be conducive to the public health, safety, convenience, or welfare (1) to move, relocate, or remove any railroad tracks or railroad right-of-way, including improvements, (2) to relocate or remove any railroad yard, switch yard, or switch tracks, (3) to change, construct, eliminate, or reconstruct, including the use of protective devices of any kind or nature, any highway or street crossing of a railroad property, (4) to move, construct, or reconstruct any railroad bridge, viaduct, or subway, (5) to acquire, negotiate, sell, or eliminate any joint trackage operating rights or any rights of other individuals or entities over, in, or on any railroad tracks, rights-of-way, switch yards, or switch tracks, or (6) to do any two or more of the activities listed in subdivisions (1) through (5) of this section, a special district to be known as a railroad transportation safety district may be formed and may proceed, as provided in sections 74-1301 to 74-1308, for the purpose of inaugurating, developing, and negotiating for programs which may involve the constructing, reconstructing, leasing, maintaining, or selling of such work or works of public transportation improvement. Neb.Rev.Stat. §74-1302

Railroad Transportation Safety Districts (RTSDs) can be created in counties in which a city of the primary or first class is located. An RTSD may be formed for the purpose of "inaugurating, developing, and negotiating for programs which may involve the constructing, reconstructing, leasing, maintaining, or selling of such work or works of public transportation improvement."
An RTSD has the authority to purchase railroad right-of-way, acquire land (by purchase or eminent domain) for railroad purposes, receive title of property and enter into contracts and agreements. RTSD funded projects must follow strict regulations. In addition to compliance with existing government regulations, each major project must have a positive cost/benefit ratio.

**Case Study - Lancaster County Railroad Transportation Safety District**

In 1971, the City of Lincoln and Lancaster County established an RTSD to provide protection for the 90 major railroad crossings in Lincoln and develop a long-term plan for subsequent work. The Lincoln/Lancaster County RTSD identifies crossings in need of work, prioritizes projects and conducts studies to plan future work. RTSD-funded projects are included in the Capital Improvement Program under "Streets and Highways". Unless there is an immediate safety concern, projects are completed consistent with the plan. Projects are contingent upon available funding.

**Rural Road Improvement Districts - §39-1638**

Any county may establish and construct new roads, change or extend existing roads, and improve such roads by grading, surfacing, draining and incidental work by the board on its own initiative declaring the advisability or necessity therefor in a proposed resolution, which resolution shall state (1) the road or roads to be improved, (2) if a new road is contemplated, the general location of the new road or changes in location of an existing road, (3) the general description of the proposed improvement, and if the road is to be surfaced, the materials to be used therefor, (4) a rough estimate of the total cost of the improvement, which may be made by the county surveyor or any engineer or competent person and need not be based on detailed plans and specifications, (5) proposed method of financing, and (6) the outer boundaries of the district in which it is proposed to levy special assessments. Neb.Rev.Stat. §39-1639

A county may establish a Rural Road Improvement District to make improvements on roads within the district. The district is initiated by a petition of property owners and must be the subject of a public hearing. Improvement projects are funded by special assessments against property owners within the district, county general fund contributions, and bonds issued by the county. To the extent bonds are issued, funds are outside of levy limits.

**County Sales Tax - §13-319**

Any county by resolution of the governing body may impose a sales and use tax of one-half percent, one percent, or one and one-half percent upon the same transactions sourced as provided in sections 77-2703.01 to 77-2703.04 within the
county, but outside any incorporated municipality which has adopted a local sales tax pursuant to section 77-27,142, on which the state is authorized to impose a tax pursuant to the Nebraska Revenue Act of 1967, as amended from time to time. Any sales and use tax imposed pursuant to this section must be used (1) to finance public safety services provided by a public safety commission, (2) to provide the county share of funds required under any other agreement executed under the Interlocal Cooperation Act or Joint Public Agency Act, or (3) to finance public safety services provided by the county. A sales and use tax shall not be imposed pursuant to this section until an election has been held and a majority of the qualified electors have approved the tax pursuant to sections 13-322 and 13-323. Neb.Rev.Stat. §13-319 as amended by LB 106(2011)

Counties may implement a local option sales tax to help fund crime prevention, offender detention, and firefighter, police, medical, ambulance, or other emergency services. The sales tax may be used independently by the county, by a public safety commission comprised of municipal and fire district members, or to provide the county’s share of funds for an interlocal agreement or joint public agency. The rate, terms and conditions are subject to a vote of local residents.

Other Options

Because counties can exercise only those powers expressly granted to them by statute or necessarily implied to carry out their expressed powers, they are not able to generate funds through the performance of proprietary functions. However, the Legislature has provided for the collection of user fees in limited instances. For example, counties may impose a surcharge on landline telephones to help pay for 911 costs and may assess a lodging tax to fund visitor promotion and improvements.
Endnotes

1. Nebraska Constitution, Art. IX, sec. 4
2. Nebraska Revised Statute §32-960
3. §32-952
4. Nebraska Constitution, Art. IX, sec. 5
5. §32-530
6. §23-259
7. §77-3444
8. §23-293
9. §23-2,100
10. §77-1340
11. Nebraska Constitution, Art. IX, sec. 4
12. §32-207
13. §32-211
14. §32-218
15. §2-953
16. §2-954
17. §2-953.02
19. §29-215
20. §19-3801 et seq.
21. §13-801 et seq.
22. §13-806
23. §13-808
24. Nebraska Constitution, Art. VIII, sec. 5
25. §13-513
26. §13-2501 et seq.
27. §13-2509
28. §13-2511
29. §23-2513
30. §13-2515.
31. §13-2522
32. §13-2507
33. §74-1302
34. LB 106 (2011)
35. Wetovick v. County of Nance, 279 Neb. 773, 782 N.W.2d 298 (2010)
36. §86-453
37. §81-1254