



LANCASTER COUNTY BOARD OF COMMISSIONERS  
STAFF MEETING  
THURSDAY, APRIL 23, 2020  
ZOOM MEETING  
VIEWING AVAILABLE VIA YOUTUBE  
8:30 A.M.

*Location Announcement of the Nebraska Open Meetings Act: A copy of the Nebraska Open Meetings Act is located on the wall at the back of Room 112 and Chambers Room 113. People wishing to reach the County Board can do so by going to [Lancaster.ne.gov](http://Lancaster.ne.gov) and filling out the "Contact Us" Form.*

**AGENDA ITEM**

**1. APPROVAL OF STAFF MEETING MINUTES FOR APRIL 16, 2020**

Documents:

[4.16.20 Staff Meeting.pdf](#)

**2. 8:30 A.M. - LEGISLATIVE UPDATE**

Joe Kohout and Brennen Miller, Kissel, Kohout, ES Associates LLC

**A. Board of Equalization Hearings**

Dan Nolte, County Clerk; and Cori Beattie, Chief Deputy County Clerk

**3. 8:45 A.M. – GRANT APPLICATIONS TO THE OFFICE OF JUVENILE JUSTICE DELINQUENCY PREVENTION**

Sara Hoyle, Human Services Director

**A. Juvenile Justice System Enhancements (\$750,000 Over 3 Years);**

Documents:

[OJP - Juvenile Enhancement Grant.pdf](#)

**B. Mental Health Collaboration (\$750,000 Over 3 Years); and**

Documents:

**C. Comprehensive Anti-Gang Programs for Youth (\$500,000 Over 3 Years)**

Documents:

[County Board request form OTP April 2020.pdf](#)

**4. 9:00 A.M. - CHIEF ADMINISTRATIVE OFFICER SEARCH**

Chad Thies, President, Zelle Human Resources Solutions

**5. 9:30 A.M. - PENSION REVIEW COMMITTEE RECOMMENDATION ON PRUDENTIAL DIRECTIVE (CORONAVIRUS-RELATED DISTRIBUTIONS AND LOAN RELIEF UNDER THE CARES ACT)**

Documents:

[20200421144616846.pdf](#)

**6. 9:45 A.M. - HUMAN RESOURCES PAYROLL ABSENCE MODULE**

Dennis Meyer, Budget and Fiscal Officer; and Ann Ames, Deputy Chief Administrative Officer

Documents:

[Absence Update V4.pdf](#)

**7. 10:00 A.M. - BREAK**

**8. 10:15 A.M. - COVID-19 UPDATE AND RESPONSE**

**A. Temporary Alternative Housing for Essential County Employees**

Jen Holloway, Deputy County Attorney; and Todd Duncan, Chief Deputy Sheriff

**B. Travel Restrictions**

**9. 10:30 A.M. - EXECUTIVE SESSION (POTENTIAL LITIGATION)**

David Derbin, Deputy County Attorney; Dan Zieg, Deputy County Attorney; Jen Holloway, Deputy County Attorney; Pam Dingman, County Engineer; Jim Shotkoski, Engineering Right-of-Way Manager; Larry Legg, Assistant County Engineer; and Alex Olson, Engineering

**10. DEPUTY CHIEF ADMINISTRATIVE OFFICER REPORT**

**A. Lancaster County 2020 Priorities**

Documents:

[County Board Priorities - 2020.pdf](#)

**11. DISCUSSION OF BOARD MEMBER MEETINGS ATTENDED**

**A. Lancaster County Fairgrounds Joint Public Agency (JPA) Meeting**

Thursday, April 16, 2020  
Amundson / Vest

**B. New Americans Task Force Meeting and Quarterly Consultation**

Friday, April 17, 2020  
Yoakum

**C. LIBA Elected Officials Forum**

Tuesday, April 21, 2020  
Amundson / Vest

**D. Human Services Joint Budget Committee (JBC) Meeting**

Tuesday, April 21, 2020  
Schorr / Yoakum

**12. SCHEDULE OF BOARD MEMBER MEETINGS**

**A. Visitors Promotion Committee**

Thursday, April 23, 2020 @ 1:30 p.m.  
Amundson

**13. EMERGENCY ITEMS**

**14. ADJOURNMENT**

**STAFF MEETING MINUTES  
LANCASTER COUNTY BOARD OF COMMISSIONERS  
ZOOM MEETING  
THURSDAY, APRIL 16, 2020  
VIEWING AVAILABLE VIA YOUTUBE  
8:30 A.M.**

Commissioners Present: Sean Flowerday, Chair; Rick Vest, Vice Chair; Roma Amundson, Deb Schorr and Christa Yoakum

Others Present: Kerry Eagan, Chief Administrative Officer; Ann Ames, Deputy Chief Administrative Officer; and Leslie Brestel, County Clerk

*Advance public notice of the Board of Commissioners Staff Meeting was posted on the County-City Building bulletin board and the Lancaster County, Nebraska web site and provided to the media on April 15, 2020.*

The Chair called the meeting to order at 8:32 a.m. and announced the Open Meetings Act is available at Neb. Rev. Stat. § 84-1401-1414.

**AGENDA ITEM**

**1. APPROVAL OF STAFF MEETING MINUTES FOR APRIL 9, 2020**

**MOTION:** Amundson moved and Schorr seconded approval of the April 9, 2020 Staff Meeting minutes. Schorr, Amundson, Yoakum, Vest and Flowerday voted yes. Motion carried 5-0.

**2. LEGISLATIVE UPDATE** – Joe Kohout and Brennen Miller, Kissel, Kohout, ES Associates LLC

Kohout and Miller reviewed the weekly legislative update (Exhibit 1).

Regarding the reopening of the Legislature, Kohout stated it may depend on when the financial impact data of the COVID 19 virus is available. Sales tax data may not be available until mid-June.

Kohout discussed the interim studies (Exhibit 1) noting the timeframe for studies may be constrained. Eagan stated he sent a memo to elected officials and department directors for their recommendations. He received responses related to full per diem compensation for youth housed for the State at the Youth Services Center and providing facilities for the Department of Health and Human Services as they existed in 1983. Regarding the latter, Kohout added the Board will need to be mindful of how the State will look at this from a fiscal status.

Schorr suggested the County look at legislation to be able to increase fines and fees due to other reductions in revenue.

Schorr inquired if the League of Municipalities was looking for compensation for law enforcement at a broad level as the County has only discussed it in the context of the regular Workers Compensation plan. Eagan added this was discussed with the insurance broker and Sue Eckley, County Risk Management Director, at the April 9 staff meeting.

Eagan stated he received an email from Cori Beattie, Deputy County Clerk, regarding the possibility of Governor Ricketts waiving face to face Board of Equalization hearings. Lancaster County typically holds property protest hearings in late-June through mid-July. The Board was supportive of phone hearings for property protests.

Beattie will work with the County Attorney's Office to research this more and will report back next week.

**3. UPDATED TIMELINE FOR FACILITIES STUDY** – Kerin Peterson, Facilities and Properties Director

Peterson reviewed the changes to the facilities study dates (see agenda packet). She noted the work study session had been canceled due to COVID 19. The project is still set to complete on time.

**DISCUSSION OF BOARD MEMBER MEETINGS ATTENDED**

**A. Realtors Association Government Affairs Committee** – Amundson / Vest

Amundson and Vest reported on how the County and City focused entities are adjusting to current circumstances. The City will also be conducting their meetings via Zoom. Amundson added there is a smaller jail population and two pods have been reserved for quarantine.

**B. Public Building Commission** – Amundson / Flowerday

Flowerday noted the Hall of Justice redesign is delayed due to manufacturer slowdowns. Additionally, three contracts were approved.

**SCHEDULE OF BOARD MEMBER MEETINGS**

Schorr stated the April and May Mutual Aid meetings have been cancelled. They are expecting to meet in June.

Amundson asked if the Lincoln Independent Business Association (LIBA) Elected Office Form will be electronic. Vest said last month's meeting was conducted via phone; however, he has not seen any communication regarding the upcoming meeting.

The Chair recessed the meeting at 9:00 a.m. and reconvened at 9:05 a.m.

**4. SECOND CHANCE ACT: COMMUNITY- BASED REENTRY GRANT APPLICATION (TOTAL OF \$750,000 FOR 3 ADDITIONAL YEARS) –Kim Etherton, Community Corrections Director**

Etherton asked the Board’s permission to submit an application for a community-based reentry grant. In 2017, the Department of Community Corrections was awarded \$2,000,000 for a reentry project and that grant is ending. The requested three-year grant would be to continue implementation of the program. Etherton said an additional three years of data is needed to ensure the program is doing what it is intended. There is no County match for the new grant.

**MOTION:** Schorr moved and Yoakum seconded to approve Etherton to submit the reentry grant application. Yoakum, Vest, Schorr, Amundson and Flowerday voted yes. Motion carried 5-0.

**DEPUTY CHIEF ADMINISTRATIVE OFFICER REPORT**

**A. Lancaster County 2020 Priorities**

Ames and Amundson reviewed the changes to the priorities list (see agenda packet).

Amundson asked how the Public Defender attorneys are meeting with clients at the jail. Flowerday answered there is a room available at the jail for electronic meetings.

**OTHER BUSINESS**

Schorr noted Joint Budget Committee (JBC) applications need to be completed by Monday.

**5. COVID-19 UPDATE AND RESPONSE**

**A. Vacation Maximums – Doug McDaniel, Human Resources Director; and Kristy Bauer, Deputy County Attorney**

McDaniel stated this item is a follow up to the Sheriff’s Office request to allow vacation maximums to be exceeded and carried over during the pandemic. He said there are currently 102 employees at an average rate of pay of \$35.95 that are within 20 hours of the maximum allowed of vacation carryover. At that pay level, the vacation payout would be \$27,868 per pay period. There are 15 pay periods left for a possible total of approximately \$420,000. McDaniel added he was unaware of any vacation requests being denied at this time.

Flowerday asked how many pay periods would be considered. Schorr felt she might be supportive of allowing vacation maximums expanded through May, but not the end of the calendar year.

Amundson inquired if there would be a way to put extra vacation hours in a vacation bank and pay them out at a later date. McDaniel said paying out towards retirement is a plan design issue.

Vest said he did not see a compelling business reason to change the County's current vacation policy.

Yoakum agreed with a limited timespan as mentioned by Schorr.

Flowerday agreed with Vest as the County has incurred unexpected expenses.

McDaniel added if other vacation arrangements were made there are processes that would have to be followed, especially regarding unions and payroll areas. Due to those processes, those may take as long as or longer than an anticipated timeframe.

Amundson was supportive of leaving the vacation policy as it is now.

Schorr reminded the Board that employees have the option to donate their vacation to fellow employees under the catastrophic leave policy.

Eagan stated accumulating 280 hours of vacation is very generous policy and employees donating extra vacation hours to other employees would be in the spirit of the situation.

Pat Lopez, Interim Lincoln-Lancaster County Health Director, reported there are three new cases of COVID 19 in the County, bringing the total to 62 positive cases with 41 of those cases being community acquired. To date, there have been 1,900 negative tests with 9 pending at the public health lab, and an additional 63 individuals are being monitored due to exposure. One individual has died.

Statewide there are 987 cases and 21 deaths. Hall County has the largest number of COVID 19 positive patients at 278 with many of those cases due to a business and a nursing home. The City of Omaha has 263 cases.

Bryan Hospital has four COVID 19 positive patients, while St. Elizabeth has none from Lancaster County. The County has a relationship with critical access hospitals in the area that would be able to care for patients recovering from COVID 19 should the hospitals hit surge numbers. Additionally, the County is working with long-term care entities, the Homeless Coalition, cultural centers and the People's City Mission. The People's City Mission moved 51 residents to another location to reduce the number of individuals at the Mission. There is also a quarantine area at the Mission.

Regarding Personal Protective Equipment (PPE), an electronic system has been developed to allow PPE to be requested and allocated to the highest needs areas. Decontamination units and processes are also in place for PPE to be able to make the most use of the limited supply.

Gowns are the largest shortage of PPE. Lincoln Public Schools (LPS) has individuals working on making gowns. Duncan Aviation is making face coverings.

Lopez said additional testing supplies have been received. She urged members of the public to make an appointment to get tested if they are symptomatic. Testing sites include North Star High School, and Bryan LifePoint. Drive-thru testing is also available at Bryan Health and upcoming through Catholic Health Initiatives (CHI). Flowerday reiterated Lopez's statement to the media.

When asked if there will be an influx of patients from neighboring communities to hospitals in Lancaster County, Lopez stated the surge capacity numbers are based off of a population of 450,000.

Regarding national discussions about antibody tests, Lopez said there are no solid recommendations right now.

Lopez encouraged the Board to contact her with any concerns or questions.

The Board expressed their thanks to the Health Department team.

## **6. DEPUTY CHIEF ADMINISTRATIVE OFFICER REPORT**

### **A. Lancaster County 2020 Priorities**

Item moved forward on agenda.

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

**A. Realtors Association Government Affairs Committee** – Amundson / Vest

**B. Public Building Commission** – Amundson / Flowerday

Items moved forward on agenda.

## **8. SCHEDULE OF BOARD MEMBER MEETINGS**

Informational only.

## **9. EMERGENCY ITEMS**

There were no emergency items.

## **OTHER BUSINESS**

McDaniel and Bauer were available for the discussion.

Kevin Nelson, Accounting Operations Manager, expressed concern about sick leave and vacation leave accruals while an employee is using leave associated with the pandemic. Employees who took the pandemic and emergency sick leave during the time period between March 16 and April 8 did accrue sick and/or vacation leave.

When the pandemic leave policy was amended in April, the intent of the Board was that employees using the leave would not accrue sick and/or vacation leave. Nelson asked if the change was to be retroactive to March 16th.

Vest and Amundson said the policy should be retroactive to March. Flowerday agreed as long as there were no legal problems. McDaniel and Bauer stated there did not appear to be any legal ramifications. It does have to be considered for retirement purposes due to Internal Revenue Service (IRS) policy. Yoakum added if employees used the pandemic leave it preserves their sick and vacation leave.

Amundson asked how many employees were on pandemic leave in March. Nelson answer approximately 40 employees.

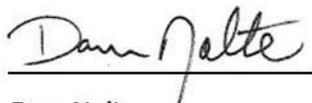
When asked for the fiscal impact of those using pandemic leave in March, Nelson stated it would be a maximum of 12 hours of accruals (4 hours of sick and 8 hours of vacation) per employee. McDaniel added the dollar amount would not be as large as the earlier discussion on vacation maximums.

It was the consensus of the Board that employees who used pandemic leave prior to April 1 would be allowed to accrue sick and vacation leave. Those who use emergency sick leave or emergency medical and family leave on or after April 1 will not accrue sick or vacation hours related to such leave.

Schorr said, at the budget hearings, she would like to hear how the pandemic is impacting the departments.

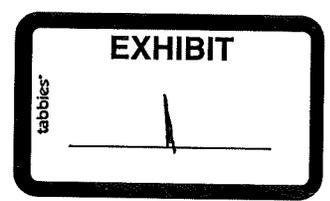
## 10. ADJOURNMENT

**MOTION:** Schorr moved and Vest seconded to adjourn the meeting at 10:18 a.m. Yoakum, Vest, Schorr, Amundson and Flowerday voted yes. Motion carried 5-0.



Dan Nolte  
Lancaster County Clerk





**Kissel, Kohout,  
ES Associates LLC**

301 South 13th Street Suite 400  
Lincoln, Nebraska 68508  
kisselkohoutes.com  
Phone: 402-476-1188  
Fax: 402-476-6167

**LEGISLATIVE MEMORANDUM**

TO: Lancaster County Board of Commissioners

FROM: Joseph D. Kohout  
Brennen L. Miller

DATE: April 16, 2020

RE: Weekly Report

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Good Morning. Please accept this as your weekly report for the 2020 session of the Legislature for the date noted above. Since the last report on April 9, 2020, the Legislature has remained in recess due to COVID-19 concerns. There has been no definitive timetable offered as to when the Legislature will reconvene. In light of the lack of legislative action beyond the scope of LB1198, we have abbreviated our report.

Last week, a letter under the signatures of Chairs Duda, Flowerday and Kelly was sent to the Governor. A copy of that was attached to last week's report for your review. Along with the letter, we received a response from the Governor's Chief of Staff Matt Miltenberger via email acknowledging receipt and indicating they would be getting back to all of us.

Additionally, following last week's request received from the office of Senator Suzanne Geist regarding in-person reporting for those on the sex offender registry, we have been told that Sheriff Wagner was in touch with the constituent requesting information. In a follow up conversation with the senator's staff, we were informed that the constituent was pleased with the quick response from Sheriff Wagner.

Yesterday, in conversations with the League of Nebraska Municipalities, we were made aware that there has been a request from a statewide police bargaining unit to meet to discuss how cities are providing for potential workers compensation in situations where law enforcement are exposed to and test positive for COVID-19. We have been asked by them to obtain information from the County on whether or not there is a process to address this.

As mentioned last week, we would also recommend that we pull together any interim studies in the coming weeks for filing when the Legislature returns. So far, those that have been identified by the Board include a follow up to last years' LR183, potential increasing of fees and fines, and 24/7 sobriety.

This concludes our report for this week.

LANCASTER COUNTY GRANT FORM

Submitted by: Sara Hoyle Today's date: April 15, 2020

(On behalf of: Lancaster County)

1. Funding source: Department of Justice – Office of Justice Programs
2. Grant due date: April 27, 2020
3. Amount requested: \$750,000 (over 3 years)
4. Other sources of funding anticipated:

| Funding Source | In-kind | Cash | Committed | Pending |
|----------------|---------|------|-----------|---------|
| a. None        |         |      |           |         |
| b.             |         |      |           |         |
| c.             |         |      |           |         |
| d.             |         |      |           |         |

5. Project Contact: Sara Hoyle  
 Phone Number: (402) 441-6868
6. Number of years grant will run if funded: 3
7. This grant is:       X New       Continuation
8. General purpose for grant: (2-3 sentences)

Grant funds will provide for crisis respite and aftercare services for youth in Lancaster County. This service will attempt to serve two primary youth populations identified, along with their families: 1) youth in crisis that have been found to be ineligible for admission to the CAPS program at Bryan LGH; and 2) youth that have been involved with the police, but due to their level of aggression, they are unable to stay at Cedars.

Budget October 1, 2020 to September 30, 2023

|                        | Year 1         | Year 2         | Year 3         |
|------------------------|----------------|----------------|----------------|
| Mental Health Provider | 144,000        | 167,500        | 167,500        |
| Indirect               | 6,000          | 7,500          | 7,500          |
| <b>TOTAL</b>           | <b>150,000</b> | <b>175,000</b> | <b>175,000</b> |

Crisis services would be available 24 hours per day, 365 days per year. Referrals will come into the service from Bryan LGH, Cedars, and/or law enforcement. The referrals will be routed through an identified Crisis Number. Warm handoffs will be conducted, either at Bryan LGH, Cedars, or other locations as necessary. The staff reporting to the warm handoff location will be either the therapist, peer support specialist, or case manager.

The priority for the initial meeting with the youth and family will be to triage their immediate safety needs, including de-escalation and contingency planning. After the warm handoff, the family will be able to meet with the on-call staff member. This office will include meeting spaces for the entire family, as well as an observation room for the youth to relax in, including internet access, TV, and video games. This office shall serve as a safe, neutral meeting place for the family to be while determining their plan for the coming days.

After the initial crisis stabilization, there will be wrap-around services available for the youth and family for a minimum of seven days, and up to 30 days. This may include: screening for appropriateness to other services, a comprehensive bio-psycho-social assessment for the youth, peer support for the family, and referrals to other appropriate services. The staff will follow-up with families to encourage their engagement in the recommended services.

LANCASTER COUNTY GRANT FORM

Submitted by: Sara Hoyle Today's date: April 15, 2020

(On behalf of: Lancaster County)

1. Funding source: Department of Justice – Office of Justice Programs
2. Grant due date: May 4, 2020
3. Amount requested: \$750,000 (over 3 years)
4. Other sources of funding anticipated:

| Funding Source | In-kind | Cash | Committed | Pending |
|----------------|---------|------|-----------|---------|
| a. None        |         |      |           |         |
| b.             |         |      |           |         |
| c.             |         |      |           |         |
| d.             |         |      |           |         |

5. Project Contact: Sara Hoyle  
 Phone Number: (402) 441-6868
6. Number of years grant will run if funded: 3
7. This grant is:       X New       Continuation
8. General purpose for grant: (2-3 sentences)

Grant funds will provide outpatient behavioral health services for a mental health diversion program for youth in Lancaster County.

Budget October 1, 2020 to September 30, 2023

|                        | Year 1  | Year 2  | Year 3  |
|------------------------|---------|---------|---------|
| Mental Health Provider | 144,000 | 286,500 | 286,500 |
| Indirect               | 6,000   | 13,500  | 13,500  |
| TOTAL                  | 150,000 | 300,000 | 300,000 |

Mental Health Diversion is a diversion program designed to link juveniles and status offenders to, and engage them in, appropriate mental health services and supports in the community in order to reduce behavioral symptoms that result in contact with the court and to improve the juvenile's functioning in the home, school, and community. The program's goals are as follows:

- To connect the juvenile and status offender with appropriate mental health services in the community;
- To provide support for and involve the respondent's parents, guardian, or custodian in mental health treatment for their child;
- To provide a period of engagement with mental health services that is monitored;
- To increase the number of respondents able to remain in the community with the appropriate mental health services and supports and to reduce the number of respondents who otherwise without such services and support might be detained;
- To reduce the individual's contact with the criminal justice system as a juvenile and later as an adult; and
- To reduce crime in the community and protect public safety by reducing the number of times that juveniles with mental disorders reoffend.

Specific services provided are evaluations and outpatient and intensive outpatient services. The program will not last longer than 6 months with continuing aftercare services available to families.

LANCASTER COUNTY GRANT FORM

Submitted by: Becky Steiner      Today's date: 3/13/2020

1. Funding source: Office of Juvenile Justice Delinquency Prevention (OJJDP)
2. Grant due date: May 26, 2020
3. Amount requested: \$500,000
4. Other sources of funding anticipated:

| Funding Source | In-kind | Cash | Committed | Pending |
|----------------|---------|------|-----------|---------|
| a. None        |         |      |           |         |
| b.             |         |      |           |         |
| c.             |         |      |           |         |
| d.             |         |      |           |         |
| e.             |         |      |           |         |

5. Project Contact: Becky Steiner  
Phone Number: 402-441-8495
6. Number of years grant will run if funded: 3 years
7. This grant is:      **New** or      Continuing
8. General purpose for grant: (2-3 sentences)  
Operation Tipping Point is a program developed to combat gang activity through gang prevention and awareness strategies. Operation Tipping Point focuses on providing youth, an alternative to gang activity through mentorship, positive role models, and positive and productive activities.  
Requesting: \$500,000  
Match: Not required
9. Attach a one page summary of grant.
10. Attach a one page budget of grant.

## Budget

|                 |           |
|-----------------|-----------|
| Gang Specialist | \$330,000 |
| Evaluation      | \$60,000  |
| LPD equipment   | \$40,000  |
| Incentives      | \$7,500   |
| Training        | \$40,000  |
| Indirect        | \$22,500  |
| Total           | \$500,000 |

This grant will help fund the LPD Gang Unit, which includes the Gang Prevention Specialist that operates Operation Tipping Point. These grant funds will assist the LPD Gang Unit in efforts over the next three years to assist in reducing gang and gun violence. The funding allotted to the Gang Unit for suppression efforts would be used for gang training, investigative equipment, and evaluation for the collection and analysis of gang related statistics. The grant funds allotted to Intervention would aid in the prevention and intervention efforts of Operation Tipping Point.

These funds would directly aid the youth in our community who are at risk for gang affiliation through the creation of gang prevention specific programming and activities that would otherwise not be available. Funds would also assist in the payment of salary and benefits to the Gang Prevention Specialist who coordinates the Operation Tipping Point program.

The Lincoln Police Department Gang Unit employs a comprehensive gang strategy consisting of Suppression, Prevention, and Educational efforts. This model works to address the gang issues at all levels to include suppression efforts with hardcore gang members, prevention efforts with those at risk of gang affiliation and educational efforts to educate parents, community members, social service partners, and other law enforcement officers. Additional funding will certainly increase the Lincoln Police Department Gang Unit in carrying out this comprehensive strategy.

The Operation Tipping Point Program is the Lincoln/Lancaster community leader in gang prevention efforts. This program, coordinated by one Gang Prevention Specialist, works with those youth at risk for gang affiliation and coordinates these programs and efforts with numerous other community organizations and social services. The program works to provide mentorship and positive programs and activities for those at risk in an effort to insulate them from the dangers of gang affiliation. Additional funding over the next three years for this program would be an enhancement for this program, this would ensure this programs success and ability to continue to provide these vital services in our community.

**PENSION REVIEW COMMITTEE  
RECOMMENDATION  
PRUDENTIAL DIRECTIVE AUTHORIZATION UNDER THE  
CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT OF 2020  
April 23, 2020**

**INTRODUCTION**

The Coronavirus Aid, Relief, and Economic Security Act of 2020 (The CARES Act) was signed into law on March 27, 2020. The CARES Act contains several provisions giving a plan sponsor the option of making distributions and loans from their retirement plan to plan participants who have been impacted by the coronavirus. On April 7, 2020, Lancaster County received a request from Prudential Retirement to provide a written directive to Prudential on whether the County wanted to elect any of these optional provisions, which include raising loan limits, deferring loan payments, and adding Coronavirus-Related Distributions (CRD). A copy of the request from Prudential is included with this Recommendation as Attachment A. The Pension Review Committee (Committee) met April 14, 2020 to formulate a recommendation to the Lancaster County Board of Commissioners on how to respond to the request.

**DISCUSSION**

The request from Prudential Retirement asks the County to provide direction on two questions: (1) Does the County intend to amend its retirement plan to offer CRD's under the CARES Act; and (2) Does the County intend to amend its plan to offer loan relief available under the CARES Act? The Committee addressed these two questions separately.

Coronavirus-Related Distributions

A CRD is a distribution from an eligible retirement plan made during the calendar year of 2020 to an individual:

- Who is diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019 (COVID-19) by a test approved by the Centers for Disease Control and Prevention
- Whose spouse or dependent (as defined in Code section 152) is diagnosed with such virus or disease
- Who experiences adverse financial consequences as a result of being quarantined, being furloughed or laid off or having work hours reduced due to lack of child care due to such virus or disease

The maximum CRD for an individual from all eligible retirement plans and IRA's is \$100,000. The early 10% withdrawal penalty does not apply to a CRD, and it is not subject to the mandatory 20% withholding rules.

CRD's are allowed from 401(k), 403(b), and governmental 457(b) plans without regard to whether the employee separated from service, attained the age of 59 ½, or any other plan distribution requirements. A more thorough description of CRD's can be found in Attachment A to this Recommendation.

However, CRD's are not allowed from contribution sources attributable to money purchase dollars. Since the Lancaster County Employees Retirement Plan is a 401(a) governmental money purchase plan, the Committee addressed the preliminary question of whether CRD's from this plan are allowed under the CARES Act. Based on information from the National Association of Governmental Defined Contribution Administrators, as well as research conducted by Prudential and the Lancaster County Attorney, the Committee determined CRD's from the County's 401(a) are not allowed under the CARES Act. Accordingly, the Committee's recommendation on whether to allow CRD's applies only to the County's 457(b) Deferred Compensation Plan.

A key provision of the County's 457(b) plan is that distributions are allowed for unforeseen emergencies (also referred to as hardship distributions). Circumstances under which a hardship distribution can be made to a participant under the 457(b) include medical expenses, purchase of a residence, education expenses, foreclosure, funeral costs, and casualty losses. Like CRD's, the 10% early withdrawal penalty does not apply to hardship withdrawals.

The availability of hardship distributions led to different viewpoints among Committee members as to whether the 457(b) plan should be amended to include CRD's. Committee members in favor of amending the plan to include CRD's argue that since the plan already includes hardship provisions, it makes sense to add CRD's, which are just another type of hardship for which an employee could receive a distribution. Adding CRD's provides more favorable treatment of participants under circumstances very similar to the circumstances under which a hardship distribution can be made. Moreover, adding CRD's does not create an additional administrative burden on the County. Finally, the number of participants who request a CRD is likely to be small, because only a small number of participants or their spouses who contract the virus, or who suffer a financial hardship from lost wages, will also have funds in the 457(b).

Committee members opposed to adding CRD's also relied on the availability of hardship distributions. While CRD's are similar to hardship distributions, there are important differences. For example, a participant can obtain a CRD by showing only that themselves or their spouse has contracted the virus, without a showing of actual financial hardship. Concern was also expressed that CRD's are a short-term solution which can have long-term consequences by reducing the amount of funding the person will need for retirement. This is especially true for the unwitting participant who is not aware of the severe tax consequences which could result from obtaining a CRD. Since Prudential files a 1099-R for the entire CRD during 2020, the participant may experience a large tax bill for which they are not prepared. This is aggravated by the fact that the 20% automatic tax withholding requirement is waived for CRD's. Even though a participant can avoid the tax consequences by repaying the CRD over a three-year period, an accountant would be required to make sure all the necessary amended tax returns are properly filed. Also, a participant would be taking a CRD when asset prices are low.

Another concern is that CRD's could undermine the interests of all participants in the 457(b) plan by reducing the size of the pension fund. A larger fund gives the County bargaining power to keep fees low. Emphasis should be placed on keeping money coming into the fund rather than expanding opportunities to take it out.

The Committee's recommendation on CRD's involved the difficult task of balancing the immediate financial hardship caused by the virus versus retirement security. Ultimately, a recommendation to amend the 457(b) plan to include CRD's in an amount of up to \$50,000.00 was adopted by the Committee on a 5-4 vote. If the County Board chooses to accept and implement the Committee's

recommendation, Prudential Retirement can begin issuing CRD's within two business days. Thereafter, the County would have until the end of 2024 to amend the 457(b) accordingly. The plan amendments to the County's 457(b) would be made by Prudential.

As a final comment on CRD's, the Committee believes employees should be provided with as much information as possible about CRD's, including the potential tax consequences and impact on retirement savings.

#### Loan Relief

The Committee then addressed the question of whether the County should amend the retirement plan to include the loan relief offered under the CARES Act. Although loans under the CARES Act can be offered under both the 401(a) plan and the 457(b) plan, the County has never made loans available under either plan. The Committee also noted that unlike hardship distributions, loans can become an administrative burden on the County. For these reasons, it was the unanimous opinion of the Committee that loans under the CARES Act should not be made available to County employees.

### **RECOMMENDATION**

Based on the foregoing information and discussion, the Pension Review Committee hereby tenders the following recommendation to the Lancaster County Board of Commissioners:

- 1. The Lancaster County 457(b) Deferred Compensation Plan should be amended to include Coronavirus-Related Distributions under the CARES Act in an amount of up to \$50,000.00, and Prudential Retirement should be notified accordingly; and**
- 2. Neither the 401(a) Lancaster County Employees Plan nor the 457(b) Deferred Compensation Plan should be amended to allow loans under the CARES Act, and Prudential should be notified accordingly.**

Respectfully submitted on behalf of the Pension Review Committee this 23<sup>rd</sup> day of April, 2020.

  
Kerry P. Eagan  
Chief Administrative Officer

# Prudential Retirement® Directive

## Coronavirus Aid, Relief, and Economic Security Act of 2020 [HR 748, “CARES ACT”]

### Directive Authorization

The Coronavirus Aid, Relief, and Economic Security Act of 2020 (the “CARES Act”), which was signed into law on March 27, 2020, contains several provisions affecting retirement plans in the area of distributions and loans due to the impact and effects of the Coronavirus. For a detailed summary of the CARES Act of 2020 see our March 2020 issue of [Pension Analyst](#).

#### TEMPORARY WAIVER OF REQUIRED MINIMUM DISTRIBUTIONS (“RMD”)

A participant or beneficiary who would have been required to receive required minimum distributions (RMD) under prior law but did not receive those distributions before January 1, 2020 from an Eligible Retirement Plan is not required to receive those distributions for 2020.

For participants and beneficiaries that have not had an RMD distributed as of April 10, 2020, Prudential Retirement (“Prudential”) will not process an RMD distribution. This includes 2020 RMD payments for participants and beneficiaries who began receiving them earlier (e.g., attained 70-1/2 before 2019), and participants and beneficiaries who under prior law have a required beginning date in 2020 (both the 2020 RMD payment and the 2019 RMD payment to the extent it was not previously made). For post-death RMDs, the one-year period is disregarded for purposes of the five-year payout requirement for deaths occurring before January 1, 2020. If the 2020 RMD payment is made, it is not treated as an eligible rollover distribution for certain purposes, but some amounts may be rolled over.

Participants and beneficiaries described above will be given the opportunity to elect to receive an RMD described above.

#### CORONAVIRUS-RELATED DISTRIBUTIONS (“CRD”)

A Coronavirus-Related Distribution (“CRD”) is a distribution from an Eligible Retirement Plan made on or after January 1, 2020 and before December 31, 2020, to an individual:

- who is diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019 (COVID-19) by a test approved by the Centers for Disease Control and Prevention
- whose spouse or dependent (as defined in Code section 152) is diagnosed with such virus or disease
- who experiences adverse financial consequences as a result of being quarantined, being furloughed or laid off or having work hours reduced due to such virus or disease, being unable to work due to lack of child care due to such virus or disease, closing or reducing hours of a business owned or operated by the individual due to such virus or disease, or other factors as determined by the Secretary of the Treasury.

The maximum CRD for an individual from all Eligible Retirement Plans and IRAs is \$100,000. The Plan Sponsor should monitor related Eligible Retirement Plans for this limitation.

The following special tax provisions apply to a CRD:

- The 10% early withdrawal penalty under IRC section 72(t) does not apply to any CRD. Prudential will report the entire distribution amount on Form 1099-R for the year of distribution. Prudential, however, will not report the distribution as exempt from the 10% penalty. If future IRS guidance permits it, a participant may claim exemption from the penalty when filing his/her individual tax return.
- An individual who receives a CRD may repay the distribution during the 3-year period beginning on the day after the date on which such distribution was received. The repayment is treated as an eligible rollover distribution that has been transferred to the Eligible Retirement Plan in a direct trustee to trustee transfer within 60 days of the distribution.
- Any amount required to be included in gross income (such as any portion of a CRD that a participant does not repay within 3 years) may be included in gross income over the 3-taxable-year period beginning with the year of distribution. Prudential, however, will tax report the entire amount on Form 1099-R for the year of distribution. If future IRS guidance permits, a participant may claim the 3-year (or shorter period) when filing his/her tax return.
- CRDs are not subject to the mandatory 20% withholding rules that apply to eligible rollover distributions.
- CRDs are allowed from 401(k) and 403(b) and governmental 457(b) plans without regard to whether the employee separated from service, attained aged 59½, or any of the other plan distribution requirements.

Participants cannot obtain favorable tax treatment on the CRD by rolling it to a qualified retirement plan or an IRA. Prudential will treat any repayments of CRDs as pre-tax rollover contributions.

If you intend to amend your Plan to offer CRDs under the CARES Act, please make your elections below

- The Plan will be amended to permit CRDs as permitted under the CARES Act up to \$100,000 unless elected below:
  - The Plan will limit CRDs to \$50,000.
  - The Plan will limit CRDs to \$25,000.

The CARES Act allows all contribution source types, except for sources attributable to Money Purchase dollars to be eligible for a distribution. If the Plan has any existing restrictions on in-service withdrawals (e.g., minimum amount or maximum number of withdrawals), those restrictions will be applied to the CRD. Amounts invested in Employer Securities are not available for a CRD.

## LOANS

**If you intend to amend your Plan to offer participants loan relief available under the CARES Act, please complete below, otherwise skip this section.**

In general, if a retirement plan allows for loans, the loan is not treated as a taxable distribution to a participant if it is used to purchase a main home, or the loan is repaid within five years. The maximum amount of the loan cannot exceed the lesser of \$50,000 or one-half of the present value (but not less than \$10,000) of the taxpayer's vested benefit under the plan. This amount is then reduced by the highest outstanding balance of all loans during the past 12 months. Under the CARES Act, there is loan relief for a "qualified individual." A qualified individual is an individual who would be eligible to receive a CRD, as described on the preceding page.

For a qualified individual who requests a new loan between March 27 and December 31, 2020, (1) the \$50,000 limit is increased to \$100,000, (2) the one-half of the vested benefit limit is increased to 100% of the vested account balance, (the amount is still reduced by the highest outstanding loan balance during the past 12 months), and (3) the repayment period for any loan may be delayed by 1 year if the payment due date of the loan occurs sometime between March 27, 2020 and December 31, 2020. The remaining payments should be appropriately adjusted to reflect the delay and any interest accruing during the delay. The delay is disregarded in determining the term of the loan (for purposes of determining the statutory maximum loan term). The CARES Act does not override any existing loan restrictions under a plan (e.g., number of outstanding loans, restrictions after a loan default).

Please note that Prudential will not automatically delay loan repayments. Any requests for a delay for up to one year must be in writing to Prudential by either an authorized representative of the employer or a participant who certifies the participant's eligibility for the delay. This documentation will be retained at Prudential for audit purposes. Additional administrative details will be forthcoming.

If you intend to amend your Plan to offer loan relief available under the CARES Act, please select one or both of the elections below:

- The Plan will increase the Plan loan dollar limit to the lesser of \$100,000 or 100% of the participant's vested account balance.
- The Plan will allow for the delayed payments of outstanding loans for up to 1 year. Please see the cover communication for additional details.



# CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT OF 2020 [HR 748, "CARES ACT"] AUTHORIZATION FORM

## Plan Sponsor Authorization

Prudential will update its recordkeeping system as soon as administratively practicable after receipt of this Directive in good order to allow participants to take CRDs and loans under the relief offered by the CARES Act. Plan Sponsors must amend plan documents to reflect the new terms. The deadline for amending plans to include this relief is the last day of the first plan year beginning on or after January 1, 2022 (governmental plans get an additional 2 years), or such later date as provided by the Secretary of the Treasury. Plans are not required to offer this relief. These are optional plan provisions.

As an authorized signer for the Plan Sponsor, I direct Prudential to rely on this Directive to update its recordkeeping system (and, if Prudential's plan document services have been elected, draft plan amendments) that it maintains on behalf of the Plan and Plan Sponsor and to process any distribution and loan transactions in accordance with this Directive.

If Prudential does not provide plan document services for your Plan, please provide a copy of this Directive to your plan document provider to complete an amendment. Please provide a signed copy of your plan amendment to Prudential for our retention with records of your Plan.

Please return the completed Directive to [CARESactSelection@prudential.com](mailto:CARESactSelection@prudential.com).

Plan Name: \_\_\_\_\_

Plan Number: \_\_\_\_\_

Plan Sponsor: \_\_\_\_\_

Date: \_\_\_\_\_

Signed/Typed: \_\_\_\_\_

Title: \_\_\_\_\_



<sup>1</sup> Eligible Retirement Plan: a profit-sharing plan, including a 401(k) plan a 403(b) plan, or a governmental 457(b) plan.

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## **HR/Payroll Project Update #2**

### **April 21, 2020**

Last week we provided a brief update and information on the different modules in Oracle that are being implemented. The Core Human Resources module, which is the foundation of the all the other functions is now running “live” and the team is currently focused on the Absence module. We’ve provided a few FAQs below to give you some additional information on this module and how it will change the way we process and approve absences.

**Q. What is the Absence module?**

A. The Absence module provides the capability to enter and track absence information in a much more consistent manner than we do today. Most employees, including managers will use the Oracle HCM system to request leaves.

**Q. How is the new process different than what we do today?**

A. In the current environment, Leave Request processes vary widely by department, but most of them are manual. In Oracle HCM the process is automated and is consistent for everyone. In addition, employees will be able to check their leave balances, look at their leave history, and modify or delete Leave Requests. Requests can be made for partial days, full days, multiple days, and future dates.

**Q. What types of Leave Requests can I enter?**

A. The Absence module can handle all types of Leave Requests that are in your union contract.

**Q. How will the new process work?**

A. Once an employee completes a Leave Request, they submit it. The request then goes to Line Manager for approval. The Line Manager is notified within Oracle HCM that there is a pending Leave Request. The manager can review the request, add comments, and either Return the request for more information, Reject the request, or Approve the request. Once a Request is approved, it automatically appears on the employee’s timesheet.

**Q. What if I need to change or cancel a Leave Request?**

A. If a Request needs to be changed or cancelled, either the employee or the manager can do that. If changed by the employee, the request goes back to the manager for re-approval. If the manager modifies the Request, a notification goes back to the employee letting them know of the change.

**Q. How will these notifications occur?**

A. All requests are internal within Oracle HCM rather than by email.

**Q. When will this new process start?**

A. Key dates for the Absence implementation are:

|             |   |
|-------------|---|
| 6/8 – 6/12  | Absence Demos for Employees and Managers (tentative)    |
| 6/18        | Absence Go Live – County                                |
| 6/25        | Absence Go Live – City                                  |
| 6/22 – 6/26 | Employee Self Service and Manager Self Service Training |

**Q. When and how will I be trained in this new process?**

A. Prior to Absence implementation, we will produce demonstration videos showing how the process will work. We will also publish scripts for you to following when you actually start entering Leave Requests. When the Absence module goes “live”, we will send you your login information with instructions on how to log in and out of Oracle HCM. Shortly after the Absence module is live, we will conduct training sessions that will show you how to access and enter Leave Requests. The actual type of training delivery mechanism e.g., live, webinar, etc. will be dependent on the status of the Covid virus situation at that time.

**Q. What are the target dates for the remainder of the project?**

A. The key dates for the remaining phases of the HR/Payroll Project are:

|             |                                    |
|-------------|------------------------------------|
| 6/25 – 7/2  | Time and Labor Demos (tentative)   |
| 7/9         | Time and Labor Go Live – City      |
| 7/16        | Time and Labor Go Live – County    |
| 7/13 – 7/17 | Time and Labor Training            |
| 8/3 – 8/7   | Benefits Demos (tentative)         |
| 8/10        | Benefits Go Live – City and County |
| 8/10 – 8/21 | Benefits Training                  |
| 9/25        | First Payroll Run – County         |
| 10/1        | First Paycheck – County            |
| 10/2        | First Payroll Run – City           |
| 10/8        | First Paycheck - City              |

For more information, contact Skip Philson at [sphilson@lincoln.ne.gov](mailto:sphilson@lincoln.ne.gov), 402-441-6014. These FAQs will be posted on the HR/Payroll Website. To access the Website, go to [lincoln.ne.gov](http://lincoln.ne.gov). Log into the IntraLinc at the bottom of the page. Then click on either Finance or Human Resources and look for the HR/Payroll link.

|   | Staff Lead    | Sean Flowerday | Christa Yoakum | Deb Schorr | Roma Amundson | Rick Vest |
|---|---------------|----------------|----------------|------------|---------------|-----------|
| <b>Fiscal Accountability Priorities</b>                                   |               |                |                |            |               |           |
| Increase County Cash Reserves   | D. Meyer      | X              |                |            |               |           |
| Expand County Fleet Program   | R. Walla      |                |                |            | X             |           |
| Miscellaneous Expenses Policy   | ???           |                |                |            | X             |           |
| Increase Usage of Enterprise Rental Car Program                           | R. Walla      |                |                |            | X             |           |
| Establish Retirement Committee as Standing Committee                      | K. Eagan      | X              |                |            |               |           |
| <b>County Infrastructure Priorities</b>                                   |               |                |                |            |               |           |
| Facility Study for County Engineering Buildings                           | P. Dingman    |                |                | X          | X             |           |
| Fund for Roads and Bridges Crisis   | ???           | X              |                |            | X             |           |
| <b>Good Governance Priorities</b>   |               |                |                |            |               |           |
| Draft and Implement County-wide Strategic Plan                            | New CAO       | X              |                |            | X             |           |
| Write County Task Force SOP's   | D. Cary       | X              |                |            |               |           |
| Create a County Central Code  | K. Eagan      | X              |                |            |               |           |
| Fee and Fine Reform Grant   | A. Ames       | X              |                |            |               |           |
| Annual Report (Rolling Report?)   | A. Ames       |                |                |            |               |           |
| Monthly Updates from Planning and IS Depts                                | K. Eagan      |                |                |            |               |           |
| On-board new CAO  | K. Eagan      | X              |                | X          |               |           |
| Leadership Academy  | A. Ames       |                |                | X          |               |           |
| Establish New Employee Onboarding Program                                 | D. Schorr     |                |                | X          |               |           |
| Establish Realtor Association Legislative Committee as Standing Committee | R. Amundson   |                |                |            | X             |           |
| <b>Technology Upgrades/Improvement Priorities</b>                         |               |                |                |            |               |           |
| CJIS Construction and Implementation                                      | T. Duncan     | X              |                |            |               |           |
| County-wide Implementation of Pay Roll Software                           | D. Meyer      | X              |                |            |               |           |
| <b>Legislative Priorities</b>   |               |                |                |            |               |           |
| 24/7 Drug Testing   | Kissel Kohout | X              |                |            |               |           |
| Mental Health Shared Information  | Kissel Kohout | X              |                |            |               |           |
| Bridge Bonding  | Kissel Kohout | X              |                |            |               |           |
| Mental Health Advance Directives  | Kissel Kohout | X              |                |            |               |           |
| Funding for Adult Criminal Justice Reform and Bond Reform                 | Kissel Kohout | X              |                |            |               |           |
| Funding for Juvenile Justice Reform                                       | Kissel Kohout | X              |                |            |               |           |
| Property Tax Relief   | Kissel Kohout | X              |                |            |               |           |
| <b>Criminal Justice Reform Priorities</b>                                 |               |                |                |            |               |           |
| Examine Internal Lower Incarceration Efforts                              | S. Flowerday  | X              |                |            |               |           |
| Examine Internal Lower Incarceration Efforts for Females                  | D. Schorr     |                |                | X          |               |           |
| SAMHSA Learning Collaborative   | D. Schorr     |                |                | X          |               |           |
| Stepping Up Summit  | D. Schorr     | X              |                | X          |               |           |
| Sherriff Body Camera Program  | T. Duncan     | X              |                |            |               |           |
| <b>Inclusive Community Priorities</b>                                     |               |                |                |            |               |           |
| Work with City of Lincoln to secure Welcoming Community certification     | C. Yoakum     |                |                | X          |               |           |
| Reinstating the Lincoln/Lancaster Women's Commission                      | C. Yoakum     | X              |                |            |               |           |
| Adding Additional VBM Drop Boxes  | S. Flowerday  | X              |                | X          |               |           |
| Successful 2020 Census Promotions   | S. Flowerday  | X              |                |            |               |           |
| My City Academy - Ready to Run Initiative                                 | C. Yoakum     |                |                | X          |               |           |
| County Inclusive Benefits Policy  | S. Flowerday  | X              |                |            |               |           |
| <b>Safe Community Priorities</b>  |               |                |                |            |               |           |
| Norris School EMS Coverage  | D. Schorr     | X              |                | X          |               |           |
| Establish Mutual-Aid Meeting as Standing Committee                        | R. Amundson   |                |                | X          | X             |           |
| <b>Human Service Priorities</b>   |               |                |                |            |               |           |
| Increase Human Service JBC Funding  | S. Flowerday  | X              |                |            |               |           |
| Explore Expanded Home Visiting Program to Combat Childhood Trauma         | S. Flowerday  | X              |                |            |               |           |
| <b>County Employee Priorities</b>   |               |                |                |            |               |           |
| County Employee Prescription Drug Initiative                              | D. Schorr     | X              |                | X          |               |           |