# Proposed Policy Resolutions and Platform Changes

National Association of Counties (NACo)

2015 Annual Conference

Mecklenburg County, N.C. | July 10-13

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PROPOSED RESOLUTIONS

## AGRICULTURE AND RURAL AFFAIRS STEERING COMMITTEE

## PROPOSED RESOLUTIONS

### Proposed Resolution on the Grain Inspection, Packers and Stockyards Administration

**Issue:** Large corporate influence on agriculture policy.

**Proposed Policy:** NACo supports a GIPSA ruling that ensures a fair, competitive market for all grain and livestock producers.

**Background:** The Packers and Stockyards Act is the primary law governing livestock and poultry markets. The goal of the Packers and Stockyards Act — which became law way back in 1921 — is to make livestock and poultry markets open, transparent, and competitive and to protect farmers and ranchers from fraudulent, deceptive and abusive practices in their dealings with the meat industry.

USDA issued the proposed rules in 2010. To date, however, only a very few of those proposed rules have been finalized. The delay, in large part, has been due to the riders attached to the annual appropriations bills ever since the proposed rules came out. In essence, the big meat and poultry companies have used the backdoor approach of annual riders on the appropriations bills to reverse the decision made in the 2008 Farm Bill.

The Appropriations Committees do not have jurisdiction over policy, but only over spending. Hence, their job is to determine the annual funding level for GIPSA and its Packers and Stockyards Program, but not to determine what the policies are. The policy job is the responsibility of the Agriculture Committees.

**Fiscal/Urban/Rural Impact:** Without a fair market in which to work, rural livestock producers could lose or go into bankruptcy. Also the price of meat at the grocery counter could be dictated by a few large meat companies.

**Sponsor(s):** Melvyn Houser, Supervisor, Pottawattamie County, Iowa

### Proposed Resolution Opposing Inconsistent GMO Regulation

**Issue:** Lack of standardization of the use of Genetically Modified Organisms (GMO's), Genetically Engineered products, foods, seeds and product labeling create a checker board of policies and practices unsuitable for any agriculturally-based economy to thrive.

**Proposed Policy:** NACo supports a comprehensive plan to address the co-habitation of genetically engineered and non-genetically engineered crops to provide a strong and robust agriculturally-based economy. NACo supports legislative policies that standardize or unify regulation of genetically engineered crops which alleviate the need for county or municipal governing bodies to regulate, investigate or enforce regulation of related ordinances or laws.

**Background:** The subjects of GMO regulations and labeling have become a very serious topic for several counties in the U.S. over the past few years. Most states have put significant policy in place to protect their food safety, crops, and economic vitality regarding GMO and non-GMO products alike.

It is widely recognized that this issue has passionate supporters on both sides of the GMO argument and there is substantial science or data that is wielded by those supporters. It is also common for special interest politics to prevail at a local level allowing initiatives and legislation to conflict with statewide and federal policies that more effectively govern this issue. Local regulations or outright bans on FMO crops will create a checker board of policies and practices unsuitable for any agriculturally-based economy to thrive.

Although NACo supports every effort to keep local control and avoid regulatory burden that can be imposed by state and federal agencies, GMO regulation should not be managed by local governing bodies that do not have the resources or the expertise to properly administer this very complex issue.

**Fiscal/Urban/Rural Impacts:** The fiscal impacts to county and municipal governments for administration of GMO laws and ordinances can be far reaching. The staff requirements alone for field monitoring, inspection and enforcement can cost hundreds of thousands to millions of dollars per year. Each local ordinance can be a true unfunded mandate.

**Sponsor(s):** Harrison Moody, Supervisor, Dinwiddie County, Va.

## Proposed Resolution in Support of "GMO Free Zones"

**Issue:** Preventing and minimizing cross contamination of Genetically Modified Organisms (GMO) crops and non-GMO crops.

**Proposed Policy:** NACo supports GMO free zones and allow states and counties to set aside GMO free zones to protect non-GMO crops from cross contamination from corresponding GMO crops.

**Background:** GMO crops contaminating neighboring non-GMO crops are popular in the U.S. and there are also a significant number of farmers wanting to cultivate non-GMO seeds who are afraid of GMO contamination. In order to promote agricultural diversity and prevent devastation of non-GMO crops by way of contamination, it is necessary to prevent the growing of GMO crops in regions where organic and non-GMO convention crops are grown.

**Fiscal/Urban/Rural Impact:** This policy promotes respect for both farmers using GMO and non-GMO crops, and promotes long-term diversity of agriculture.

**Sponsor(s):** Margaret Wille, Council Member, Hawai'i County, Hawaii

## Proposed Resolution on Promoting Diversion of Compostable Solid Waste from Landfills to "Valuable Compost"

**Issue:** Local composting of compostable solid waste including food scraps and soiled paper contributes to healthy soil that retains moisture, reduces erosion and reduces the need for toxic herbicides and expensive fertilizers.

**Proposed Policy:** NACo supports the promotion of diverging compostable solid waste from landfill sites to valuable compost. Promoting agricultural policies that minimize the impact of drought and that mitigate global warming and that provide the best use of compostable solid waste by diverting compostable solid waste, including food scraps and soiled paper, to compost operations.

Background: In rural American organics comprised some 30-60 percent of the solid waste. Organics, including food scraps and soiled paper, are valuable components of high grade compost that is in high demand of farmers for the health of the soil and as a soil amendment. These food waste organics customarily end up in landfills, creating toxic methane in limited landfill space or end up in incinerators contributing to toxic ash and air pollutions. It is in county governments' best interest to divert compostable solid waste away from alndfills and incinerators in an attempt to develop valuable added compost products for use by farmers, landscapers, ranchers, and home gardens.

**Fiscal/Urban/Rural Impact:** Landfills and mass burn incinerators are very costly. By diverting compostables out of the waste stream and producing a valuable soil amendment to farmers and other users, counties are able to cut short and long-term expenses while providing an important service to rural communities. Because compost stabilizes soil and holds moisture as well as absorbs carbon dioxide, it increases the wellbeing of our farmlands and of our environment generally.

**Sponsor(s):** Margaret Wille, Council Member, Hawai'i County, Hawaii

## Proposed Resolution Supporting Food Labeling Efforts

**Issue:** A large majority of Americans want to know whether food is natural versus food containing genetically modified organisms (GMOs).

**Proposed Policy:** NACo supports food labeling efforts that inform consumers on the contents of their food by differentiating between GMO and non-GMO ingredients.

**Background:** A large majority of the public wishes to know whether crops and food products contain GMO components. There is major controversy about whether to require that GMO foods be labeled as such. There is also debate whether GMO crops and foods are healthy. Currently the federal government takes the position that GMO foods are not unhealthy and does not require labeling of GMO foods. If the labeling of GMO food and crops is not going to be required, then at least the label of "Natural" should be limited to those foods and crops that do not contain GMOs. Prohibiting the label "Natural" for GMO foods avoids the dispute of labeling GMO crops as "Contains GMO", and prevents any ambiguity with the use of the label "Natural".

**Fiscal/Urban/Rural Impact:** No cost to the government and helps to settle a nationwide dispute.

**Sponsor(s):** Margaret Wille, Council Member, Hawai'i County, Hawaii

## COMMUNITY, ECONOMIC AND WORFFORCE DEVELOPMENT STEERING COMMITTEE

## PROPOSED PLATFORM CHANGE

### Proposed Platform Change on Dedicated Infrastructure Funding for One-Stop Centers

Under WORKFORCE DEVELOPMENT Section of Community, Economic and Workforce Development Steering Committee Platform, add:

**Federal Government Role:**

- The federal and state governments should not operate training and employment programs or provide direct client services that are duplicative of those offered under the Wagner-Peyser Act.
- The federal government should interpret federal law through regulations and when necessary arbitrate disagreements between state and local officials.
- It should supply sufficient resources to ensure that states and localities are able to achieve the goals and objectives of the law.
- Funding across the states and workforce development programs should be equitable and based upon a formula that reflects state and local fiscal needs.
- The Department of Labor should allocate as much funding as possible to local workforce service areas.
- ***NACo also supports providing dedicated infrastructure funding for the facilities and operations of Local One-Stop Centers***
- New federal training and employment programs, additional funding or additional program guidance should be done as part of the block grant program, and should retain and utilize existing governance structures to avoid program duplication and confusion.
- Take a reasonable and uniform approach to performance standard negotiations.

## PROPOSED RESOLUTIONS

### Proposed Resolution on FY 2016 Appropriations for the U.S. Department of Housing and Urban Development

**Issue**: Support FY 2016 Appropriations for the U.S. Department of Housing and Urban Development (HUD).

**Proposed Policy:** NACo urges Congress to support the following levels of funding for core U.S. Department of Housing and Urban Development (HUD) programs in the FY 2016 Transportation, Housing and Urban Development, and Related Agencies Appropriations bill: no less than $3.3 billion in Community Development Block Grant (CDBG) formula funding; no less than $1.2 billion in formula funding for the HOME Investment Partnerships Program (HOME); $2.1 billion for Homeless Housing Assistance grants, including at least $250 million for the Emergency Solutions Grant program plus an amount to fully fund expiring supportive housing and Shelter Plus Care rent subsidy contracts; full funding for existing Section 8 project-based and tenant-based contracts and $500 million in Section 108 Loan Guarantee authority.

In addition, NACo opposes the imposition of a funding threshold to receive CDBG formula funds directly or elimination of "grandfathering" provisions that allow cities and counties to maintain their entitlement status. NACo also does not support diverting CDBG formula funds to other categorical grant programs.

**Background**: The CDBG and HOME programs have been model federal block grant programs for expanding affordable housing opportunities and undertaking neighborhood revitalization.

Local governments use CDBG funds for critical community development activity such as, expanding homeownership opportunities; eliminating slum and blight; infrastructure improvements such as roads, water and sewer systems; services at libraries, community centers, adult day care and child and after school care facilities; homeless housing assistance; employment training; transportation services; crime awareness; and, business and job creation. According to HUD, every $1 million in CDBG funding supports nearly 26 jobs and since 2005 CDBG program resources have created over 300,000 jobs. However, CDBG funding has declined by over 30 percent, which has severely hampered local government ability to foster sustainable and economically resilient communities.

For counties across the nation, the HOME program is vital to increasing home ownership and expanding the availability of affordable rental housing. Since 1990, over one million units of housing have been produced with HOME funds. HUD indicates that every dollar of HOME funding leverages an additional $4 in other public and private funding. Every $1billion in HOME funding creates or preserves more than 17,000 jobs. Despite the program's performance, HOME funding has been cut in half since 2010.

The Obama Administration's FY 2016 budget included $2.8 billion for CDBG and $1 billion for HOME. The House passed the FY 2016 Transportation, Housing and Urban Development (THUD) appropriations bill with $3 billion for CDBG and $900 million for HOME, level funding for both programs. The Senate has yet to take action.

In December 2014, Congress passed the FY 2015 Consolidated and Further Continuing Appropriations Act (P.L. 113-235). It provided: CDBG program with $3 billion; $500 million in Section 108 loan guarantee authority; HOME program with $900 million; $2.1 billion in Homeless Assistance, including $250 million for the Emergency Solutions Grants (ESG) and full funding of Shelter Plus Care and Supportive Housing rent subsidies.

The Administration's FY 2015 proposed budget included provisions to amend the Community Development Block Grant statute to include a funding threshold of approximately $350,000 for communities to receive formula funding directly from HUD and it would eliminate the "grandfathering" of metropolitan cities and urban counties who fall below the population level at which they initially qualified. HUD has indicated that approximately 340 cities would lose direct funding under the threshold. It is believed that some counties would be eliminated from entitlement status if the grandfathering provisions were eliminated from the statute. It is anticipated that the Administration will again propose these, or similar, revisions to the CDBG program.

**Fiscal/Urban/Rural Impact**: Funding of HUD's core programs is crucial to state and local governments that provide services to communities at the grassroots level.

**Sponsor(s)**: Welton Cadwell, Commissioner, Lake County, Fla.

## Proposed Resolution in Support of Permanent Authorization for the EB-5 Regional Center Program

**Issue:** The EB-5 Regional Center Program (the "Program") authorization expires on September 30, 2015. Permanent authorization by the U.S. Congress is needed to ensure the Program can achieve maximum economic impact and job creation.

**Proposed Policy:** NACo supports federal legislation to permanently authorize the EB-5 Regional Center Program and to maximize its capacity for economic impact and job creation.

**Background:** Congress created the fifth employment-based preference (EB-5) immigrant visa category in 1990 for qualified foreigners seeking to invest in a business that will benefit the U.S. economy and create or save at least 10 full-time jobs for U.S. workers. It is Section 203(b)(5) of the Immigration and Nationality Act. The basic amount required to invest is $1 million, although that amount is reduced to $500,000 if the investment is made in a rural or high unemployment area (*i.e.* "Targeted Employment Area (TEA)"). Because of market forces, virtually all EB-5 investments are in rural areas or TEAs at the $500,000 level. Of the 10,000 EB-5 green cards available each year over 95% go to foreign nationals who invest through a Regional Center.

A Regional Center is a private enterprise/corporation or a regional governmental agency with a targeted investment program within a defined geographic region. The Regional Center Investment Program allocates 3,000 green cards each year for people who invest in designated Regional Centers. The 3,000 is not a limit, just the amount reserved specifically for Regional Center based investments. The Program has been renewed several times, and is currently due to expire September 30, 2015.

Recent authorizations have been for 3 year terms. This is not sufficient time for a project developer to secure the required project approvals from USCIS, secure the financing and build the project. Permanent authorization will improve predictability and increase utilization of the program to support economic development projects in TEAs in counties all over the country.

NACo promotes EB-5 as an important tool for economic development, public private partnerships, job creation and infrastructure development. NACo also supports EB-5 education at NACo events, coordinated with IIUSA, to educate counties on how the Program can benefit them.

**Fiscal/Urban/Rural Impact:** According to a peer-reviewed economic impact study, in 2010-2011 the Program contributed over $2.21 billion to gross domestic product (GDP), supported over 28,000 jobs, and generated over $290 million in federal and over $178 million in state/local taxes. In 2012, another peer-reviewed study found that the program contributed over $2.53 billion to GDP, supported over 33,000 American jobs, and generated over $381 million in federal and over $200 in state/local taxes. The most recent peer-review study from 2013 showed a $2.58 billion contribution to GDP, supported over 30,000 American jobs, and generated $381 million in federal and $200 million in state/local tax revenue. Industries benefiting the most include construction, food service, wholesale trade, real estate, financial services, legal services, architecture/engineering, and healthcare.

**Sponsor(s):** Marion Ashley, Chairman, Riverside County, CA; John Benoit, Riverside County, Calif.

## Proposed Resolution Supporting Reauthorization and Appropriations for the Department of Commerce's Economic Development Administration

**Issue:** Appropriations and reauthorization legislation for the U.S. Department of Commerce's Economic Development Administration (EDA).

**Proposed Policy:** NACo urges Congress to support reauthorization and appropriations for the U.S. Department of Commerce's EDA to keep communities strong and economically viable at a time when our nation needs it the most.

**Background:** The EDA provides direct resources to counties to support economic development efforts through planning grants to regional Economic Development Districts to support comprehensive economic development strategy planning and implementation as well as financing for Public Works and Technical Assistance projects. It is focused solely on private sector job creation and retention.

With its modest budget, EDA has developed an impressive track record of making strategic investments and building partnerships that help regions and communities respond to shifts in international markets, address severe unemployment challenges and recover from plant closures, major natural disasters, and other chronic, sudden and severe economic hardships.

Despite its solid performance and traditional bipartisan support, EDA's regular budget has declined by nearly 36 percent since FY2001. NACo supports at least maintaining EDA's FY2012 funding level of $257 million and FY2012 level ($111 million) for the public works program in FY2016. EDA is currently funded at $250 million in the FY2015 "CRomnibus" spending bill (PL. 113-235). This is a $3 million increase over the FY2014 level. The Obama Administration's FY 2016 budget includes $273 million for EDA. The House of Representatives recently passed the FY 2016 Commerce, Science and Justice Appropriations bill with $250 million, level funding for EDA. The Senate Appropriations Subcommittee on Commerce, Justice and Science (CJS) passed the FY 2016 CJS Appropriations bill with $250 million for EDA too.

At a time when the nation must make the regional and local investments necessary to compete in the modern global economy, the flexibility, partnership structure and accountability of EDA's programs should be at the forefront of the federal toolbox. EDA's portfolio of economic development infrastructure, business development finance, regional innovation strategies and public-private partnerships are tailored to support the unique needs of each region.

EDA grants are awarded on a competitive basis to local governments, nonprofits and communities by the agency's six regional offices. By federal law, EDA projects typically require a local cost share and significant private sector investment, ensuring that local leaders and businesses are committed to the project's success. EDA investments are focused on high quality jobs, especially in advanced manufacturing, science and technology, and emerging knowledge-based industries and sectors.

EDA and its local partners focus on the fundamental building blocks for economic development. EDA's infrastructure investments are targeted at essential facilities and assets like water and wastewater systems, middle mile broadband networks, workforce training centers, business incubators, intermodal facilities and science and research parks. These assets are often lacking in the nation's most distressed areas, yet they are a prerequisite for private industry to remain or locate in these areas.

The keys to EDA's repeated successes remain its flexible program tools, its long-standing partnerships with regional and local economic development organizations, and its focus on investing in locally- and regionally-driven strategies and infrastructure projects that are tied to leveraging private sector job creation and retention activities.

**Fiscal Urban/Rural Impact:** EDA's programs provide critical funding for economic and community development initiatives and key projects important for creating and retaining jobs.

**Sponsor(s):** Tony Hyde, Commissioner, Columbia County, Ore.

## Proposed Resolution on the National Housing Trust Fund

**Issue**: Allocation of National Housing Trust Fund (HTF) resources.

**Proposed Policy:** NACo urges Congress and the U.S. Department of Housing and Urban Development (HUD) to provide for the allocation of HTF funds to local governments. Driving HTF resources to the local and county levels will ensure these federal affordable housing resources are effectively targeted and tailored to meet the unique and individualized affordable housing needs of local communities across the nation. In the event that increased HTF resources become available, Congress and HUD are also urged to provide a formula allocation of HTF resources directly to local governments.

**Background**: In December 2014, the Federal Housing Finance Agency (FHFA) announced it was lifting the suspension of payments the Government-Sponsored Enterprises (GSEs) are required to make to the Housing Trust Fund (HTF) and Capital Magnet Fund (CMF). The two programs were authorized as part of the Housing and Economic Recovery Act of 2008 (HERA; P.L. 110-289) to fund affordable housing activities. However, shortly after HERA's enactment FHFA suspended the mandatory payments to the Funds.

FHFA Director Mel Watt indicated the suspension was being lifted due to Fannie Mae and Freddie Mac's return to profitability and repayment of the government's investment in the two GSEs. The GSEs will be assessed 4.2 basis points (.042 percent) on new business purchases. These fees will be directed to the HTF and CMF—65 percent of the fees will flow to the HTF and 35 percent to the CMF. FHFA has ordered the GSEs to begin setting aside these funds beginning in January 2015, but funds will not be distributed until 2016. Estimates indicate that $300 million-$700 million could be collected from the assessments annually, which will be administered and overseen by HUD.

HTF grants will be distributed on an annual formula basis to states (or state-designated entities), of which at least 80 percent must be used for rental housing; up to 10 percent for homeownership; and up to 10 percent for the grantee's administrative and planning costs.

HTF funds may be used for the production or preservation of affordable housing through the acquisition, new construction, reconstruction, and/or rehabilitation of non-luxury housing with suitable amenities. All HTF-assisted units will be required to have a minimum affordability period of 30 years. Eligible activities and expenses include: real property acquisition; site improvements and development hard costs; related soft costs; demolition; financing costs; relocation expenses; operating cost assistance for rental housing (not more than 20 percent of each annual grant); and, “reasonable” administrative and planning costs.

Eligible forms of assistance include: equity investments; interest-bearing loans or advances; non-interest bearing loans or advances; interest subsidies; deferred payment loans grants; and other forms of assistance approved by HUD.

In addition, the HTF statute requires 75 percent of funds for rental housing must benefit extremely low-income households (incomes of 30 percent of area median or less) or households with incomes below the federal poverty line. All funds must benefit very low-income households (incomes of 50 percent of area median or less).

States and state-designated entities serve as HTF-eligible grantees. States are required to submit an allocation plan to HUD, which must describe the distribution methodology they intend to use. The state must also provide the opportunity for public feedback on the plan. The state may distribute funds through eligible sub-grantees, which would include state agencies or units of general local government that have filed an approved consolidated plan with HUD.

Currently, no guidance or direction is in place to ensure county governments receive an allotment of HTF resources to ensure their locally-determined and managed affordable housing programs are served.

Counties have a long history in the effective and efficient administration of federal resources for affordable housing and community development including a variety of HUD formula block grant programs, such as: Community Development Block Grant (CDBG) Program, HOME Investment Partnership Program, Emergency Solutions Grant (ESG) Program, and Housing Opportunities for Persons with AIDS (HOPWA) Program.

Counties have responsibly invested these federal resources for home purchase and rehabilitation assistance; construction and rehabilitation of affordable multi-family housing; property acquisition and improvement for affordable housing; and partnering with community-based groups to increase the local supply of affordable housing. In addition, many counties are involved in the administration and management of locally-based and funded housing trust funds. Providing for a conduit of HTF funds to local and county governments would ensure timely allocation of HTF resources that meet community-identified affordable housing priorities.

Finally, given the unique role HTF resources are designed to play in serving extremely low- and very low-income populations it is important that HTF resources not be used to offset or supplant other federal grant resources for affordable housing, such as the HOME program. HTF funds are designed with a targeted purpose of accommodating the nation's shortfall in affordable housing, particularly multi-family housing. Supplanting existing affordable housing and community development grant programs with HTF resources will create gaps in the ability of local governments to provide much needed assistance to serve other specialized populations and fund specific development programs.

**Fiscal/Urban/Rural Impact**: Adequate resources to support locally-identified priorities are crucial in ensuring counties have the ability and funds needed to provide for and sustain the demand for affordable housing.

**Sponsor(s)**: Patricia Ward, Director of Community Development and Housing, Tarrant County, Texas

## Proposed Resolution in Support of the Reauthorization of Export-Import Bank of the United States

**Issue:** The Congress of the United States of America is in the process of reauthorizing the Export-Import Bank of the United States of America in this session of the Congress and seeks the input of the National Association of Counties. Congress takes up reauthorization on June 30, 2015.

**Proposed Policy:** The National Association of Counties (NACo) support, endorse and advocate for the reauthorization of the Export-Import Bank of the United States.

**Background:** NACo encourages each and every county in the United States of America and all 50 states and 4 territories to support, endorse and advocate for the reauthorization of the U.S. Export-Import Bank. The Export-Import Bank of the United States plays a vital role in assisting small, medium and large businesses with export financing and export underwriting across our nation and in virtually all counties of the United States of America. Without the services of the Export-Import Bank of the United States, businesses located in our counties and cities which are seeking export assistance will have no place to turn for these services. Our international customers of products made and produced in the United States will be highly unlikely to find credit or underwriting to aid in the purchase of products without the assistance of this highly effective but very small branch of our federal government.
The Export-Import Bank helps create direct jobs in virtually every economic sector in our counties, states and nation and also helps those firms create indirect and induced jobs. Many of our states, counties and cities participate in partnerships with the U.S. Export-Import Bank by promoting its services. These partnerships provide vital training for our economic developers and support teams who are assisting local businesses in export financing and underwriting. The Export-Import Bank of the United States is a great benefit to our job creation and retention efforts, to sustenance and growth of existing business, and to the support of all business types and sizes by providing outstanding services that contribute to the local, regional and national economic growth. Estimates indicate some 200,000 United States jobs could be lost if the Export-Import Bank of the United States is not reauthorized.

**Fiscal/Urban/Rural Impact:** If the Export-Import Bank of the United States is not reauthorized, there will be an adverse impact on jobs, exports, sales taxes, and property taxes.

**Sponsor(s):** Honorable Paula Brooks, Commissioner, Franklin County, Ohio, Chair of the International Economic Development Task Force, NACo, Honorable Thomas Coley, Commissioner, Tallapoosa County, Ala. Vice Chair of the International Economic Development Task Force, NACo, Hon. Keith Carson, Chair Board of Supervisors, Alameda County, Calif. Vice Chair of the International Economic Development Task Force, NACo, Honorable John J. Benoit, Supervisor, Riverside County, Calif., Honorable Larry Johnson, Vice Chair of the International Economic Development Task Force, NACo

## Proposed Resolution Urging and Requesting Congress to Increase the Minimum Wage

**Issue:** The federal minimum wage standard has not increased while the cost of living has gone up resulting in financial distress on members of our communities.

**Proposed Policy:** NACo urges and requests the United States Congress to adopt legislation increasing the minimum wage in all sectors of the economy. NACo further urges and requests the United States Congress to adopt legislation tying future increases in the minimum wage to changes in the cost of living.

**Background**: The national economy continues to struggle to rebound from the recession of 2007-2009. It has been shown that an increase in the minimum wage results in increased consumer spending. That increased consumer spending will result in immediate increases in the national as well as local economies. Increases in economic activity will benefit both consumers and governments.

The federal minimum wage has not kept up with the rate of inflation. The result is that the earning power of workers in low wage jobs is falling behind their cost to live productive and useful lives. Many of the jobs created since the recession of 2007-2009 have been low wage jobs. Two-thirds of low wage employees work for businesses with over 100 employees. The value of publicly traded businesses has risen significantly since 2009. And executive compensation has likewise risen significantly. A large portion of the pay gap between low-income workers and middle-income workers exists because of the discrepancy between the increase in inflation and the lack of increase in the minimum wage.

State and local government has traditionally been considered the laboratory for policy in our society. Twenty-nine states and multiple local governments have adopted laws increasing the minimum wage beyond the federal standard. The laboratories of our society are sending a clear message to our national leadership that the federal minimum wage should be increased.

**Fiscal/Urban/Rural Impact**: Low-income workers pose significant burdens for local communities and governments. Raising the federal minimum wage will lessen those burdens.

**Sponsor(s)**: Kenneth Epperson, Commissioner, Caddo Parish, La.

## Proposed Resolution Urging and Requesting Congress to Consider Reinstating Universal Service

**Issue**: The burden of recent military efforts by the United States has impacted communities significantly as a result of a volunteer military service.

**Proposed Policy**: NACo urges and requests the United States Congress to consider mandating a two year period of universal service in support of national defense and homeland security for all citizens between 18 and 26 years of age.

**Background**: The shift from a conscription based military to a volunteer military in 1973 has resulted in unintended consequences for both society and government in our nation.

Establishing a volunteer military has led to a chasm between the military and the rest of society. This chasm is only widened by recent revelations regarding the quality of medical care afforded current and retired members of the military.

The economic justification for a volunteer military disregards the moral hazard of one party choosing to force involvement in a high risk situation knowing that someone else likely will bear the costs. Assuming that economic status correlates with political power, those who are recruited into the military (low economic power) have less participation in the decision to place the military in harm's way than those who are the decision makers (high economic power).

And, last but certainly not least, universal service would reestablish the principle that service to one's country is an obligation, not an advertising slogan. And universal military service would restore the military's proper place in society instead of being offered as an economic option for those who do not have alternatives. Providing for civilian service in support of the national defense such as national or community service or homeland security would strengthen our communities by directing young people into work that supports and improves our communities.

**Fiscal/Urban/Rural Impact**: The current system of relying on Reserves and National Guard to make up the slack in available forces for recent military efforts has had a significant impact on communities in that citizens - rooted in their communities and holding down jobs and parenting children in those communities – are being deployed for repeated, lengthy tours of duty overseas. The absence of those families, parents, and children has significant social and economic implications for local communities. Further, directing young people into civilian programs of national and community service would improve communities by fostering workplace skills and community connections in place of the malaise that afflicts many young people today.

**Sponsor(s)**: Kenneth Epperson, Commissioner, Parish of Caddo, La.

## Proposed Resolution Urging and Requesting the United States Congress to Provide for Free Burial of Spouses and Dependents of Veterans at all Veterans Cemeteries

**Issue:** Spouses and dependents of veterans are interred for free at national veterans cemeteries but state, territorial, and tribal governments frequently charge for such burial.

**Proposed Policy:** NACo urges and requests the United States Congress to fund the expenses of burial of spouses and dependents of veterans at cemeteries which are operated by state, territorial and tribal governments and which receive funds from the Veterans Cemetery Grants Program.

**Background**: In 1862, President Lincoln signed into law legislation authorizing the establishment of National Cemeteries ". . . for the soldiers who shall die in the service of the country." Fourteen cemeteries were established that year. These national cemeteries were the beginning of today's National Cemetery Administration. Public Law 93-43 transferred 82 national cemeteries from the Department of the Army to what is now the Department of Veterans Affairs. The Department of Veterans Affairs Veterans Cemetery Grants Program was established in 1978 to complement VA's National Cemetery Administration. The program assists states, territories and federally recognized tribal governments in providing gravesites for veterans in those areas where national cemeteries cannot fully satisfy their burial needs. The National Cemetery Administration honors Veterans and their families with final resting places in national shrines and with lasting tributes that commemorate their service and sacrifice to our Nation. There is no charge for burial of a spouse, surviving spouse or dependent of an eligible Veteran who is interred in a national cemetery. The National Cemetery Administration reimburses for the burial of veterans in veterans cemeteries operated by state, territorial, and tribal government. However, the Administration does not reimburse for the burial of spouses and dependents in those same cemeteries.

**Fiscal/Urban/Rural Impact**: Local governments are striving to make their communities more hospitable and welcoming to veterans as retirement destinations. Those efforts frequently include having a nearby veterans cemetery. Providing reimbursement for burial of spouses and dependents in those cemeteries would aid local governments in becoming more attractive to military retirees as well as honoring the sacrifice of the families of veterans.

**Sponsor(s)**: Kenneth Epperson, Commissioner, Parish of Caddo, La.

## Proposed Resolution to Support the YouthBuild Program

**Issue:** Congress is in the process of determining funding for the federal Department of Labor YouthBuild program, which serves many counties and provides effective pathways to education, workforce training, community service and leadership training among the approximately 2.3 million low-income young adults in the United States between the ages of 16 and 24 who have left high school without a diploma or who are unemployed.

**Proposed Policy:** NACo supports expansion of funding for YouthBuild and supports funding for the DOL YouthBuild program returning to its prior FY 2010 level of $102.5 million.

**Background:** There are an estimated 2.3 million low-income 16-24 year old young adults in the United States who left high school without a diploma and are unemployed. In YouthBuild programs, these young people work to earn their GED, high school diploma or recognized credential while learning job skills by building affordable housing for homeless and low-income people. YouthBuild students also perform community service and receive leadership training. Federal support for YouthBuild was first authorized under HUD in 1992, reauthorized within the Workforce Investment Act under the U.S. Department of Labor in September 2006 (when it passed by unanimous consent in both Houses of Congress and was signed into law by President George W. Bush), and was again reauthorized in 2014 in WIOA. Since 1993 more than 140,000 YouthBuild students have produced over 30,000 units of low-income housing and performed over 40 million community service hours. YouthBuild is a public-private partnership in which each YouthBuild program secures its own funding, generally a mix of government (federal, state, and local) and private support.

In 2015 there are more than 260 YouthBuild programs in 45 states, Washington, D.C., Puerto Rico, and the Virgin Islands, engaging approximately 9,000 young adults. Demographically:

- 95 percent of YouthBuild students enter the program without their GED or diploma;
- 32 percent have been adjudicated in the criminal justice system;
- Nearly 30 percent are parents and over half received public assistance prior to joining YouthBuild.

In spite of these overwhelming odds, outcome for 2104 show:

- Over 80 percent of YouthBuild enrollees completed the program;
- 77 percent attained a high school diploma, GED or industry recognized certifications;
- Over 60 percent of graduates went on to college or jobs soon after graduation;
- Recidivism rates dropped to under 10% (measured by reconviction one year after enrollment.)

**Fiscal/Urban/Rural Impact:** Many counties benefit from having YouthBuild programs as effective pathways to reconnect unemployed and undereducated young adults, and find them critical partners in workforce development, crime prevention, and economic development. At the same time, counties often bear the brunt of the costs resulting from the failure to reconnect this population. The reduction in funding of the federal YouthBuild program relative to the $102.5 million appropriate in FY 2010 has decreased the number of grantees that can be funded by the Department of Labor, despite most programs turning away 3 or more young people seeking to reconnect to education, work and community service.

**Sponsor(s):** Supervisors Perea, Borgeas, Mendes, Pacheco, Poochigian, Fresno County, Calif.

## ENVIRONMENT, ENERGY AND LAND USE STEERING COMMITTEE

## PROPOSED PLATFORM CHANGES

### Statement of Basic Philosophy

The National Association of Counties (NACo) believes protection of the environment and conservation ~~wise development~~ of our nation's resources as they are developed are obligations shared by citizens, private enterprise and all levels of government.

~~The~~ America's counties ~~of this nation~~ are highly diverse communities occupying a nearly unlimited range of geographic settings, with immense variation in their in natural resource~~s~~ endowments, functioning in many different economic, ~~social and~~ political ~~systems~~, cultural and social contexts ~~economic and structural circumstances, and public health and environmental concerns~~. Counties are ~~the~~ primary service providers ~~and have~~ with a responsibility to care for and protect their citizens' health, welfare and safety ~~of its citizens~~, and to maintain and improve their quality of life.

~~Encouraging~~ Addressing environmental health and safety, ensuring responsible energy development and conserving ~~existing energy resources, addressing environmental protection,~~ and protecting our essential natural resources in an atmosphere of limited governmental ~~resources~~ capacity will be achieved by building effective partnerships between all levels of government, citizens~~,~~ and the private sector.

### UNFUNDED MANDATES AND PREEMPTIONS

NACo opposes any legislation, regulation, or policy proposal which mandates programs and responsibilities on state~~s~~ and local governments without ~~full~~ commensurate federal funding. To fully understand the impact of any mandate on local governments, a fiscal note or statement of estimated costs of implementation must be provided prior to formulation or passage of legislation or regulations.

NACo opposes any federal attempts to preempt state and local planning policies, processes, and decisions. NACo does encourage federal agency participation and expert assistance in regional and local environmental public policymaking, where appropriate.

### INTERGOVERNMENTAL COOPERATION

Implementing environmentally sensitive and cost-efficient strategies for the conservation and use of natural resources can only be accomplished ~~by~~ with planning and good communications among stakeholders ~~for the appropriate use of natural resources~~. Therefore, counties must be involved as ~~a~~ significant partners in the formative stages of developing standards, policies, and guidance and have the ability to develop specific standards, where appropriate.

State governments should act as coordinators, providers of technical and financial assistance, and developers of general standards, which recognize the need for flexibility and regional differences. The federal government should be responsible for supporting or conducting research, setting general standards, developing policies, ~~and~~ providing guidance, and financial and technical assistance, ~~which~~ while recognizing the need for flexibility and regional differences.

NACo believes the federal government should provide financial and other incentives to support the most cost-effective planning and management programs to meet federal goals.

**PRIORITIZATION AND PERFORMANCE-BASED STANDARD SETTING**

NACo supports national and state policies ~~that are~~ tailored to meet the needs of local communities with goals and performance standards ~~and goals~~ being set to accomplish outcomes and give local governments the flexibility to select among alternative means to achieve them.

This flexibility is critical for ~~should allow~~ local governments with often very limited resources to prioritize implementation of federal environmental laws and regulations based on actual needs and to match ~~include the ability to weigh~~ the environmental, social~~, energy,~~ and economic costs and benefits of alternative strategies with local plans~~, and~~ priorities and capacity.

Financial resources must be allocated to address environmental problems before they escalate to a cost-prohibitive level.

**INCENTIVE-BASED SOLUTIONS**

NACo supports federal government incentives to protect the environment and natural resources. NACo supports the repeal of programs and policies that distort the pricing or development of products in a manner that encourages the exploitation of resources, discourages recycling and conservation, and provides inducements for greater pollution.

**SOUND SCIENCE AND TECHNICAL ASSISTANCE**

NACo calls upon the federal government to authorize, adequately fund, and require federal departments and agencies to provide fair, thorough, peer reviewed, scientifically sound ~~and consistent~~ assessments of health, safety or environmental risks associated with policy alternatives, prior to requiring any actions by local governments.

NACo supports ~~a~~ coordinated and expanded environmental research efforts, in which the research process allows for ~~that is open to~~ input from state and local governments, ~~and~~ private industry and the public. Local governments should be kept informed about ongoing monitoring and compliance evaluations related to the implementation of ~~need information to address~~ environmental mandates ~~and evaluate the success of compliance programs~~. Research should address ~~focus on~~ all impacts of pollution and recognize and accommodate technology advancements.

**PUBLIC EDUCATION AND COMMUNICATION**

NACo supports federal assistance and increased funding to assist local governments, schools, colleges, universities, ~~and~~ technical and vocational institutions in developing and funding curricula~~um~~, ~~furnishing~~ supplying laboratories, training staff~~,~~ and increasing public engagement ~~teaching students~~ in various environmental research activities and educational programs of local and regional significance. ~~, increasing public awareness, and facilitating and enhancing environmental air and water quality education within and among county governments.~~ These programs help involve and educate local officials and the general public about basic science and the environmental, social, and financial impacts of implementing ~~national and state~~ environmental, energy~~,~~ and land use policies.

**Sponsor(s):** Larry Schoen, Commissioner, Blaine County, Idaho

## Peak Wet Weather Flow Management Techniques

**Under WATER QUALITY**

**A. Clean Water Act**

**3. Sewer Overflows:** NACo supports a Combined Sewer Overflow (CSO) program which is based on cost-benefit analyses and allows for a variety of control techniques. EPA's CSO policy should accommodate water quality standards that encompass stormwater discharges and their impact in CSO systems.

<u>NACo supports the crafting and uniform application of Clean Water Act regulations and permits such that Publicly Owned Treatment Works can operate their facilities in the manner in which they were designed and permitted, including the use of peak wet weather flow management techniques such as blending.</u>

NACo believes that a significant national environmental or public health problem requiring federal regulation from Sanitary Sewer Overflows (SSO) has not been demonstrated. NACo calls on the EPA to review SSO regulations to ensure flexibility for local communities to adequately address this challenge.

**Sponsor(s):** James D. Healy, Board Member, DuPage County, Ill.

## Creation of a National Program to Allow States to Offset Air Pollution Exceedances

**Under AIR**

**F. Interstate/International Transport of Air Pollution:** NACo recognizes that air pollution is transitory in nature and does not respect state or other geographic borders, particularly in the case of ozone. NACo supports the creation of multi-jurisdictional ozone transport regions and interstate commissions to provide for regional planning, conflict resolution, and implementation of area-wide strategies, as ozone may contribute to or cause non-attainment of the National Ambient Air Quality Standards (NAAQS). When the EPA determines that state or local jurisdictions are in compliance and do not significantly contribute to ozone transport problems, that area should be exempted from further regulatory requirements. Counties or air basins within a state should be allowed to subtract the effect of pollutants transported from other parts of a state, as well as from other states, when calculating their own area's clean air compliance attainment.

<u>NACo supports the creation of an EPA policy to grant states and local governments the authority to leverage air quality improvements in one region to offset the non-attainment status of another adjacent region during the same period to avoid non-attainment status in the region whose air quality exceeds the current standards.</u>

**Sponsor(s):** Buddy Boe, Chief Administrative Officer, St. Charles Parish, La.; Charlotte Randolph, President, Lafourche Parish, La.;John Young, President, Jefferson Parish, La.; Marnie Winter, Director of Environmental Affairs, Jefferson Parish, La.; Arlanda Williams, Councilwoman, Terrebonne Parish, La.; Julia Perrier, Council, St. Charles Parish, La.

## To Remove Support for a Permanent of Interim Nuclear Waste Storage Facility

**Under Solid and Hazardous Waste Management**

**H. Nuclear Waste Management:** ~~NACo is concerned that the federal nuclear waste repository program through the Department of Energy (DOE) is seriously behind schedule.~~ NACo supports federal legislation to assure the Department of Energy (DOE) meets its statutory responsibilities regarding present and future stockpiles of nuclear wastes which pose a serious threat to the natural environment and to the public's health and welfare.

~~NACo supports construction of a permanent nuclear waste repository and the use of an interim central storage facility until the permanent site is completed.~~

NACo supports federal development of a transportation system from nuclear power plants ~~to the interim or permanent site~~ that includes assessing community impacts, intensive consultation, participation, and control in siting and transportation decisions with affected states and local governments, and consulting with and providing appropriate benefits to counties directly affected by the interim or permanent nuclear waste facility.

NACo supports research and development of spent nuclear fuel storage technologies.

**Sponsor(s):** Joan Patricia Murphy, Commissioner, Cook County, Ill.

## On Supporting the Nation's Electrical Grid System

**Under ENERGY**

**A. National Energy Policy:** NACo seeks a comprehensive and integrated approach to a national energy policy that:

- Balances increased domestic oil and gas production on public and privately-owned lands, including issuance of oil and gas drilling permits in a timely fashion;
- Provides states and counties, which support and encourage oil and gas production off their shores, with a share of revenues proportionate to the royalties generated;
- Accelerates development, research and incentives for alternative and renewable energy, clean energy, energy efficient programs, and clean coal technologies;
- Gives local governments a central role in formulating local environment, energy and land use policies;
- Supports environmental equity issues;
- Continues energy conservation programs that reduce consumption, encourage efficient energy use, and improve end use efficiencies;
- Preserves and protects ecologically unique areas;
- Provides a comprehensive approach to addressing the problems of communities affected by new energy resource facility development, and direct participation by local

governments in all strategy development for mitigating any adverse consequences of a new energy resource facility;
- Provides federal funding through grants, payments, low-interest loans, and loan guarantees, to counties and other local governments to help fund the planning and development of public facilities, and services, required as the result of new or expanded energy resource and facility development;
- <u>Ensures that the nation's electrical transmission grid system is secure from the types of threats which could cause catastrophic failure</u>; and
- Provides funding for Native American energy resource development.

**Sponsor(s):** Larry Schoen, Commissioner, Blaine County, Idaho

## PROPOSED RESOLUTIONS

### Proposed Resolution on the Environmental Protection Agency's Final Waters of the U.S. Rule

**Issue:** The U.S. Environmental Protection Agency's (EPA) finale rule regarding Waters of the United States.

**Proposed Policy:** NACo supports S. 1140 which would withdraw the Environmental Protection Agency (EPA) and Army Corps of Engineers' (Corps) "waters of the U.S." rule and restart the rule-making process. The Federal Water Quality Protection Act (S. 1140) would require the agencies to work more closely with state and local governments in a rewrite of the "waters of the U.S." rule.

**Background**: After more than a year of voicing serious concerns and calling for clarity on the federal proposal to redefine "waters of the U.S.," the National Association of Counties (NACo) has expressed disappointment that counties went unheard in the final rule that the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) released on May 27. Despite having provided detailed feedback and congressional testimony on multiple occasions on the potential impact of the proposed rule on counties, and despite repeated attempts to have a meaningful consultation process with the federal agencies, many issues remain unresolved.

After a preliminary review, there are several areas that are unclear and potentially problematic for counties. While the final rule attempts to exempt certain ditches, many county owned ditches may still fall under federal authority.

According to the final rule, several types of ditches are now exempt:
- Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary
- Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands
- Ditches that do not flow, either directly or through another water, into traditional navigable and interstate waters, and territorial seas.

***While this may seem to address county concerns about roadside and other types of ditches, a closer reading reveals greater ambiguity than clarification. Why?***

Under the final rule, the following ditches **are** jurisdictional:

- Roadside and other ditches that have flow year-round (perennial flow) — *Page 98*
- Roadside and other ditches with intermittent flow (not continuous, irregular) that are a relocated tributary, or are excavated in a tributary, or drain wetlands — *Page 98*
- Ditches, regardless of flow, that are excavated in or relocate a tributary — *Page 98*

The final rule also newly defines the term "tributary," and in doing so states that "a tributary can be a natural, man-altered or man-made water and includes waters such as rivers, streams, canals, and ditches." Clean Water Rule: Definition of Waters of the United States" at 40 CRF 230.3, Page 6.

**Fiscal/Urban/Rural Impact:** If implemented as interpreted by NACo, the federal government will have again produced an unfunded mandate without clear practical explanations regarding their actions, decisions, and intended implementation process leaving the local governments to deal with the regulation, find funding, and move projects through another regulatory hurdle. Costs to permit projects will grow, some projects will not receive approved or will be delayed significantly, and the ability of counties to maintain public infrastructure could be impacted by vague definitions and inconsistent application of the final rule across regions.

**Sponsor(s):** Buddy Boe, Chief Administrative Officer, St. Charles Parish, La.; Charlotte Randolph, President, Lafourche Parish, La.; John Young, President, Jefferson Parish, La.; Marnie Winter, Director of Environmental Affairs, Jefferson Parish, La.; Arlanda Williams, Councilwoman, Terrebonne Parish, La.; Julia Perrier, Council, St. Charles Parish, La.

## Proposed Resolution to Oppose More Stringent Regulation of Particulate Matter

**Issue:** Impact of a more stringent Particulate Matter air standard on rural communities

**Proposed Policy:** NACo opposes any attempts by the U.S. Environmental Protection Agency (EPA) to impost regulation of Particulate Matter (PM or dust) at levels more stringent than current standards.

**Background:** In the latest step in its review of the National Ambient Air Quality Standards (NAAQS), the U.S. Environmental Protection Agency (EPA) established the foundation for regulation of dust. The EPA is looking to tighten current standards which would have a negative impact, especially on rural, agricultural-based counties.

Because of the high dust levels found in arid climates, many critical western industries have a difficult time meeting the current standard of 150 µg/m3. In some of these areas, “no-till” days have already been proposed for agriculture, severely hindering farmers’ ability to maintain productive operations.

Farmers could be fined for everyday activities like driving a tractor down a dirt road or tilling a field. It would effectively bring economic growth and development to a halt in many areas of the country.

If EPA enforced tighter standards, areas across the country would be classified as "non-attainment," forcing states to impose extreme control requirements on businesses and counties across the board.

The current PM standard was set conservatively low.  EPA itself acknowledges the current standard was based on a desire to be cautious, and not on clear evidence that this very stringent level was necessary to protect against adverse public health effects. This is especially true for the type of rural dust predominantly found in agricultural and other resource-based operations.

The policy assessment is the latest step in EPA's ongoing review of the PM NAAQS, as required every five years under the Clean Air Act. The document will serve as the basis of EPA's Clean Air Scientific Advisory Committee's (CASAC) consideration about whether to revise the current PM standard.

**Fiscal/Urban/Rural Impact:** More stringent regulation of Particulate Matter levels will increase costs for dust suppression for both urban and rural counties.

**Sponsor(s):** Bob Fox, Commissioner, Renville County, Minn.

## Proposed Resolution on the Environmental Protection Agency's Efforts to Tighten Ozone Air Quality Regulations

**Issue:** The U.S. Environmental Protection Agency's (EPA) effort to tighten ozone air quality standards.

**Proposed Policy:**  NACo opposes implementation of the EPA's proposed 2015 National Ambient Air Quality Standards (NAAQS) for ozone until the 2008 NAAQS for ozone have been fully implemented and analyzed for impact.

**Background**:  The EPA has a mission to improve the quality of the air we breathe. On Dec. 17, 2014, the U.S. Environmental Protection Agency (EPA) released a new proposed rule on the *National Ambient Air Quality Standards for Ozone* that would tighten current federal air pollution rules and increase the number of counties impacted by the proposed rule from 227 to a range of 358—558 counties or more.  The proposed rule would tighten the current ozone standard from 75 parts per billion (ppb) to a range of 65 to 70 ppb.  Additionally, the agency indicated they will accept comments on a 60 ppb standard, raising the possibility the standard would be set higher.

The current ozone standard of 75 ppb was set in 2008, however, has yet to be implemented due to litigation. The 1997 standard of 80 ppb is still generally used.  It is premature to discuss tightening the standard until the 2008 standards are implemented.

Being named as a non-attainment area places communities and their residents in a difficult spot because communities must make drastic and costly changes that ultimately impact a community's ability to attract and keep jobs.  Economic development efforts become more challenging because existing or potential businesses choose to site their facilities in attainment counties so they do not have to meet the tighter air quality standards within non-attainment counties. This approach is akin to using a stick, rather than a carrot, to encourage communities to buy-in to tighter air quality standards. Finally, immediate investments must be made by all industries in the region regardless of their individual air quality measurements as they are now being impacted by the regional status.

The proposed standards, the timeline for implementation, and the inability to regionalize the air across adjacent arbitrary political lines will cost communities funding, businesses will delay or cancel expansions or new investments, and the daily lives of the community will be altered with no cross-regional actual air quality benefit.

**Fiscal/Urban/Rural Impact:** Left unchanged, the proposed ambient air quality standards will immediately place hundreds of counties across the nation into non-attainment status and effectively halt economic development projects, negatively impact the lives of the residents of those regions, and effectively tax existing industries to come into compliance irrespective of the source of the pollutant in the region. Driving patterns will be impacted and reduced resulting in less revenues being collected from the gas tax further reducing the funding available for transportation projects.

**Sponsor(s):** Buddy Boe, Chief Administrative Officer, St. Charles Parish, La.; Charlotte Randolph, President, Lafourche Parish, La.; John Young, President, Jefferson Parish, La.; Marnie Winter, Director of Environmental Affairs, Jefferson Parish, La.; Arlanda Williams, Councilwoman, Terrebonne Parish, La.; Julia Perrier, Council, St. Charles Parish, La.; Gary Moore, Judge/Executive, Boone County, Kentucky; Mike McKee, Commissioner, Uintah County, Utah

## Proposed Resolution Opposing EPA's Proposal to Lower the National Ozone Standard from 75 Parts per Billion to 65-70 Parts per Billion

**Issue:** The EPA's proposal to lower the national ozone standard from 75 parts per billion (ppb) to 60-70 ppb.

**Proposed Policy:** The National Association of Counties (NACo) opposes the EPA's proposal to lower the national ozone standard from 75 ppb to 60-70 ppb. Also, the EPA should give greater leeway to states where ozone levels are demonstrably high because of natural events beyond their control, including high elevation areas and high background levels of ozone.

**Background:** Background ozone, i.e., ozone not due to local, human caused sources, often accounts for 60-65 ppb for many higher elevations throughout the intermountain west. This leaves an extremely tight and unmanageable margin for controlling human caused activities, especially if the ozone standard is tightened downward. Based on known science and testing neither the states, the EPA, nor the counties understand for sure what measures are effective to reduce elevated background ozone. Current models followed by the EPA simply do not contemplate the multifaceted nature of background ozone nor provide the necessary tools to deal with the issue.

**Fiscal/Urban/Rural Impact:** A tighter ozone standard and failure to account for natural background ozone will result in unmanageable compliance costs that will negatively impact industry, jobs and local economies throughout the country.

**Sponsor(s):** Michael J. McKee Commissioner, Uintah County, Utah

**Proposed Resolution Opposing the Construction of a Nuclear Waste Repository in the Great Lakes Basin**

**Issue:** The Canadian Government is currently reviewing (and has until September 4, 2015 to authorize construction of) the Ontario Power Generation's proposal to build a permanent geologic repository to bury and abandon 7 million cubic feet of low and intermediate level radioactive nuclear waste less than half a mile from the shore of Lake Huron in Kincardine, Ontario, Canada.

**Proposed Policy**: NACo opposes construction of a nuclear waste repository in the Great Lakes Basin. The cooperative management of our shared Great Lakes calls for an environmental review by the International Joint Commission for all proposals for nuclear waste storage. The President and the Secretary of State should ensure that the Canadian Government does not permanently store nuclear waste in the Great Lakes Basin and should work together with the Canadian Government to find long term storage solutions for nuclear waste.

**Background:** Nuclear waste is highly toxic and can remain lethal for over 100,000 years. The Great Lakes are an irreplaceable natural resource, containing twenty-one percent of the world's fresh surface water, and supplying drinking water to 40 million people in the United States and Canada. It is vitally important to human health, the environment and to the Great Lakes economy that the Great Lakes be protected from the threats of potential radioactive contamination posed by nuclear waste storage.

NACo supports a ban on nuclear waste repositories in the Great Lakes Basin. The potential damage to the Great Lakes from any leak or breach of radioactivity far outweighs any suggested economic benefit that might be derived from burying radioactive nuclear waste at this site.

NACo urges Congress to pass House Resolution 194 which expresses the sense that (1) the Canadian Government should not allow a permanent nuclear waste repository to be built within the Great Lakes Basin; (2) the President and the Secretary of State should take appropriate action to work with the Canadian Government to prevent a permanent nuclear waste repository from being built within the Great Lakes Basin; and (3) the President and the Secretary of State should work together with their Canadian Government counterparts on a safe and responsible solution for the long-term storage of nuclear waste.

**Fiscal/Urban/Rural Impact**: None

**Sponsor(s):** Joan Patricia Murphy, County Commissioner, Cook County, Ill.

**Proposed Resolution Supporting an Affordable and Reliable Energy Supply**

**Issue:** Adequate analysis of the cost/benefit of regulations and legislation related to the use of coal as an electricity source is continually necessary.

**Proposed Policy:** NACo urges Congress and the Administration to re-evaluate restrictions on the mining, transportation and burning of coal. NACo believes the U.S. Environmental

Protection Agency's existing and proposed rules, regulations and standards should be further studied to fully understand the costs and benefits on electric utility operations, electricity availability and capacity, electric rates; the economic impacts to manufacturers, the economic and health impacts to communities and consumers.

**Background:** To meet the growing energy needs of the United States and the world, every source of energy must be responsibly developed. NACo supports the development of all domestic sources of energy. However, the most robust efforts to promote the increased use of any source of energy other than coal will not result in adequate supply to meet domestic or global demand. Coal is the most reliable, affordable and abundant energy supply in the United States. Currently coal provides approximately 40% of the nation's energy needs. According the Energy Information Agency (EIA), coal will remain the top source of electricity generation in the United States until at least 2030. At the same time, emissions from coal generation are down significantly, and carbon emissions are also on the decline in the United States.

Global use of coal continues to rise in both developed and developing countries. The International Energy Agency estimates that while coal currently accounts for 40% of global energy needs, total coal use globally is expected to continue to be the fastest growing source of electricity.

Despite the strong domestic and global demand for coal, and proven reduced emissions without added regulation, the United States Environmental Protection Agency has promulgated several new rules related to the use of coal. These regulations and others have been specifically cited as the cause for the premature closure of 338 coal-fired units, resulting in a loss of over 51,000 megawatts of electric generating capacity and numerous jobs in local communities. The loss of electric capacity cannot be replaced with significant increases in cost and land use. For example, the largest wind farm in North America is nearing construction in Wyoming. With 1,000 turbines stretched across 220,000 acres, the project will generate only 3,000 megawatts. NACo supports a more robust study of the socioeconomic impacts of regulations imposed on coal mining and use to determine if the benefits outweigh the costs.

The continued effort to shutter coal plants without robust study of the cumulative effects has a significant fiscal, urban and rural impact. EIA information shows that states with higher coal use enjoy lower utility rates per kilowatt hour. This has a ripple effect not only on consumers but also on the manufacturing sector that is a critical part of the economic well-being of counties across the country. Additionally, numerous academic studies have indicated that fuel switching raises electricity prices. Increased energy prices fall disproportionately hard on low income Americans.

**Fiscal/Urban/Rural Impact:** The majority of coal mines are located in rural counties where the primary economic driver is coal. The continued reduction in coal demand as a result of regulation is a direct hit on the economic viability of rural counties that depend on coal industries.

**Sponsor(s):** Robert Cole, Commissioner, Santa Rosa County, Fla.; Loren Grosskopf, Commissioner, Park County, Wyo.

## Proposed Resolution in Support of the Keystone XL Pipeline

**Issue:** Allowing construction of the Keystone XL Pipeline

**Proposed Policy:** NACo urges Presidential or Congressional approval for the Keystone XL Pipeline.

**Background:** A pipeline project that could create thousands of American construction jobs and lessen the country's dependence on foreign oil is essential to ensure a strong U.S. economy. The Keystone XL Pipeline project has this potential. By green-lighting the project, counties become winners through job growth and an increased property tax base where the pipeline runs.

The Keystone XL pipeline would transport 830,000 barrels of crude oil day from the oil sands region of Alberta, Canada to refineries in the U.S. TransCanada, a Canadian pipeline company, filed an application with the U.S. Department of State to build the pipeline. The proposed pipeline would bring oil sands from Canada, and an on-ramp at Baker Montana will allow 100,000 barrels of Bakken Oil to be transported all of the way to Gulf Coast refineries.

The United States and Canada are major trading partners. The development of Northern American energy, like Canadian oil sands will create and preserve thousands of jobs and strongly benefit US energy security and our nation's economy. It is likely that if the U.S. declines the project, Canada will look to export the oil to other less environmentally conscious countries.

**Fiscal Urban/Rural Impact:** Approving this pipeline would be a boon for counties, leading to increased jobs and a stronger tax base, in these tight fiscal times.

The 20,000 American jobs Keystone XL would create include 13,000 construction jobs-work for pipefitters, welders, electricians, heavy equipment operators and more. And 7,000 manufacturing jobs – from the pipe being manufactured in Arkansas, pump motors made in Ohio and transformers built in Pennsylvania, workers in almost every state in the US would benefit from Keystone.

**Sponsor(s):** Richard Dunbar, Commissioner, Phillips County, Mont.

## Proposed Resolution to Promote a Level Playing Field for Certified Forest Products in Green Buildings

**Issue:** Green building policies that only reward the use of forest products certified by the Forest Stewardship Council (FSC), in effect favor foreign timber over domestic timber certified by credible organizations such as the American Tree Farm System (ATFS) and Sustainable Forestry Initiative (SFI).

**Proposed Policy:** NACo urges the adoption of federal government policies that recognize multiple green building rating programs in order to maintain a neutral position with regard to forest products certified by American Tree Farm System (ATFS), Forest Stewardship Council (FSC), and Sustainable Forestry Initiative (SFI).

**Background:** Under the U.S. Green Building Council's (UGSBC) Leadership in Energy and Environmental Design (LEED) rating system, only timber certified by the Forest Stewardship Council (FSC) is eligible for "sourcing of raw materials" and "ongoing consumables" credits.

While ATFS and SFI are domestic and North American programs, FSC is an international system, and 90 percent of its certifications are abroad. Additionally, while ATFS and SFI adopt uniform standards, FSC enforces dozens of standards across the world and more easily grants certification in nations lacking adequate environmental oversight. Such a framework allows timber certified under questionable conditions in South American and Asian nations, for example, to enter local, state, and national green markets in America while timber harvested in the U.S. gets blocked.

By artificially denying American businesses access to domestic building projects, projects mandating LEED standards depress economic activity in timber markets and therefore limit revenues in many rural communities throughout the U.S.

If more neutral green building standards were enacted, more American businesses would participate, and a larger amount of domestic materials would be used to build homes, offices, and other public and private complexes.

The LEED rating system fails to recognize the contributions to sustainability of timber in general, and that of the ATFS and SFI certification programs specifically. An FSC-only framework fails to benefit the economy and the environment. Other rating systems, such as Green Globes, take an inclusive approach to certification and treat ATFS, FSC, and SFI wood equally. Counties should take the initiative and only use rating systems for building projects that recognize all credible certification programs.

**Fiscal/Urban/Rural Impact:** The employment and broader economic impact of the forest products industry would be jeopardized if the forest certification market was monopolized by FSC.

**Sponsor(s):** Tony Hyde, Commissioner, Columbia County, Ore.

## FINANCE, PENSIONS AND INTERGOVERNMENTAL STEERING COMMITTEE

## PROPOSED RESOLUTIONS

### Proposed Resolution on the Marketplace Fairness Act

**Issue**: Marketplace Fairness Act

**Proposed Policy**: The National Association of Counties (NACo) encourages and supports efforts to permit the collection of sales and use taxes from remote sellers and endorses the Marketplace Fairness Act to provide states with the ability to enforce their existing state and local sales and use tax laws.

**Background**: For over a decade, NACo has worked with other state and local government representatives to champion for the collection of remote sales taxes, emphasizing that the taxes are not new and that the same rules should apply to all retailers, whether they conduct business completely online or in a brick-and-mortar setting. The Marketplace Fairness Act seeks to provide state and local governments with the necessary authority. The Senate passed a bill during the last Congress and S. 698 (Marketplace Fairness Act of 2015) was introduced earlier this year and currently has twenty-two bi-partisan cosponsors

As part of advocacy efforts calling for remote sales tax collection authority, NACo has continuously supported the Streamlined Sales and Use Tax Agreement. The goal of the Agreement is to convince Congress to overturn the Supreme Court decision in Quill v. North Dakota, which denies states and localities the authority to collect sales and use taxes from remote sellers that have no physical presence in the taxing state. States and local governments are losing billions of dollars in uncollected sales tax revenue every year. Accordingly, NACo is appreciative that the Marketplace Fairness Act acknowledges the work and support put into the Agreement by various stakeholders over the years.

However, NACo will continue to be vigilant and urge Congress to refrain from using tax simplification as a vehicle to preempt local taxing authority and revenue streams.

**Fiscal/Urban/Rural Impact**: A 2009 study from the University of Tennessee estimates that annual national state and local sales tax losses on e-commerce will grow to approximately $11.4 billion in 2012 and will total $52 billion over the six-year period from 2006-2012.

**Sponsor(s):** Toni Preckwinkle, President, Cook County, Ill.

### Proposed Resolution Urging Congress to Fully Fund the Water Infrastructure Finance and Innovation Act (WIFIA) and Repeal the Ban on Co-financing WIFIA Projects with Tax-Exempt Debt

**Issue:** The nation faces an enormous water infrastructure investment need of nearly $2 trillion over the next 25 years to restore deteriorating drinking water, stormwater, and wastewater infrastructure. Congress established the Water Infrastructure Finance and Innovation Act (WIFIA) loan program in 2014 to provide low-cost loans to a broad range of projects; however, the current statutory ban on the use of tax-exempt debt to co-finance WIFIA projects substantially undermines WIFIA's potential to advance much-needed investments.

**Proposed Policy**: NACo urges Congress to fully fund WIFIA and repeal the ban on co-financing WIFIA projects with tax-exempt debt, thereby freeing WIFIA to realize its full potential to lower project costs and address our nation's immense water infrastructure investment challenges.

**Background**: The American Society of Civil Engineers' latest Report Card on the conditions and capacity of America's infrastructure assigned U.S. drinking water and wastewater systems a grade of D. Delaying needed investment will result in degraded water service, more frequent service disruptions, damage to roadways and other infrastructure, and increased emergency repairs to failed water infrastructure, which are significantly more costly than planned improvements to prevent such failures.

State Revolving Funds are generally limited to loans for smaller projects; hence, local utilities typically fund the majority of water infrastructure projects by issuing tax-exempt municipal bonds backed by revenues from customer rates and local charges. These two funding mechanisms cannot fully address the nation's enormous water infrastructure investment needs. WIFIA will complement State Revolving Fund programs and serve as a significant additional source of direct federal support for water infrastructure to lower the cost of borrowing, accelerate water infrastructure improvements, and fill a critical gap in infrastructure finance.

Tax-exempt bonds will likely remain the most cost-effective source of the required non-WIFIA share of project costs. Thus, the current ban on utilization of tax-exempt bonds for the non-federal share of project costs will artificially inflate the cost of using WIFIA by requiring project sponsors to rely on more costly co-finance infrastructure options like taxable debt, or forgo WIFIA assistance altogether. There is no federal policy supporting the ban on combining WIFIA with tax-exempt debt. In fact, 65 percent of projects funded under the TIFIA transportation infrastructure program - on which WIFIA is based - rely on tax-exempt bonds for the non-federal cost share.

**Fiscal/Urban/Rural Impact**: The FY 2016 authorization of $25 million to the Environmental Protection Agency to fund WIFIA loans will support $1 billion in total water infrastructure investment throughout the nation.

**Sponsor(s)**: Commissioner Sally Heyman, Miami-Dade County, Fla.

## Proposed Resolution Opposing New Taxes on Health Care Benefits

**Issue:** The possible application of the excise tax provided in the Affordable Health Care Act (ACA) to health insurance for county employees as well as the expansion of taxation on employer-provided health benefits

**Proposed policy:** The National Association of Counties (NACo) opposes the taxation of health insurance benefits to county employees through the application of the ACA excise tax on health insurance benefits for county employees, the capping of the tax exclusion for employer-based defined contributions made by counties and any new taxes which would apply to the health benefits that counties provide to their employees.

**Background:** The Affordable Care Act (ACA) includes a 40 percent excise tax on the cost of health insurance that exceeds $10,200 for individual coverage and $27,500 for family coverage, beginning in 2018. These thresholds are indexed to CPI, which has increased less rapidly than the cost of medical care, thereby insuring additional plans will be subject to the tax each year.

According to the Center for Medicare and Medicaid Services (CMS) Actuary, 12 percent of insured workers will be in plans affected by the excise tax in 2019, and this percentage will "increase rapidly" after 2019. Many county employees will be in plans affected by the excise tax, forcing public officials to pass the costs on to their employees or to reduce the scope of benefits included in their plan's coverage – such as reducing covered services or increasing cost-sharing requirements. Such decisions will unquestionably make it more difficult for counties to hire and retain good workers, many of whom were attracted to public service because of its health insurance package.

Other proposals to tax employee health benefits are also circulating in Washington, DC. The House budget for fiscal year 2014 proposes capping the tax exclusion for employer-based health insurance through defined contributions made by employers. A recent Center for American Progress proposal would limit the health coverage tax exclusion for families with incomes above $250,000 to the value of the Silver Level of coverage that will be subsidized in the health insurance marketplaces (exchanges) established by the ACA. The Simpson-Bowles illustrative plan caps the tax exclusion for workplace coverage at the 75$^{th}$ percentile in 2014 (about $20,000 for family coverage), freezes the cap until 2018, and then phases out the exclusion over 20 years. This proposal would tax more and more benefits each year until all benefits are taxed in 2038.

Limiting the health care tax exclusion would lead to more cost-sharing (deductibles, copays, coinsurance). The economic theory behind taxing benefits is that health care cost inflation is driven by "excess insurance," which leads to excess demand, utilization, and spending. Taxing health benefits is intended to reduce this "excess insurance" by leading to more cost-sharing and reduced coverage. However, the enormous waste and expense of the U.S. health care system is not driven by consumers. Access to health care is unlike other market places. Health consumers rely on providers to tell them what to consume, and providers have market power and the ability to steer consumers towards higher-cost care.
About 80 percent of U.S. health care spending is for 20 percent of the population, so whether the remaining 80 percent of the population has low or high cost sharing has little to do with this key cost driver. Research has found that overall costs can increase, especially for people with chronic conditions, when cost-sharing forces people to self-ration their care. Forcing county tax payers to cover increased costs or asking county employees to pay more out-of-pocket for reduced coverage is not the answer to escalating costs of health care. All of these proposals result in the shifting of costs to public employees, rather than any real cost reduction.

**Fiscal/Urban/Rural Impact:** The ability of counties, especially in rural areas, to recruit and retain good employees is based in large measure on the access to quality health insurance coverage for the employees and their families. The impact of these potential tax measures would be amplified in rural American where the county's inability to offer attractive health insurance coverage will directly influence the quality of the workforce and the county's ability to deliver quality services to the citizens.

**Sponsor(s):** Association of County Commissions of Alabama; Carol Holden, Commissioner, Hillsborough County, NH; Christian Leinbach, Commissioner, Berks County, PA

## Proposed Resolution on Federal Voting Systems Standards

**Issue:** Federal voting system standards.

**Proposed Policy:** NACo endorses the principles developed by the Future Voluntary Voting System Guidelines (VVSG) Working Group that articulate a vision for the federal VVSG to effectively foster innovation and reduce the costs of upgrading and purchasing voting equipment.

**Background:** The Help America Vote Act of 2002 required the U.S. Election Assistance Commission (EAC), with assistance from the National Institute of Standards and Technology, to regularly review and update nationwide standards for voting systems. The agency adopted one iteration of the VVSG in 2005. An updated draft has been pending a vote since 2007. The agency has not had a quorum since 2010 to move forward with that draft, let alone develop future guidelines. Pending nominations were approved by the U.S. Senate late in the 113th Congress and on January 13, 2015, three commissioners were sworn in.

The process has struggled to balance the twin goals of encouraging innovation and providing minimum technical requirements. The costs of testing have been high and difficult to anticipate, and have left counties in a position of being unable to make even minor modifications to current systems while waiting for vendors to develop and test a future generation of equipment. In December of 2014, the U.S. Election Assistance Commission convened a working group that drafted the following statements of principle for the future development of the VVSG:

1) The purpose and scope of the VVSG must be defined and confirmed.
2) The VVSG (and supporting process) must be consistent with Federal Statute and Rule.
3) The VVSG must accurately reflect the bottom-up reality of election administration.
4) The application of the VVSG must benefit election administration.
5) The VVSG must be implementable.
6) The VVSG must accommodate the interoperability of election systems.
7) The VVSG must bridge existing standards.
8) The VVSG should not impose unanticipated costs onto organizations.
9) The VVSG must include cost analysis estimate of conformance testing.
10) The VVSG requirements must be technology neutral.

While the draft VVSG development goals may change over time, the spirit of these ten statements is consistent with the American County Platform.

**Fiscal/Urban/Rural Impact:** Development of new voting system standards consistent with these principles would reduce the costs of upgrading and purchasing voting equipment.

**Sponsor(s):** Grant Veeder, Black Hawk County, Iowa (Chair, Elections Subcommittee); Alysoun McLaughlin, Deputy Election Director, Montgomery County, Md.

## Proposed Resolution to Protect County Home Rule

**Issue:** County legislation aimed at protecting the health at protecting the health and wellbeing of the population and of the environment that is being hijacked by state and federal legislation aimed at gutting county home rule jurisdiction over these matters.

**Proposed Policy:** NACo supports the county home rule, unless contrary to an express Federal or State prohibition, county home rule be respected as the will of the people, and legislation reducing the home rule authority of counties must be opposed.

**Background:** County government should play a meaningful role in determining policies relating to the health and welfare of the residents and of the environment with regard to zoning and land use including with regard to preventing contamination of non-GMO crops by GMO crops and associated pesticides. These are matters in which there is often overlapping jurisdiction of the counties and of the state and sometimes of the federal government. Increasingly efforts by powerful lobbyists have sought to remove county jurisdiction over these property issues affecting the health and welfare of the community. One example is the efforts of the agrochemical companies to seek passage of state and federal mandates that eliminate or diminish the jurisdiction of county governments.

**Fiscal/Urban/Rural Impact:** This “home rule” policy promotes respect for local government and the will of the residents, and is meant to discourage state and federal efforts to undermine county home rule by way of broad legislation designed to undermine the authority of local governments.

**Sponsor(s):** Margaret Wille, Council Member, Hawai’i County, Hawaii

## HEALTH STEERING COMMITTEE

## PROPOSED RESOLUTIONS

### Proposed Resolution Calling on the Federal Drug Administration to Finalize Rules Around Electronic Cigarettes and Other Novel Tobacco Products

**Issue**: Federal Drug Administration regulation of electronic cigarettes (e-cigarettes) and novel products such as nicotine gels and dissolvables.

**Proposed Policy:** Urge the Federal Drug Administration to act swiftly and implement rules for the sale manufacture, distribution, and marketing of electronic cigarettes and novel products.

**Background:** In 2009, an overwhelming majority of Congress passed the Family Smoking Prevention and Tobacco Control Act. The legislation gives the Food and Drug Administration (FDA) authority to regulate the manufacture, distribution, and marketing of tobacco products to protect public health.

The Act is based on scientific research conducted over the past five decades, including the following information regarding youth tobacco use:

- The Centers for Disease Control has consistently found that nearly 90% of smokers start by age 18.
- Each day in the United States, an estimated 3,200 people younger than 18 smoke their first cigarette.
- Young people are more likely to use tobacco if their peers use it, if they perceive tobacco use as acceptable among their peers, and are exposed to tobacco advertising.
- The use of electronic cigarettes and other tobacco products among that population has also increased. A CDC report published found that the use of e-cigarettes doubled among middle and high school students between 2011 and 2012.

It has taken almost five years for the FDA to take action on the regulation of additional tobacco products, including e-cigarettes and novel products. Draft rules were finally issued earlier this year. During that period of time, millions of young Americans have experimented with tobacco products. Meanwhile, the public does not know the potential risks of e-cigarettes when used as intended, or how much nicotine or other potentially harmful chemicals are being inhaled during use. It is not known whether e-cigarettes may lead young people to try other tobacco products, including conventional cigarettes.

These events have occurred in concert with a dedicated marketing campaign for e-cigarettes, nicotine gels, and dissolvable tobacco products aimed at young people. For example, some e-cigarette liquids are named “Scooby Snacks” and Gummy Bears”. We urge the Federal Drug Administration to finalize and publish their rules on these products, and ensure that public health is protected.

**Fiscal/Urban/Rural Impact**: Smoking-related diseases claim over 393,000 American lives each year. In 2004, smoking cost the United States over $193 billion, including $97 billion in lost productivity and $96 billion in direct health care expenditures.

**Sponsor(s):** Judy Shiprack, Commissioner, Multnomah County, Ore.; National Association of County and City Health Officials

**Proposed Resolution Encouraging the U.S. Department of Health and Human Services to Require Private Insurance Companies to Pay for Health Costs for their Preadjudicated Clients**

**Issue:** Private insurance companies' "inmate exclusion" shifts health care costs from preadjudicated inmates to counties.

**Proposed Policy:** The National Association of Counties (NACo) urges the Department of Health and Human Services (HHS) to prohibit insurers from denying reimbursement under health benefit plans for covered services provided to preadjudicated persons in the custody of local supervisory authorities.

**Background:** Local governments are obligated to provide medical care to the people they incarcerate. Counties hire nurses, doctors, dentists, and mental health staff who have the same experience, credentials, and ability to improve care as in our county clinics or our hospitals.

As a result, counties throughout the United States are shouldering a tremendous cost for inmate health care. According to the Urban Institute, "Typically 9 to 30 percent of corrections costs go to inmate health care. This amounts to hundreds of millions of dollars annually, and is an aspect of corrections which the public and many decision makers are largely unaware. Inmate care costs are high in both prisons and jails."

According to the State of Oregon Legislative Counsel, "The Affordable Care Act requires all nonexempt individuals to have health insurance. Preadjudicated inmates are inmates who have not been convicted and who are being held pending disposition of charges. Such inmates are not excused from the requirement to have insurance until after they have been convicted and are incarcerated as a result of a conviction."

Legislative Counsel continues by explaining, "Insurance companies are required to provide health insurance to anyone who applies for insurance. An inmate may enroll in insurance that is offered in the private market outside of the exchange. Prior to conviction, an eligible inmate also may enroll in insurance through the health insurance exchange. Therefore, an insurance company must provide insurance to preadjudicated inmates and may not deny coverage for any service that is an essential health benefit."

Though some preadjudicated people who enter jails have private insurance, most insurers have an "inmate exclusion" and do not pay for health care services provided to their insured while they are in county jails. For those inmates pending disposition of charges, counties are paying their health costs despite the fact that their private insurer is collecting a premium. As a result, taxpayers bear the cost that otherwise would be paid by insurance companies.

An example of this issue is illustrated in Oregon. A recent survey of counties found an average of eight percent of inmates have private health insurance and 61 percent of inmates in jail are pre-adjudicated. Multnomah County, Oregon, estimates that they could save up to $1 million annually by billing private insurers for preadjudicated inmate health costs. Requiring counties to pay for health care for inmates who have private health care coverage is neither a good use of taxpayer dollars nor good public policy.

**Fiscal/Urban/Rural Impact:** If counties were able to bill private insurers for the health costs of their preadjudicated, insured clients, counties could shift the burden from taxpayers. Counties can use these funds for other critical services, including public safety.

**Sponsor(s):** Commissioner Loretta Smith, Multnomah County, Ore.

## Proposed Resolution Endorsing the Vision and Goals of the National Prevention Strategy

**Issue:** Support for the National Prevention Strategy

**Proposed Policy:** NACo endorses the overarching vision and goal of the National Prevention Strategy and will support actions and promote policies that support its effective implementation across all levels of government and in communities.

**Background:** Pursuant to the Affordable Care Act (ACA), the President established a National Prevention, Health Promotion, and Public Health Council, known as the National Prevention Council, chaired by the U.S. Surgeon General and composed of seventeen federal department and agency heads charged with promoting prevention and wellness. The National Prevention Council is responsible for coordinating and leading prevention, wellness, and health promotion efforts across the federal government and the nation.

The President also appointed members of the Advisory Group on Prevention, Health Promotion, and Integrative and Public Health – including two county officials – to offer a non-federal perspective on policy and program recommendations to the National Prevention Council and advise them on effective, science-based prevention and health promotion practices.

The National Prevention Council has developed a National Prevention and Health Promotion Strategy, known as the National Prevention Strategy, to lay out the most effective and achievable means for improving the health of Americans through prevention and health promotion policies and programs, to align prevention and health promotion priorities across the federal government and to recommend the most effective actions the nation can take to accelerate prevention of leading causes of death and disability in the United States. The National Prevention Strategy envisions working together to improve the health and quality of life for individuals, families, and communities by moving the nation from a focus on sickness and disease to one based on prevention and wellness with a goal of increasing the number of Americans who are healthy at every stage of life. It identifies four strategic directions that are the foundation for all prevention efforts and form the basis for a prevention oriented society. The strategic directions are Healthy and Safe Community Environments; Clinical and Community Preventive Services; Empowered People and Elimination of Health Disparities which are each needed to fully support Americans in leading longer and healthier lives. The Strategy’s seven priorities include Tobacco-Free Living; Preventing Drug Abuse and Excessive Alcohol Use; Healthy Eating; Active Living; Injury and Violence-Free Living; Reproductive and Sexual Health; and Mental and Emotional Well-Being.

**Fiscal/Urban/Rural Impact:** Implementation of the strategy does not assume significant additional investments. It will have urban, suburban and rural applications.

**Sponsor(s):** National Association of County and City Health Officials

## Proposed Resolution to Proposed Changes to Health Insurance Portability and Accountability Act (HIPAA)

**Issue:** Treatment providers for substance abuse disorders such as opiate abuse are not always fully aware of what the Health Insurance Portability and Accountability Act (HIPAA) does/does not allow when it comes to disclosing patient safety concerns to appropriate parties (i.e. family members or law enforcement officials). Furthermore, treatment providers are confined by strict language within HIPAA, which indicates disclosure is limited to when there is a threat of both “serious **and** imminent” danger to the patient or others.

**Proposed Policy:** The National Association of Counties (NACo) urges Congress to amend language in HIPAA to clarify that treatment providers may disclose their concerns about a patient’s safety to appropriate parties when they believe in “good faith” that there is a threat of "serious **or** imminent" danger to the patient or others. Currently, disclosure is limited to when there is a threat of “serious **and** imminent” danger to the patient or others.

**Background:** The usage of opiates is a growing concern among residents of communities across the United States. Heroin (opiate) usage has increased 100 percent in the last five years with 1.5 million users in the United States. A 23 year old male from Illinois passed away in January 2014 as a result of a relapse with opiates. The young man’s treatment providers did not notify his parents that he had signed himself out of treatment against medical advice. If treatment providers had a clear understanding of when they can disclose their concerns about young man’s safety to his parents or law enforcement, the young man may be alive today.

**Fiscal/Rural/Urban Impact:** This policy change would better enable local substance abuse providers and law enforcement officials to address the increasing abuse of opiates and help prevent unnecessary relapses, recidivism, and even fatalities. When substance abuse providers are able to disclose to appropriate parties (including local law enforcement officials) when their patients are in “serious or imminent” danger, individuals have a better chance of getting the help they need and preventing harm to themselves and members of the public. In the long run, they have a better chance of overcoming their addiction and not being unnecessarily involved in the county justice system. These changes to HIPAA will work in concert with other efforts at local, state, and federal levels to comprehensively address opiate abuse and overdose deaths that are devastating our nation’s counties.

**Sponsor(s):** Hon. Aaron Lawlor, Board Chairman, Lake County, Ill.; Hon. Mary Ross Cunningham, Board Member, Lake County, Ill.

## Proposed Resolution on Changing Nursing Home Oversight to Support and Promote Culture Change

**Issue:** Regulatory barriers to improving nursing home culture

**Proposed Policy:** NACo urges the Centers for Medicare and Medicaid Services (CMS) to remove barriers and regulations that hinder providers from making transformative environmental, administrative and care practice changes that promote positive outcomes to resident and family satisfaction and improved quality of care and quality of life.

**Background:** The current survey and certification system for nursing homes supports but does not widely promote transformative change in how services are provided. The philosophy that drives operational decisions away from institutional practices and toward practices that both improve quality of care and quality of life is dampened by the current survey, certification and life safety code processes.

In 1991, Dr. Bill Thomas, a Harvard-educated physician founded the Eden Alternative. The Eden Alternative along with many other organizations and models now work to assist providers to remake the aging experience in thousands of nursing homes across the country. Over 16 years later, in a 2007 report, The Commonwealth Fund conducted a national study of nursing homes and found that 56 percent of nursing homes surveyed still viewed regulation as a major or minor barrier to change.

**Fiscal/Urban/Rural Impact:** Changing Nursing Home culture engages all facility staff in a total transformation of thinking and practice. The systematic rebuilding of resident-directed approaches to care, responsive to residents' individual life experiences and needs, leads to many improved outcomes. Facilities that incorporate some aspects of culture change noted their initiatives yielded benefits such as improved staff retention, higher occupancy rates, better competitive position, and improved operational costs. Moreover, the most important positive outcome may be improved resident and family satisfaction.

**Sponsor(s):** National Association of County Health Facilities

## Proposed Resolution on Duals Demonstration Programs in States Affecting Vulnerable Populations

**Issues:** The Affordable Care Act (ACA) includes several initiatives intended to integrate Medicare and Medicaid services for dual eligible, including the establishment of the Medicare Medicaid Coordination Office (MMCO) within the Centers for Medicare & Medicaid Services (CMS) and the creation of the Financial Alignment Initiatives (“Duals Demo”). These demonstrations include a number of significant changes to current Medicare and Medicaid programs, including permission to passively enroll beneficiaries.

**Proposed Policy:** Congress should direct CMS to withhold approval of new Financial Alignment Demonstrations until the agency better understands the impacts of these programs on health care spending, quality of care and ability to achieve desired outcomes.

**Background:** Dual eligible beneficiaries are those eligible for both Medicare and Medicaid. They comprise only 14 percent of the Medicaid population, but consume nearly 40 percent of the Medicaid spending. They comprise 20 percent of the Medicare population, but consume 34 percent of Medicare spending. Dual eligible have a wide range of health problems and needs. Approximately 600,000 full-benefit dual eligible are expected to enroll in Duals Demos.

Stakeholders and analysis have identified a number of risks and challenges that may compromise the ability of plans to provide care of these complex, high-need populations and produce desired savings and outcomes.

Fiscal/Urban/Rural Impact: Many Duals Demos hold rates current during the demonstration period. It remains a concern whether payment rates will remain sufficient to cover beneficiary needs. The demonstrations encourage a shift, or rebalancing, or current utilization of institutional Long Term Supports and Services to home- and community- based services (HCBS). It has been found that the dual eligible HCBS participants with multiple chronic conditions have an avoidable hospitalization rate two times higher than those using nursing facility benefits. The majority of states pursuing Duals Demos have little to no experience with older adults in Medicaid managed care, and plan infrastructure and policies may be insufficient to meet the complex needs of the dual eligible population. These concerns are compounded with additional coordinated service delivery challenges existing in rural areas.

**Sponsor(s):** The National Association of County Health Facilities (NACHFa)

## Proposed Resolution on Flagged Organ Transplant Programs

**Issue:** Organ transplant programs are being flagged by the Centers for Medicare and Medicaid Services (CMS) for having survival rates that fall below certain statistical numbers. In some cases, programs with 94% one-year survival rates have been flagged. Flagged programs reduce transplant activity, especially for certain populations (elderly and minorities) and avoid the use of marginal organs even though patients' survival rates would be significantly higher than not being transplanted at all.

**Proposed Policy:** NACo urges Congress and CMS to put an immediate moratorium on the flagging of organ transplant programs using outcome measures. Lowering the number of programs being flagged would allow these organ transplant programs to accept more marginal organs for transplant and increase transplant rates especially for minorities and the elderly.

**Background:** An average of twenty one people die every day while waiting for an organ transplant and due to CMS flagging organ transplant centers, these centers will not accept organs that are considered to be marginal. This results in many donated organs being discarded by organ transplant centers even though they can still be used.

Every six months, 12% of all transplant programs are flagged by CMS for their survival rate. These flagged programs decrease transplants by 30-40% resulting in a drastic shortage of transplantation. As a result many minority communities that would normally be served by the County hospital system are not receiving the transplants that they require and are dying of diseases that they would not otherwise be dying of if these organs were accepted.

The rejection of organs resulted from an outcome management system put into place by CMS eight years ago. The outcome measures have helped to improve overall transplant program performance, but no longer are having that affect. Gift of Hope is advocating that CMS stop the flagging program immediately due to these unintended consequences, while CMS and the other responsible agencies (UNOS, AST, ASTS and AOPO) work together to find new metrics that will serve the community.

**Fiscal/Urban Impact:** Many people who would not otherwise be able to receive organ transplants would now receive the organs that they need.

**Sponsor(s):** Toni Preckwinkle, President, Board of Commissioners, Cook County and Robert Steele, Cook County Commissioner 2nd District, Ill.

## Proposed Resolution on Immigration Health Care

**Issue:** Improving immigrant access to health care coverage

**Proposed Policy:** NACo supports extending eligibility to anyone residing in the United States, regardless of immigration status, to purchase Qualified Health Plan coverage through the Health Insurance Marketplace exchanges, including access to premium assistance and tax credits. The federal government should help local health departments fund public health services for immigrants living and working in our counties.

**Background:** While the Affordable Care Act (ACA) has dramatically increased the percentage of individuals who have access to affordable health insurance coverage, many immigrants, including temporary workers, Deferred Action for Childhood Arrival (known as DREAMers) beneficiaries and the undocumented do not qualify for enrollment in the exchanges or premium coverage.

According the Census Bureau, 40 million U.S. residents are immigrants, including over 1 million temporary workers and 11 million undocumented. Most immigrants live in mixed status families, including 4.5 million citizen-children, making eligibility for ACA more complicated. As the providers of last resort, counties often bear the responsibility for paying or providing health care services to low income uninsured or underinsured individuals. Access to preventive and primary care is more cost efficient and better health care policy than relying on hospital emergency rooms and inpatient care. Immigrants who have a medical home and the means to afford such care will have greater access to important primary care including immunizations and prenatal care. Encouraging and facilitating immigrants to have medical homes and to seek preventive care also maximizes the ability of counties to respond to public health emergencies, epidemics, or disasters through the relationship which has already been established between patients and providers.

**Fiscal/Urban/Rural Impact:** Would reduce county indigent care costs.

**Sponsor(s):** Liz Stefanics, Commissioner, Santa Fe County, N.M. and Lenore Laroña Stuart, Supervisor, Yuma County, Ariz.

## Proposed Resolution on Maintenance of Effort for Essential Support Services for Persons with Behavioral Health and Developmental Disabilities

**Issue:** State and local maintenance of effort for support services for persons with behavioral health and developmental disabilities

**Proposed Policy:** NACo encourages, during implementation of the Affordable Care Act (ACA), maintenance of effort for federal, state, county mental health and behavioral health authorities and city general revenue funds for social support programs that serve persons with behavioral health and developmental disabilities, including the newly insured disability population; these programs, particularly affordable housing and job supports, must be available so that persons with disabilities can become and remain fully independent in their home communities.

**Background:** Close coordination across health and social service programs is essential to assure the effectiveness of care and supports for persons with disabilities. County behavioral health and developmental disability authorities are concerned that appropriate support programs should be available to persons with disabilities, including the newly insured, as we implement the ACA, and that care coordination should be available to make these support programs operate efficiently.

Health services are less effective and more costly when needed social services are either not available or are not coordinated well. Failure to maintain care for these individuals will result in increased costs to emergency departments, local law enforcement/public safety, and social services in communities. Requiring state and local maintenance of effort addresses this problem directly, both for the currently insured and the new populations to be insured through the ACA. Maintaining the supports provided by the county behavioral health system is important for persons with disabilities to be able to live independently in their own communities.

**Fiscal/Urban/Rural Impact:** These policies will not require additional resources, rather just maintenance of current effort. However, over the longer run, this investment will pay off in a greater contribution of persons with disabilities to the economic recovery and productivity of the United States. The impact of these policies will be substantial not only in urban areas, but will also greatly affect rural areas, where such services are currently very sparse.

**Sponsor(s):** National Association of County Behavioral Health and Developmental Disability Directors (NACBHDD)

## Proposed Resolution on National Health Service Corps Loan Repayment Program

**Issue:** County prisons are not eligible for designation as health professional shortage areas for the purpose of the National Health Service Corps.

**Proposed Policy:** NACo urges Congress to amend the National Health Service Corps loan repayment program and allow County and municipal jails to be eligible for the program. Current law excludes County jails from being designated as health professional shortage areas and NACo urges Congress to review this designation and allow County and municipal jails to be named health professional shortage areas.

**Background:** The National Health Service Corps was established in 1970 and is a scholarship and loan repayment program that helps underserved communities across the nation receive medical care. Since 2011 County and municipal prisons have not been eligible to take part in this program even if the County is in a health professional shortage area and additionally, federal and state prisons are still eligible for this program.

Not being eligible for loan repayment hurts in recruitment and as a result there are many medical professional positions that County jails are no longer able to fill as providers who are interested in filling positions inquire about National Health Service Corps eligibility and acknowledge that ineligibility is a major factor in not accepting a position at a County jail. This difficulty in recruiting medical professionals could jeopardize access to much needed care at County jails as prisoners tend to be in poorer health than other age matched local populations.

Jails tend to have sizeable populations with behavior health issues. Adequate staffing in jails is critical in serving the mentally ill and substance abusers that are a significant proportion of the local jail population.

**Fiscal Impact:** Would allow medical professionals at County jails to be eligible for loan repayment programs.

**Sponsor(s):** Toni Preckwinkle, President, Board of Commissioners, Cook County, Ill.

## Proposed Resolution on Needle Exchange

**Proposed Policy:** NACo urges Congress to repeal the ban on the use of federal funds to support syringe access programs in order to curb the transmission of HIV, viral hepatitis, and other bloodborne infections related to injection drug use.

**Background**: The ban on U.S. federal funds for syringe services programs (SSPs) was first enacted in 1998, but then repealed by Congress in 2009, after 8 federally funded reports and an abundance of international research consistently showed that syringe access programs can reduce syringe-sharing and consequently, HIV prevalence and incidence. The ban was reinstated in December 2011, as part of the Labor Health and Human Services appropriations bill included in the final FY 2012 appropriations package.

Syringe exchange is a program for people who use drugs by injection. It is an important component of a comprehensive set of programs designed to reduce the spread of HIV and other blood-borne infections among people who inject drugs, their families and communities.

Injection drug use has been identified directly or indirectly as the cause of more than one-third (36%) of AIDS cases in the United States; either from sharing injection equipment, having unprotected sex with an injection drug user, or transmission to children born to injection drug users.

Needle exchange programs provide new, sterile syringes and clean injection equipment in exchange for used, contaminated syringes. They also get drug users into drug treatment and health care. Other services include testing for HIV, hepatitis, TB and other infections to which drug users are prone; treatment readiness counseling and case management services; education about harms associated with drug use and how to minimize them; and safe disposal of contaminated equipment.
More than a million people in the United States inject drugs and many of these people share needles. Sharing needles and paraphernalia can cause the transmission of HIV, Hepatitis B and C and other blood borne infections.

Needle exchange is the most effective strategy available to prevent HIV in members of this population who are not in drug treatment. It also protects non-injecting family members and sex partners. Without a vaccine or a cure, prevention is the only tool available to control the spread of HIV.
Preventing HIV infection in people who inject drugs also prevents HIV in women and newborn children. Many women are at risk for HIV because of their own injection drug use or because they are sexual partners of injection drugs.

**Fiscal/Urban/Rural Impact**: Studies have shown that syringe exchanges are cost effective programs that reduce the spread of diseases in our communities.

As a response to this ongoing public health challenge, 30 states have changed legal statutes to allow for Syringe Services Programs (SSP). 15 states reported receiving public funding from state, county, or municipal governments. The remaining funding is raised from private donors, due to a ban on the use of federal funds to support syringe services programs. Due to funding and legal restrictions, there are fewer than 200 SSPs in the US.
The remainder of the funding for programs is from private donors. Numerous scientific studies, including studies conducted by the Centers for Disease Control and Prevention and the Institute of Medicine, have established that syringe (or needle) exchange is an effective HIV prevention intervention and does not promote drug use. In 2011, the U.S. Surgeon General certified that syringe exchange reduces both the rate of HIV infections and substance abuse. These findings have concluded that syringe exchange, also referred to as SSPs, should be embraced at the local, state, and federal levels as part of a comprehensive public health approach to curb the spread of certain blood-borne diseases.

**Sponsor(s)**: National Association of County and City Health Officials

## Proposed Resolution on Pandemic and All-Hazards Preparedness

**Issue:** Local health departments play a vital role in promoting and maintaining the nation's health and security. They have legal authorities and perform preparedness functions and duties to ensure the safety and well-being of counties in the face of potential public health emergencies.

**Proposed Policy:** To ensure the public's health and safety, NACo urges the Administration and Congress to provide adequate funding for programs authorized in the Pandemic and All-Hazards Preparedness Reauthorization Act (P.L. 113-5) which build and sustain local infrastructure for public health emergency preparedness.

**Background:** Local health departments prepare communities for disasters, respond when emergencies occur, and lend support throughout the recovery process. Local health departments work with all community sectors – government officials, law enforcement, emergency management, health care, business, education, and religious groups – to plan, train, and prepare for emergencies so that when disaster strikes, everyone is prepared. Since all disasters strike locally, local health departments are a critical part of any community's first response to disease outbreaks, emergencies and acts of terrorism. Following is the role of local health departments in preparedness:

- **Preparation:** Provide specialized training and exercises of local health and emergency response personnel to quickly receive, store, stage, distribute, and dispense Strategic National

Stockpile (SNS) assets. Identify populations that may be at higher risk for adverse health outcomes, address their needs and implement plans that support their ability to be resilient in the face of emergencies. Prepare risk communication messages for the public to promote resilience and assure compliance with health protective actions.

- **Protection:** Maintain laboratory systems with a capacity for 24/7 receipt of potentially hazardous specimens and the capability to screen and test for a broad range of public health threats. Provide immunizations during public health incidents such as influenza pandemics.
- **Effective Response:** Prepare for a surge on healthcare facilities through the preparation of public health and healthcare providers to triage and treat victims of disasters. Recruit, train, coordinate and mobilize volunteer public health and healthcare professionals.
- **Recovery:** Issue interim guidance to the public on risk and protective actions. Prepare for evacuation, repatriation and receipt of evacuees from sites of incidents.

**Fiscal/Urban Rural Impact:** All-hazard preparedness will require a response in all jurisdictions, whether they are urban or rural. This resolution asks for increased federal funding for local public health all-hazard preparedness.

**Sponsor(s):** National Association of County and City Health Officials

## Proposed Resolution on Persistent Health Disparities

**Issue:** Persistent health disparities

**Proposed Policy:** NACo supports legislation to reduce health disparities and address the social determinants of health, increase the diversity and cultural and linguistic competencies of the health workforce, and improve environmental justice. This must include significant direct federal funding for counties to implement programs designed to reduce disparities, by direct service delivery and in partnership with providers.

**Background:** Disparities in health outcomes for vulnerable populations as defined by race/ethnicity, socio-economic status, geography, gender, age, disability status, risk status related to sex, gender and sexual orientation, have been well documented and are well understood by county officials. These vulnerable populations disproportionately experience worse health and safety outcomes across a broad spectrum of illnesses, injuries, and treatments. These disparities are likely to be exacerbated during a prolonged recession.

**Fiscal/Urban/Rural Impact:** Large federal investments will be required to eliminate health disparities in urban and rural communities where they tend to be the most acute.

**Sponsor(s):** National Association of County and City Health Officials

## Proposed Resolution on Responding to the Behavioral Health Needs of our Returning Veterans

**Issue:** Behavioral health needs of returning veterans

**Proposed Policy:** NACo supports policies to ensure that:

- U.S. Department of Veterans Affairs (VA) funds are made available to reimburse counties for the services provided to veterans eligible for VA services and for services provided to veterans awaiting determination of eligibility.
- VA funds are made available to reimburse services provided to veterans eligible for VA services by public and private providers under contract with the VA.
- U.S. Department of Defense (DOD) funds are made available to reimburse counties for the services provided to veterans eligible for DOD services.
- Appropriate county level data are available so that counties know how many veterans are returning to their local areas.
- Appropriate legislation and guidance from the Administration are available to correct gaps and deficiencies in the DOD and VA service delivery systems.

**Background:** Large numbers of our military veterans returning from Iraq and Afghanistan have major mental health and substance use conditions when they arrive in the United States. Of the estimated 1.5 million who have served in these conflicts, approximately 400 thousand to 500 thousand suffer from these conditions. Once they are released from active duty, many of these veterans either refuse to use available DOD or VA services, or they are located where these services are not available. As a consequence, the financial and staff burden of providing services to many of these veterans falls to local county systems of care.

This resolution is an effort to address the problem of our returning military veterans directly. Numerous reports from our county mental health and substance use directors indicate that the number of veterans needing county services is growing dramatically, even before the full draw-down from Iraq and Afghanistan.

**Fiscal/Urban/Rural Impact:** In the short term, these policies will only require reprogramming of current federal resources, rather than allocation of new resources**.** However, over the longer run, this investment will pay off in a greater contribution of veterans to the economic recovery and productivity of the United States. Although the impact of these policies will be great in urban areas, we expect them to be even greater in rural areas, the home of many veterans.

**Sponsor(s):** National Association of County Behavioral Health and Developmental Disability Directors

## Proposed Resolution on the Medicaid Institution for Mental Disease Exclusion

**Issue:** Needed revisions to the Medicaid Institution for Mental Disease (IMD) exclusion.

**Proposed Policy:** NACo calls on Congress to amend, but not eliminate, the current IMD exclusion for adults between ages 21 and 64, as follows:

For non-hospital, community-based mental health and substance use residential care for adults ages 21 to 64, the exclusion should be revised to reflect modern evidence based practices and current economic realities. Thus, for persons ages 21 to 64 served in these non-hospital residential placements of size 17 and larger through evidence based programs, up to 90 days of care per year should be eligible for federal reimbursement. Beyond 90 days, the IMD exclusion should still remain in effect.

For hospital-based mental health and substance use care for adults ages 21 to 64, the exclusion should be revised to reflect improvements and efficiencies that have been made in hospital-based care, plus the economic reality of modern managed care, which assures that only the most minimal, necessary, inpatient care is provided. Thus, for persons ages 21 to 64 served in these hospital placements of size 17 and larger through evidence-based programs, up to 15 days of care per year should be eligible for reimbursement. Beyond 15 days, the IMD exclusion should remain in effect.

**Background:** Since the founding of the federal-state Medicaid Program in 1965, inpatient hospital care in a psychiatric hospital for persons with mental illness, including a substance use condition, has been excluded from federal reimbursement. Facilities meeting these criteria were defined as IMDs. Over the intervening years, exemptions were granted gradually for children and youth, elderly persons, and facilities with 16 or fewer beds. However, in the same period, the exclusion has not been revised to take account of developments in community based mental health and substance use care, reforms due to the Affordable Care Act, new financing models, such as case and capitation rate reimbursement, and modern managed care practices. Thus, it is timely to revisit the IMD exclusion.

Modern mental health and substance use care practices, coupled with modern managed care practices, have reduced inpatient care to a minimum. Hence, the original IMD argument regarding overuse of inpatient care no longer is valid. Hence, when actually needed, inpatient and residential care should be a viable option for providers.

**Fiscal/Urban/Rural Impact:** These policies will not require additional county resources, rather just slight adjustment of current practice. The impact of these policies will be substantial not only in urban areas, but will also affect rural areas, where such inpatient and residential services currently are very sparse.

**Sponsor(s):** National Association of County Behavioral Health and Developmental Disability Directors (NACBHDD)

## Proposed Resolution on the National Conversation on Mental Health

**Issue:** County role in the National Conversation on Mental Health.

**Proposed Policy:** NACo supports the goals of the Administration's ongoing effort to encourage a national conversation to increase understanding and awareness about mental health and to identify ways to reduce stigma and to expand coverage and improve access to mental health services, especially for young people and veterans. NACo calls on the Administration to continue to recognize counties as essential partners these efforts and to engage county officials as additional national and local conversations are planned and implemented.

**Background**: In 2013, the Administration called for a National Conversation on Mental Health. The effort was kicked off with a White House Conference on Mental Health and followed by regional conversations across the country and ongoing opportunities at the local level. Given that 750 county-based behavioral health authorities administer public mental health and substance abuse systems at the local level, and that counties also administer local youth and child welfare services and run local criminal justice and public safety systems, counties should be engaged at the local level in planning and conducting these conversations. Likewise, state associations of counties should be engaged at the state level and NACo should be engaged at the national level.

**Fiscal/Urban/Rural Impact**: Improved coverage and access to needed behavioral health care services will reduce pressure on county systems, especially costly emergency room care and jail services.

**Sponsor(s):** Linda Langston, Supervisor, Linn County, Iowa

## Proposed Resolution on Treatment of Substance Use Conditions

**Issue:** Need for new policy on treatment for substance use conditions

**Proposed Policy:** Treatment for substance use conditions should be based upon proven evidence based practices, including, when appropriate and necessary, medication assisted treatment. Such care always should be accompanied by assessments of improvement and outcome to assure that the care provided actually is working.

**Background:** Together, the advent of health insurance coverage under the Affordable Care Act for substance use conditions, other recent legislation on parity of substance use insurance benefits, and recent developments in treatment of these conditions increase the necessity for counties to develop an overarching policy on substance use care.

The Essential Health Benefit, which defines mandatory insurance coverage for the state Health Insurance Marketplace and the state Medicaid Expansion under the Affordable Care Act (ACA), includes a parity substance use care benefit and a medication benefit. This represents the first time that most private and public clients with substance use conditions will have access to covered substance use services. At the same time, evidence-based treatment practices have evolved to include new medication assisted treatments, each with demonstrated good effectiveness This Proposed Resolution is an effort to improve substance use care directly, both for the currently insured and the new populations to be insured through the ACA.

**Fiscal/Urban/Rural Impact:** These policies will not require additional resources, rather just maintenance of current effort because of how Affordable Care Act health insurance is funded. However, over the longer run, this investment will pay off in a greater contribution of persons with substance use disabilities to the economic recovery and productivity of the United States. The impact of these policies will be substantial not only in urban areas, but will also greatly affect rural areas, where such substance use services currently are very sparse.

**Sponsor(s):** National Association of County Behavioral Health and Developmental Disability Directors (NACBHDD)

## Proposed Resolution Supporting Local Efforts for Mobile Support Teams

**Issue:** Address the need for local health departments’ mobile support teams to work closely with law enforcement agencies to promote safety and emotional stability when a behavioral health crisis occurs.

**Proposed Policy:** NACo supports legislative efforts at the federal and state levels to fully fund and promote mobile support teams within a local health department. NACo urges federal and state matching funds to maximize financial support for local jurisdictions in implementing mobile support teams. Law enforcement agencies can coordinate with a mobile support team on responding efficiently to a behavioral health crisis. A mobile support team can provide immediate resources in an emerging crisis to help deescalate a sensitive situation, provide referrals for medical and social services and provide a crisis intervention.

**Background:** Law enforcement officers routinely provide the first line of crisis response for situations involving persons with mental illness. These calls for service are common but pose operational problems for officers and agencies, as they are not always the best equipped to respond to individuals in crisis. Because of this, these situations can often result in significant negative outcomes to the lives of persons with mental illness and their families (due to an increased risk of injury to the person with mental illness) and/or to the officers responding to these events.

Mobile support teams allow law enforcement organizations to call upon mental health professionals to assist them in the field with individuals who may be experiencing mental health crises. The two major goals of these mental health mobile support teams are to *resolve the crisis* and to *reduce criminalization*. Studies that have evaluated such teams found that they had arrest rates ranging from 2 to 13 percent (with an average of less than 7 percent) in contrast to an arrest rate of 21 percent for contacts between non-specialized police officers and persons who were apparently mentally ill.

**Fiscal Impact:** Would require federal and state funding for local jurisdictions.

**Sponsor(s):** Shirlee Zane, Supervisor, County of Sonoma

## Proposed Resolution Supporting Alternate Service Delivery for Veterans and Their Families

**Issue:** Address capacity and efficiency of the Veterans Administration system in provision of health care and related support services to veterans and their families

**Proposed Policy:** NACo supports legislative and administrative action at the federal and state levels to develop alternate means of providing health care and related support services to veterans and their families, including partnership with traditional for-profit, non-profit, county-based and community health care providers.

**Background:** While the Veterans Administration health care system generally has the capability to provide quality care, accessing and navigating the system can prove a barrier to timeliness of care. Impediments can be related to staffing, management systems, or simply distance from service centers. Using service delivery models already in use in other public health and human services disciplines, these impediments to access to care can be overcome.

**Fiscal/Urban/Rural Impact:** Costs will be incurred by the Veterans Administration in system design and in developing relationships with for-profit, non-profit, county-based and community health care providers. Cost for care may change as well, trading potential increased costs for service provision against potentially decreased costs based on earlier and more efficient patient access. Particular benefits accrue to rural constituents, who may not have as easy access to current care centers.

**Sponsor(s):** Paul Heimel, Commissioner, Potter County, PA; Douglas Hill, Executive Director, County Commissioners Association of Pennsylvania; Lisa Schaefer, Government Relations Manager, County Commissioner Association of Pennsylvania.

## Proposed Resolution Supporting Amendment of 42 CFR Privacy Provisions to Create a Uniform Set of Regulations Based on HIPAA Privacy Rules

**Issue:** Interagency coordination to assist "high utilizers"

**Proposed Policy:** NACo supports an amendment to 42 Code of Federal Regulations (CFR) Part 2 privacy provisions to coordinate with Health Insurance Portability and Accountability Act (HIPAA) privacy provisions.

**Background:** There is a need to support the development of protocols and systems among law enforcement, mental health, substance abuse, housing, corrections, and emergency medical service operations to provide coordinated assistance to high utilizers. A high utilizer: (a) manifests obvious signs of substance abuse, mental illness, or has been diagnosed by a qualified mental health professional as having a mental illness; and (b) consumes a significantly disproportionate quantity of public resources, such as emergency, housing, judicial, corrections, and law enforcement services.

The privacy provisions in 42 CFR were motivated by the understanding that stigma and fear of prosecution might dissuade persons with substance use disorders from seeking treatment. 42 CFR laws protect substance abusers' rights and, in cases where it is more stringent, overrule HIPAA regulations. HIPAA laws were passed to protect personal health information from being disclosed electronically on an unsecured site and without consent. As a result, confidentiality is two-fold: 1) all information identifying a person as a substance abuser is confidential and may not be released without a consent by the client or legal guardian (42 CFR, Part 2), and 2) all personal health information, including demographic data, that is created by the provider and relates to the person's medical or mental health, services provided, and payment falls under the protection of HIPAA and may not be released without consent by the client or legal guardian.

In most cases, addiction treatment providers fall under the more stringent laws of 42 CFR, Part 2, but there is still confusion about the two sets of laws that define who and what is to be protected. Under 42 CFR, when a person is identified as a substance abuser no information, even confirmation of the person being in treatment, may be released without a written authorization by the client or guardian. In contrast, the HIPAA privacy rule is balanced so that it permits the disclosure of health information needed for patient care and other important purposes (i.e., coordination of care, consultation between providers and referrals).

To develop and support multidisciplinary teams that coordinate, implement, and administer community-based crisis responses and long-term plans for high utilizers, a uniform set of privacy rules for the proper dissemination of information between agencies needs to exist. Information sharing is essential to the coordination of care across service providers. The confusion caused by the differences between HIPAA and 42 CFR often result in reduced information sharing and coordination, even when it is permissible.

**Fiscal/Urban/Rural Impact:** Individuals with mental illnesses are overrepresented at every stage of the criminal justice process. In response, many jurisdictions have developed a range of policy and programmatic responses that depend on collaboration among the criminal justice, mental health, and substance abuse treatment systems. A critical component of this cross-system collaboration is information sharing, particularly information about the health and treatment of people with mental illnesses who are the focus of these responses. At the program level, this information can be used to identify target populations for interventions, evaluate program effectiveness, and determine whether programs are cost-efficient. However, legal and technical barriers, both real and perceived, often prevent a smooth exchange of information among these systems and impede identifying individuals with mental illness or substance abuse issues and developing effective plans for appropriate diversion, treatment, and transition from a criminal justice setting back into the community.

**Sponsor(s):** The Association of Oregon Counties

## Proposed Resolution Supporting Efforts in the Prevention and Treatment of Obesity and Overweight

**Issue:** Reduce obesity and overweight and improve wellness.

**Proposed Policy:** NACo recognizes obesity and overweight as conditions that can persist from childhood to adulthood, that are associated with chronic disease and that cause preventable and premature deaths in adults, adolescents and children. NACo supports local public health department leadership in obesity and overweight prevention.

**Background:** According to the National Center for Health Statistics, 66 percent of adults 20 years of age and older are overweight and 32 percent are obese. In addition, almost five percent of adults are extremely obese. From 1980 to 2004, the prevalence of obesity among adults increased from 15 percent to almost 33 percent. Being either obese or overweight increases an individual's risk for developing medical conditions including, but not limited to, hypertension, Type 2 diabetes, coronary heart disease, stroke and some cancers. Approximately 17 percent of children and adolescents (ages two to 19) are overweight. Furthermore, the percentage of overweight children two to five years of age increased from seven percent to almost 14 percent and the percentage of overweight children six to 11 years of age increased from 11 percent to 19 percent between 1994 and 2004. Also during this period, there was an increase in the percentage of overweight adolescents aged 12 to 19 years of age from 11 percent to 17 percent. Overweight children and adolescents are at an increased risk for developing risk factors associated with cardiovascular disease, such as high cholesterol, high blood pressure, asthma, and Type 2 diabetes. In addition, these children and adolescents are at an increased risk for psychosocial problems, such as low self-esteem, due to social discrimination. Obesity and overweight in children and adolescents are strongly correlated with obesity and overweight in adulthood. One study found that approximately 80 percent of children who were overweight at ages 10-15 years old were obese adults at age 25.3.

In 2003 approximately $75 billion in medical expenditures were attributed to obesity, half of which were financed by Medicare and Medicaid. Certain races and ethnicities are at an increased risk for obesity and overweight. Among adults, approximately 45 percent of non-Hispanic blacks and 37 percent of Mexican-Americans were obese, as compared to 30 percent of non-Hispanic white adults. Furthermore, in industrialized countries an individual from a low socio-economic status (SES) group is more likely to be obese than someone from a high-SES group.

**Fiscal/Urban/Rural Impact:** Significant long term benefits for quality of life and reduced chronic disease costs in rural and urban communities.

**Sponsor(s):** National Association of County and City Health Officials

### Proposed Resolution Supporting Funding for Alzheimer's Disease Research, Community Education and Outreach, and Caregiver Support

**Issue:** Lack of sufficient funding for Alzheimer's disease research, Alzheimer's community education and outreach, and resources for caregivers, family members, and those afflicted with Alzheimer's disease.

**Proposed Policy:** NACo supports the continuous and increased use of federal funds to support Alzheimer's disease research, Alzheimer's community education and outreach, and resources for caregivers, family members, and those afflicted with Alzheimer's disease.

**Background:** Alzheimer's disease is reaching epidemic proportions. According the journal Health Affairs, an estimated 5 million people suffer from Alzheimer's disease in the United States, with the number expected to triple by 2050 as the population ages. Nationally, the number of Alzheimer's deaths from 2000 to 2010 increased 68%. The impact that Alzheimer's disease has on women in particular is staggering. While one in eleven men over the age of 65 has Alzheimer's, the number is one in six for women. According to the Alzheimer's Association, women in their 60s are about twice as likely to develop Alzheimer's as they are to develop breast cancer. There is currently no way to prevent or cure Alzheimer's disease.

In 2014, the direct costs to American society of caring for those with Alzheimer's will total an estimated $214 billion, including $150 billion in costs to Medicare and Medicaid. Spending for the average adult Alzheimer's patient is projected to increase 80 percent by 2040, according to U.S. Department of Health and Human Services projections.

The federal government will spend $562 million this year on funding for Alzheimer's research, education, outreach and caregiver support. The $562 million on Alzheimer's, while encouraging, is one fourth of what will be spent this year researching heart disease; ten times this amount will be sent on cancer research.

Due to the significant and growing impact of Alzheimer's disease on communities throughout the nation, NACo calls for additional federal resources to be allocated for Alzheimer's research, education, outreach, and caregiver support.

**Fiscal/Urban/Rural Impact:** Would provide new federal resources to counties and community based organizations for Alzheimer's education, outreach and caregiver support, and support Alzheimer's research in counties throughout the nation.

**Sponsor(s):** Dave Roberts, Supervisor, San Diego County, Calif., Nick Macchione, Director, Health and Human Services Agency, San Diego County, Calif.

## Proposed Resolution Supporting Improved Quality in Nursing Homes through Workforce Development and Creative Staffing Models

**Issue:** Staff turnover is a major obstacle to continuity, quality of care and quality of life in nursing homes. Medicaid and Medicare funding, which recognizes the cost and importance of adequate staff; and the ability to hire, train and retain staff of varying skill levels, helps to provide high quality and person- centered long-term care services.

**Proposed Policy:** The National Association of Counties urges Congress to authorize innovative demonstration projects to test models of care that use direct-care workers (DCWs) in advanced roles.

**Background:** The older population--persons 65 years or older--numbered 39.6 million in 2009 (the latest year for which data is available). They represented 12.9% of the U.S. population, about one in every eight Americans. By 2030, there will be about 72.1 million older persons, more than twice their number in 2000. Currently, people 65+ represented 12.4% of the population and are expected to grow to be 19% of the population by 2030. Overall demand for direct-care workers is projected to increase by 48 percent over the next decade, adding 1.6 million new positions by 2020. A recent study was published on the website of JAMDA on February 2014, which analyzes 20 longitudinal studies, published between 1987 and 2013, on the effects of nursing home staffing. It noted higher nursing assistant staffing levels are linked to several improvements in quality of care, including fewer pressures ulcers, falls and lower hospitalization rates.

**Fiscal/Urban/Rural Impact:** Exploring innovative staffing models through demonstrations may improve care coordination; improve positive outcomes for adults with chronic illnesses or at risk of re-hospitalization and lower care costs for both older Americans and the health care industry. Facilities that have incorporated other aspects of innovative staffing practices such as those who embrace culture change including the neighborhood and small house models have noted their initiatives yielded benefits such as improved staff retention and improved operational costs. Moreover, the most important positive outcome may be improved resident and family satisfaction.

**Sponsor(s):** The National Association of County Health Facilities (NACHFa)

## Proposed Resolution Supporting Ongoing Federal Support for Local Safety Net Providers

**Issue**: Need to maintain strong health care safety net system as the Affordable Care Act (ACA) is implemented

**Proposed Policy**: NACo urges the federal government to ensure the availability of adequate and sustainable funding for safety net providers as they continue to care for the uninsured.

**Background**: NACo supports maintaining a strong safety net for the uninsured residual and vulnerable populations as the ACA is implemented. The ACA will increase access to health care coverage through expansion of the Medicaid program, the creation of health insurance exchanges, insurance market reforms, and the provision of subsidies and tax credits to make private coverage more affordable. Since 2010, the number of insured has grown from 46 million to 50 million. While the ACA is projected to provide health coverage to approximately 32 million residents nationally, over 18 million individuals are projected to remain without access to health coverage, mostly the undocumented who are ineligible for financial assistance and expanded Medicaid coverage.

Traditional safety net providers including health centers, clinics, behavioral health organizations, and hospitals that currently serve a high share of uninsured patients will continue to play a critical role in the health care delivery system, by serving those who will remain uninsured as the ACA is implemented. This points to the need of increasing the efficiency of federal funds reimbursement, preserving federal block grant funding and other revenue for County mental health and substance use disorder services.

Critical to carrying out this role will be efforts around community outreach, enrollment, retention and advocacy in order to keep individuals, children, and families connected to a prevention-focused, quality Health home and integrated system of care. In additional homeless outreach services, mobile response programs, services to children and youth in specialized foster care, Veterans, support for housing stability, recovery maintenance homes, and field-based services will be crucial services. These services are key to addressing social determinants of health and are an integral component of specialty mental health and substance use disorder systems.

Steps need to be taken to ensure adequate funding for the safety-net system post reform and the continued delivery of high quality health care services to vulnerable populations. The federal government must align reductions in funding such as Disproportionate Share Hospitals payment to hospitals, comport with reductions in uncompensated care costs. Minimum benefit packages offered through state run exchanges must be sufficient to ensure that cost shifts to safety net providers do not occur.

**Fiscal/Urban/Rural Impact**: The need for an adequate and sustainable funding source for safety net provides occurs in rural, suburban and urban counties. Without this support and infrastructure, a significant cost could fall to local governments.

**Sponsor(s):** Sonoma County, Calif.

## Proposed Resolution Supporting Provisions of the Affordable Care Act That May Help County Safety Net and Behavioral Health Programs

**Issue:** Essential need to implement key features of the Patient Protection and Affordable Care Act of 2010 (ACA)

**Proposed Policy:** NACo supports full funding for, and implementation of, the provisions of the ACA that help counties meet the service needs of low income and disabled populations. Specifically, NACo supports maintaining and expanding affordable health coverage and benefits to uninsured and underinsured residents who rely on county health care delivery systems – including the Medicaid expansion. NACo also supports the ACA's provisions to improve care coordination to ensure that everyone has a medical/health home for efficient, accessible and cost-effective care; to improve access to preventive care and health promotion for underserved populations; and to promote the use of peer supports and counselors, together with effective care coordination that spans health and social support services.

**Background:** Key features of the ACA are fully compatible with and supportive of the operations of county safety net agencies including local behavioral health and developmental disability authorities, and promote the coordination and integration of behavioral health and primary care, with the goal of demonstrating the best care and recovery of consumers served by these systems; they support the stability and expansion of the Medicaid program in a manner that does not place a financial burden on state, county and local authorities; they promote care coordination across federal programs that serve persons with disabilities; and they extend mental health and substance use care parity legislation to all private and public health plans.

**Fiscal/Urban/Rural Impact:** In the short-term, these policies will require additional federal resources. However, over the longer run, this investment will pay off in better health outcomes for low-income populations and a greater contribution of persons with disabilities to the economic recovery and productivity of the United States. Although the impact of these policies will be great in urban areas, we expect them to be even greater in rural areas, where such services are currently very sparse.

**Sponsor(s):** National Association of County Behavioral Health and Developmental Disability Directors

## Proposed Resolution Supporting Development and Expansion of Parity for Mental Health and Substance Use Disorders Under the Affordable Care Act

**Issue:** Parity for mental health medical coverage for newly ensured populations under the Affordable Care Act (ACA)

**Proposed Policy:** NACo supports implementation of the ACA so as to ensure access to the highest quality mental health and substance use disorder services for newly insured populations.

**Background:** On March 23, 2010, President Obama signed the ACA, comprehensive health care reform legislation promising to extend coverage to 33 million Americans. Of note to the behavioral health community, the ACA explicitly includes mental health and substance use disorder services, including behavioral health treatment, as one of ten categories of service that must be covered as essential health benefits. Furthermore, the ACA also mandates that mental health and substance use disorder benchmark coverage must be provided at parity, compliant with the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act (2008). Individuals with mental illness and substance use disorders have the opportunity to significantly benefit from the health care law, as insufficient insurance health care coverage for these conditions has traditionally prevented countless people from obtaining needed treatment.

With the passage of ACA many adults with mental health needs will become eligible for health insurance coverage in 2014 and for the first time qualified individuals will have access to mental health and substance use disorder services through Medicaid expansion or subsidized insurance.

Mental health and substance use disorder systems must be equal partners with physical health care systems. Given the low rate of service utilization among uninsured adults with mental health and substance use disorder needs, the expansion of health insurance coverage through health care reform will increase access to and utilization of mental health and substance use disorder services for many uninsured adults. The aim of the ACA is to ultimately reduce the cost of healthcare delivery to the entire population. In order to more effectively care for the whole person, there must be more seamless coordination between system partners and that all health plans cover an adequate level of service for behavioral health care intervention and treatment. Coordination of mental health, substance use and primary care is essential to ensuring quality care and realizing cost savings and to reduce barriers to the exchange of information necessary to appropriately coordinate care, improve quality, and address confidentiality.

In addition, community based interventions are essential to realize the ultimate goals of a more integrated and equitable system of care. Counties are providing services during a historic change to the structure and function of federal, state and local government. Local programs are leading the development and implementation of services resulting from healthcare reform; realignment of federal, state and local funding; and other economic restructuring. Counties are in the best position to recognize and teach new proactive models that are emerging in integrated healthcare, collaborations between child welfare and mental health, and local criminal justice and substance use co-occurring populations.

Counties are piloting and building the evidence-base for a system of care for prevention, early intervention, treatment and recovery services. Coordinated outreach programs between county behavioral health professionals and local schools and community colleges intervene with adolescents and young adults experiencing first psychotic breaks, depression, and other behavioral health needs in order to not only assess, but link youth directly to mental health services and treatment. Field based programs that partner behavioral health professionals with law enforcement in the field through mobile support teams and other primary intervention strategies should be part of core and essential services. Funding approaches must support comprehensive approaches that coordinate prevention and early intervention strategies with ongoing treatment and recovery.

**Fiscal/Urban/Rural Impact**: Benchmark coverage at parity in compliance with the Wellstone-Domenici Parity and Equity Act, as required under the ACA, will create additional fiscal needs. Additional costs need to be determined as the Act is implemented.

**Sponsor(s):** Sonoma County, Calif.

## Proposed Resolution to Support the Passage of H.R. 1769/S. 901 to Fund VA Research on the Health Effects of Toxins on the Children and Grandchildren of Veterans

**Issue:** This Resolution calls on NACo to support federal legislation (H.R. 1769 and S. 901 are identical bills). “The Toxic Research Exposure Act” would create a toxins research unit within the VA to proceed with medical research on how exposure to agent orange, burn pits and depleted uranium ("toxins") may affect the biological health of children and grandchildren of veterans who served in the military.

**Proposed Policy:** NACo should urge Congress to pass H.R. 1769/S. 901 to take full responsibility for understanding and addressing not just the direct impact of toxins exposure on the health of those who served our nation, but also for the inherited impacts of toxins on the health of these veterans' children and grandchildren. The bill would create a national center to research, diagnose and treat the descendants of veterans exposed to toxic substances during military service.

**Background:** According to the Vietnam Veterans of America, Between 1962 and 1971, U.S. forces sprayed approximately 20 million gallons of dioxin-containing herbicides on more than 6 million acres in Vietnam. The chemicals, one of them known as agent orange, are expected to cause health problems for veterans and their children and grandchildren. Some evidence exists suggesting that these adverse health effects can extend to five to seven generations. The U.S. Department of Veterans Affairs currently allows compensation to anyone who had "boots on the ground" in Vietnam or served on particular U.S. Navy ships offshore from 1962 to 1975 (about 2.7 million veterans) and suffers from any of these diseases: soft-tissue sarcoma, non-Hodgkin's lymphoma, Hodgkin's disease, chloracne, chronic lymphocytic leukemia, respiratory cancer, prostate cancer, multiple myeloma, amyloidosis, peripheral neuropathy, porphyria cutanea tarda, type II diabetes, and spina bifida in offspring. Parkinson's Disease, hairy cell leukemia and ischemic heart disease were added to this list in 2009.

According to the VA, Burn pits were a common way to get rid of waste at military sites in Iraq and Afghanistan. At this time, research does not show evidence of long-term health problems from exposure to burn pits. Toxins in burn pit smoke may affect the skin, eyes, respiratory and cardiovascular systems, gastrointestinal tract and internal organs. Waste products in burn pits include, but are not limited to: chemicals, paint, medical and human waste, metal/aluminum cans, munitions and other unexploded ordnance, petroleum and lubricant products, plastics, rubber, wood, and discarded food.

According to the VA, the U.S. military uses tank armor and some bullets made with depleted uranium (DU) to penetrate enemy armored vehicles, and began using DU on a large scale during the Gulf War. The process of manufacturing enriched uranium from natural uranium used in nuclear reactors or weapons leaves "depleted" uranium. DU has 40 percent less radioactivity, but the same chemical toxicity as natural uranium. When a projectile made with DU penetrates a vehicle, small pieces of DU can scatter and become embedded in muscle and soft tissue. In addition to DU in wounds, servicemembers exposed to DU in struck vehicles may inhale or swallow small airborne DU particles.

**Fiscal/Urban/Rural Impact:** Counties are directly connected to the financial costs and the human impacts of healthcare, both as providers of services through hospital systems and as employers who provide healthcare coverage. Many counties also serve as the healthcare "safety net" for uninsured and underinsured populations. Millions of Americans have served in the military and been exposed to toxins in varying degrees. Large numbers these veterans' family members are now involved with county based healthcare systems and county health plans. Counties also fund and play a leading role in the provision of social services which are connected to physical conditions caused by exposure to toxins.

To the degree that medical research can find direct evidence between exposure to toxins during military service and adverse health effects for descendants of veterans, Congress should proceed to authorize VA provided health care and disability compensation for for these conditions. In 2014, VA

Expenditures across the nation totaled $162.2 billion. These VA expenditures flow into nearly every county in the nation and included $75.3 billion in direct payment to veterans (disability/pension compensation) as well as $59.4 billion of healthcare related services.

**Sponsor(s):** Commissioner Bill Hall, Lincoln County, Ore.

## Proposed Resolution Urging the Federal Government to Suspend, Instead of Terminate, Medicaid Coverage for Incarcerated Individuals

**Issue:** Medicaid benefits may be withdrawn when an individual is incarcerated as opposed to convicted.

**Proposed Policy:** Urge Congress to pass legislation that:

a) amends federal law to prohibit states from terminating eligibility for individuals who are inmates of public institutions or residents of Institutes for Mental Disease based solely on their status as inmates or residents; and
b) requires states to establish a process under which an inmate or resident of an Institute for Mental Disease, who continues to meet all applicable eligibility requirements, is placed in a suspended status so that the state does not claim FFP for services the individual receives, but the person remains on the state's rolls as being eligible for Medicaid; and
c) Once release or discharge from the facility is anticipated, require states to take whatever steps are necessary to ensure that an eligible individual is placed in payment status so that he or she can begin receiving Medicaid-covered services immediately upon leaving the facility.

**Background:** Medicaid benefits may be withdrawn when an individual is incarcerated. Currently, the Centers for Medicare and Medicaid Services (CMS) allows for and encourages states to suspend rather than terminate Medicaid eligibility when a person is incarcerated or detained in a public institution or Institute for Mental Disease (IMD). The suspension of Medicaid coverage allows for quicker reinstatement of benefits when a person leaves a public institution or IMD and fewer challenges in obtaining mental health, substance abuse, and other health services upon community re-entry.

When a state terminates instead of suspends coverage, it can take months for an individual to be reapproved for Medicaid upon release from custody. Thirty-eight states and the District of Columbia terminate Medicaid coverage when an individual is incarcerated. Terminating instead of suspending creates a disruption in access to needed medical, mental health, and substance abuse treatment services for individuals to re-enter the community, which can impact health outcomes, lead to re-arrest, and contribute to homelessness. Federal law currently prohibits the use of federal funds for individuals while they are incarcerated, with the exception of 24-hour inpatient care provided to inmates outside of a jail. The statutory federal financial participation (FFP) exclusion applying to inmates of public institutions and residents of IMDs affects only the availability of federal funds under Medicaid for health services provided to that individual while he or she is an inmate of a public institution or a resident of an IMD. The payment exclusion under Medicaid that relates to individuals residing in a public institution or an IMD does not affect the eligibility of an individual for the Medicaid program. Individuals who meet the requirements for eligibility for Medicaid may be enrolled in the program before, during, and after the time in which they are held involuntarily in secure custody of a public institution or as a resident of an IMD.

States that currently suspend Medicaid benefits when an individual is incarcerated include: California, Colorado, Florida, Iowa, Maryland, Massachusetts, Minnesota, New York, North Carolina, Ohio, Oregon and Texas.  Suspension of Medicaid coverage permits an individual incarcerated or detained in a public institution or IMD to remain on the Medicaid rolls in a suspended status, which retains his or her eligibility for Medicaid coverage while cutting off payment of benefits during incarceration or detention.

**Fiscal/Urban/Rural Impact:** The importance of suspension instead of termination to Counties includes ensuring access to care which improves public safety, public health and county budgets. A recent study found that inmates from a county jail who received treatment for behavioral health disorders after release spent an average of 51.74 fewer days in jail per year, thus costing taxpayers less.

**Sponsor(s):** Commissioner Sally Heyman, Miami-Dade County, Florida; Commissioner Audrey M. Edmonson, Miami-Dade County, Florida; Commissioner Joan P. Garner, Fulton County, Georgia; Supervisor Linda Langston, Linn County, Iowa; Commissioner Judy Shiprack, Multnomah County, Oregon

## HUMAN SERVICES AND EDUCATION STEERING COMMITTEE

## PROPOSED PLATFORM CHANGES

### Proposed Platform Change on Immigration Reform and Unaccompanied Children

Add to "Legal Immigrants, Migrants, Refugees and Undocumented Individuals" section of Platform (page 96 on 2014-2015 version of platform document), moving "Services" to point B. and "Refugee Program" to point C., respectively:

**A. Comprehensive Immigration Reform:** NACo urges Congress and the President to enact comprehensive immigration reform legislation that:

- Provides for uniform enforcement of all existing laws;
- Secures our borders;
- Includes a national strategy for coordination among federal, state, local and tribal authorities;
- Establishes a sensible and orderly guest worker program;
- Imposes no unfunded mandates on state and local governments;
- Includes no mandates on counties to enforce immigration laws;
- Preserves the eligibility of legal non-citizens for federally-funded health benefits and provides a sustainable funding stream to counties for their cost of providing health services to legal non-citizens who are denied federally-funded health benefits;
- Establishes an earned path to citizenship that includes registering, background checks, demonstrating employment, learning English and civics, paying back taxes and fees that may be required;
- Improves and simplifies the current legal immigration system; and
- Provides green cards for science, technology, engineering and mathematics students who have received a graduate degree from American universities.

**D. Unaccompanied Children Crossing the Border:** NACo calls on the Administration and Congress to ensure that adequate federal funds are appropriated to shelter and provide care, including medical assistance, to unaccompanied children crossing the border and to ensure that the costs of the care provided to these children are not transferred to counties.

## PROPOSED RESOLUTIONS

### Proposed Resolution on the Community Services Block Grant

**Issue:** The Community Services Block Grant (CSBG) has been targeted for serious cuts and program changes.

**Proposed Policy:** NACo supports full funding for CSBG and also supports the program's formula grant structure.

**Background:** CSBG is administered by the U. S. Department of Health and Human Services' Administration for Children and Families and supports activities that reduce the causes of poverty. CSBG-eligible activities vary depending on local needs, but often include services related to educational attainment, obtaining and maintaining employment and self-sufficiency, budget planning, obtaining adequate housing and greater community participation. Most CSBG funding is distributed to states, which must pass through 95 percent of the funds to eligible local entities. CSBG operates in 90 percent of the nation's counties through a network of more than 1,100 eligible public or private entities, many of which are community action agencies.

Although the president's FY 2016 budget request proposes level funding for CSBG at $674 million, other budget proposals in recent years have routinely proposed significant cuts to the program. Further, proposals have also called for converting CSBG into a competitive block grant; this would disadvantage smaller communities that do not have the resources to hire grant writers. It should be noted that CSBG already has a competitive component, as states are allowed to use a percentage of their allocation for discretionary grants.

**Fiscal/Urban/Rural Impact:** Would preserve funding to county community action agencies.

**Sponsor(s):** Human Services and Education Steering Committee Leadership

## Proposed Resolution Supporting the DREAM Act or Similar Legislation

**Issue:** Support for the Development, Relief, and Education for Alien Minors (DREAM) Act or similar legislation.

**Proposed Policy**: NACo calls upon Congress and the president to enact the DREAM Act, or similar legislation that, without imposing costs on counties, would allow certain undocumented immigrants who entered the country as children to attain legal status if they pass background checks, demonstrate good moral character and meet education requirements.

**Background:** Under the 1982 Supreme Court decision *Plyler v. Doe*, state and local education districts are required to provide children with a free primary and secondary education regardless of their immigration status. NACo believes that it is in the best interest of counties to ensure that all children maximize their potential, which would include higher education opportunities.

The 1996 Illegal Immigration Reform and Immigrant Responsibility Act (P.L. 104-208) preempts state laws regarding postsecondary education benefits ("in-state tuition") for immigrant students, even when the child has successfully graduated from the state's K-12 system and has lived in the country since before his or her 16th birthday. The federal law prohibits states from providing in-state tuition benefits to those not lawfully present unless all students, regardless of state residence, are eligible for such benefits. NACo believes that this prohibition is a preemption of states' ability to determine who is and who is not eligible for in-state tuition and that it should be repealed.

The DREAM Act would restore the flexibility that states had prior to 1996 to determine who should receive in-state tuition. The bill would apply to students who have been in the country prior to their 16th year of age, have been in the country for at least five consecutive years, have graduated from high school or have a high school equivalent diploma, have been accepted to an institution of higher education, are not subject to an order of deportation, and are of good moral character.

**Fiscal/Urban/Rural Impact:** None

**Sponsor(s):** Human Services and Education Steering Committee Leadership; Immigration Reform Task Force

## Proposed Resolution on Early Childhood Development

**Issue:** Increased funding for early childhood development

**Proposed Policy:** NACo supports legislation to increase investments in early childhood development, including greater coordination among pre-school programs in schools and county run programs such as home visitation, child wellness, Head Start, Early Head Start and quality childcare.

**Background:** New attention is being given to the need for pre-school programs, including greater funding for Head Start and Early Head Start in federal appropriations and the introduction of the Strong Start for America's Children Act, which is based on the president's proposal to fund universal pre-K. While the legislation focuses on serving all 4-year-old children under 200 percent of poverty, it also encourages coordination among different programs, allows 15 percent of funds to serve infants and toddlers and expands coverage to 3-year-old children in areas that are already covering 4-year-olds.

Research has demonstrated the importance of the early years in child development. Additionally, investment in early childhood development programs can reduce future expenditures in chronic health care services, child welfare, the juvenile justice system, and welfare.

**Fiscal/Urban/Rural Impact:** Would provide additional funds for county early childhood development efforts, which would in turn reduce long-term costs in juvenile justice, public assistance and other programs.

**Sponsor(s):** Human Services and Education Steering Committee Leadership

## Proposed Resolution on Reauthorizing the Elementary and Secondary Education Act

**Issue:** The Elementary and Secondary Education Act has not been reauthorized since 2001.

**Proposed Policy:** NACo calls on Congress to reach a compromise on the reauthorization of the Elementary and Secondary Education Act and enact legislation this year.

**Background:** State governments, localities and schools need a long-term resolution for the issues raised by the current federal Elementary and Secondary Education (ESEA) Act, also known by its most recent title of No Child Left Behind (NCLB). More than a decade after NCLB was enacted, it is time to rewrite the law.

In the absence of ESEA reauthorization, many states have sought flexibility through waivers offered by the U.S. Department of Education. However, waivers will only work for some states. Moreover, waivers only provide temporary relief from specific provisions of the law and often impose new criteria on states, school districts and schools not formally authorized in NCLB or by Congress. Only a full reauthorization of ESEA can support state and local innovation so that every student will be prepared for college or careers.

**Fiscal/Urban/Rural Impact:** None

**Sponsor(s):** Human Services and Education Steering Committee Leadership

## Proposed Resolution on the Reauthorization of the Older American Act

**Issue:** Aging population growth is increasing demand for services to older Americans.

**Proposed Policy:** NACo urges the strengthening, through additional funding, of the Older Americans Act (OAA) in these key areas: home delivered nutrition services, case management, information and assistance service, Senior Community Service Employment Program (SCSEP), Supportive Services (including Long-Term Care), Ombudsman Program, and Health Promotion and Disease Prevention. NACo further urges Congress to reauthorize the OAA, expand program flexibility to distribute funds between nutrition programs (Title III C), as well as between Title III C and Supportive Services (Title III B). NACo further supports the local service delivery structure for OAA programs.

**Background:** Today, nearly 39 million Americans, or 13 percent of the population, are over the age of 65. This number will swell to 21 percent by 2050. As the population ages, there is greater demand for supportive services that keep seniors active, productive, and independent while living in the least restrictive environment possible.

NACo supports the OAA and calls for additional funding to strengthen programs that encourage and enable the expansion of in-home case management, community-based care and assisted living facilities as a means of avoiding unnecessary institutional care. This should include Medicare or Medicaid paying for the unfunded portion of OAA services such as adult day programs, home delivered meals, case management and medication management.

NACo urges Congress to expand and improve access to daily nutrition and meal services, respite care, home care services, adult daycare, services to family caregivers, information and referral services, and research. Under current law, states and area agencies on aging have limited ability to transfer funds within nutrition programs (Titles III C1 and C2) and between support services (Title III B) and nutrition and vice versa.

**Fiscal/Urban/Rural Impact:** Would provide new federal funds to counties and community-based organizations.

**Sponsor(s):** National Association of County Aging Programs

## Proposed Resolution on Reducing Poverty

**Issue**: Despite the War on Poverty and gains made over the past 50 years, poverty still affects millions of individuals and families in the United States.

**Proposed Policy**: NACo supports federal initiatives to reduce poverty, including the proposed establishment of a Federal Interagency Working Group on Reducing Poverty which will create and carry out a national plan to cut poverty in half in ten years, so long as federal policymakers ensure that these initiatives feature assessments that measure the effectiveness of programs and investments, and that local governments, including counties, are consulted throughout the planning and implementation of the initiatives.

**Background:** NACo applauds the introduction of the Half in Ten Act (H.R. 258). The measure describes the scope of poverty in the United States and provides an administrative method at the federal level for a federal working group to tackle the issue comprehensively.

The poverty level for a family of four in 2015 is $24,250. Data reveals that in 2012, the official poverty rate was 15 percent. There were 46.5 million people in poverty. That rate was 2-2.5 percentage points higher than in 2007, the year before the most recent recession.

Children continue to be disproportionately affected by poverty. The poverty rate in 2012 for children under age 18 was 21.8 percent. The poverty rate for people aged 18 to 64 was 13.7 percent, while the rate for people aged 65 and older was 9.1 percent.

Persons of color also remain disproportionately affected. The poverty rate for non-Hispanic, Whites was 9.7 percent in 2012, lower than the poverty rates for other racial groups. Non-Hispanic Whites accounted for 62.8 percent of the total population and 40.7 percent of the people in poverty. For Blacks, the 2012 poverty rate was 27.2 percent and there were 10.9 million people in poverty.

Additionally, more than half (56.0 percent) of related children under age 6 in families with a female householder were in poverty. This was four-and-a-half times the rate for children in married couple families (12.5 percent).

Poverty carries with it increased societal costs. Children who live in families who fall into poverty for even short periods of time are at greater risk of a lifetime of lower earning, lower education attainment and increased reliance on public services and increased rates of incarceration. As providers of health and human services and justice programs, counties are also affected financially in supporting impoverished families and/or responding to the consequences of poverty.

**Fiscal/Urban Rural Impact:** Reduction of poverty will reduce health, human services and justice costs incurred by counties.

**Sponsor(s):** National Association of County Human Services Administrators

## Proposed Resolution on the Social Services Block Grant

**Issue:** The Social Services Block Grant (SSBG) remains vulnerable to cuts in the context of entitlement reform and deficit reduction.

**Proposed Policy:** NACo strongly supports SSBG, opposes any efforts to eliminate or reduce its funding and calls on Congress to restore sequestration cuts to the program.

**Background:** SSBG was signed into law by President Ronald Reagan in 1981 (P.L. 97-35) and combined several social services programs into one block grant, providing states with great flexibility and no matching funding requirements. The program is an entitlement to states and not subject to the annual appropriations process. Ten states provide SSBG funds directly to counties: Colorado, Minnesota, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Virginia and Wisconsin.

SSBG can be used for nearly 30 different types of services; a survey conducted by NACo in 2012 revealed that counties most commonly use SSBG for adult protective services, which benefit elderly and disabled adults, and child protective services. Services provided to these vulnerable populations aim to prevent and remedy abuse, neglect and exploitation. In FY 2009, the last year for which data is available, SSBG served 22 million people, 47 percent of whom were children.

SSBG continues to be targeted for cuts, and complete elimination of the program has been repeatedly proposed in the budget resolutions of the House of Representatives in recent years. The block grant is, and will remain, extremely vulnerable, especially in the context of entitlement reform and deficit reduction proposals.

**Fiscal/Urban/Rural Impact:** Would preserve and restore county funding.

**Sponsor(s):** National Association of County Human Services Administrators

## Proposed Resolution on Reauthorizing the Temporary Assistance for Needy Families Block Grant

**Issue:** The Temporary Assistance for Needy Families Block Grant (TANF) program expires at the end of the fiscal year.

**Proposed Policy:** NACo urges Congress to revise the current TANF program to provide greater state and county flexibility to create and provide services that support families and help move them off welfare. NACo supports allowing more state flexibility in TANF program design such as allowing higher education to count as work; realistic time limits on education; and allowing states to use TANF funds to support post-secondary educational expenses. NACo urges Congress to, at a minimum, retain and enhance state flexibility to use TANF funds for subsidized employment. Given the demonstrated success of TANF subsidized employment programs, NACo urges Congress to increase funding for those programs. NACo urges Congress to reauthorize all programs within TANF and restore the TANF Supplemental Grants. NACo urges Congress to ensure that reauthorization includes the provision that the TANF block grant is increased annually in an amount commensurate with the rate of inflation.

**Background:** TANF was created in 1996 and replaced the Aid to Families with Dependent Children (AFDC) program. It is administered by the U.S. Department of Health and Human Services and features four program goals: providing assistance to needy families so that children can be cared for in their own homes; reducing the dependency of needy parents by promoting job preparation, work and marriage; preventing and reducing unplanned pregnancies among single young adults and encouraging the formation and maintenance of two-parent families.

TANF expires at the end of the year. The program's regulations limit the hours of education that count as work. After the first 12 months, the participant must do some other type of work for 20 hours a week, and then pursue higher education while caring for minor children in the home. Removal of these restrictions would enable states to make choices about what will best benefit their citizens.

Many TANF families struggle with multiple barriers to self-sufficiency such as disabilities, mental health issues, domestic violence and substance abuse.  As a result, they may not always be able to meet the full participation requirements. States and counties should be given the flexibility to provide partial credit to these families with special needs.  A number of states have chosen to give a reduced grant to children whose parents reach their time limits on aid but still meet income eligibility criteria. The U.S. Department of Health and Human Services (HHS) regulations include these parents in the state's work participation rate. Given the current economic situation, this rule puts states and counties in the untenable position of having to decide whether to eliminate assistance for these vulnerable children.

An inflation adjustment was not included in the 1996 statute that created TANF. As a result, TANF funding has been at a fixed level since 1997.  Reauthorization should include automatic annual increases so the TANF block grant reflects state and county spending needs. In the absence of long-term reauthorization, NACo urges HHS to review the current TANF regulations to determine which changes could be made administratively.

**Fiscal/Urban/Rural Impacts:** Cost savings related to long-term impacts on intergenerational poverty and child well-being.

**Sponsor(s):** Human Services and Education Steering Committee Leadership

**Proposed Resolution on the Elder Justice Initiative and Strengthening the Elder Justice Act**

**Issue**: Elder Justice Act reauthorization and full funding.

**Proposed Policy**: NACo supports federal funding for, and continuation of, the Elder Justice Act, including the President's FY 2016 budget request of $25 million for the Elder Justice Initiative.

**Background:** After years of advocacy efforts, the Elder Justice Act (EJA), the nation's first comprehensive national legislation addressing elder abuse, was signed into law in March 2010. Unfortunately, the program has only received $4 million in funding over in its entire existence. The EJA has the promise of establishing federal standards for adult protective services (APS) and providing a dedicated federal funding stream for services to protect seniors and vulnerable adults from abuse. The EJA also authorizes additional funding for the Long Term Care Ombudsman to investigate abuse and neglect in skilled nursing facilities. The only dedicated and funded federal program for Long Term Care Ombudsman services is Title VII of the Older Americans Act, which is currently appropriated at $20.6 million.

As a result of the almost total lack of funding for EJA, state and county APS programs operate with inadequate funding and lack reliable information and guidance on managing APS programs. In addition, there is a dearth in the area of elder abuse research with virtually no information about victims or perpetrators, as well as no evidence-based practices. As the proportion of elderly and disabled adults continues to grow exponentially across the country, APS is faced with greater demand to protect and serve this vulnerable population. The Elder Justice Initiative would establish the necessary infrastructure for data collection and practice and improve the quality and consistency our APS programs, and is a critical investment to enable APS agencies to meet federal goals for serving abused and neglected elders and disabled adults.

**Fiscal/Urban/Rural Impacts:** Counties in several states are mandated to provide adult protective services. Full federal funding would decrease costs to local governments.

**Sponsor(s):** Human Services and Education Steering Committee Leadership

## Proposed Resolution on Funding for County Veteran Services Officers

**Issue:** Funding for county veteran services officers, who are often the first point of contact for our country's veterans when seeking assistance and in accessing services.

**Proposed Policy:** NACo urges the Administration and Congress to include and designate a portion of Veteran Administration Outreach funding for future federal fiscal years to support county veteran services officers throughout our nation.

**Background:** Support and assistance to veterans and their families is a critical issue for our country. This resolution has been endorsed by the NACo Veterans and Military Services committee, as well as the National Association of County Veteran Services Officers.

County veteran service offices in many of our nation's counties play the initial and critical contact role in assisting veterans and families accessing necessary services.

The breadth and scope of the service handled by members of the National Association of County Veteran Service officers is more than 8,379,550 veterans, and this figure does not reflect the millions of family members, widows and dependent children served. These services have resulted in more than $22 billion dollars of compensation and pension benefits as well as $52 billion in healthcare and ancillary benefits directly to Veterans.

In a small suburban county, veteran services officers had the following results in 2014: $107,375.07 in new or increased monthly income from U.S. Department of Veterans Affairs (VA) compensation and pension programs; $1,101,569.89 in one-time retroactive payments from the VA; 99 college fee waivers granted resulting in a tuition cost saving of $524,904.00.

This proposal does not necessarily require new funding, as existing federal funds for veteran outreach and services could be redirected towards county veteran services officers.

**Fiscal/Urban/Rural Impact:** Increased funding for county veteran services officers.

**Sponsor:** Hon. Hub Walsh, Supervisor, Merced County, Calif.

## JUSTICE AND PUBLIC SAFETY STEERING COMMITTEE

## PROPOSED PLATFORM CHANGES

### Proposed Platform Change Supporting an Affordable and Sustainable Reauthorization of the National Flood Insurance Program

Under COMPREHENSIVE EMERGENCY MANAGEMENT—Section Q: National Disaster Insurance System, add:

NACo urges Congress and the federal administration to work with the states, local governments, the insurance industry, and other stakeholders:

- To support a sustainable, fiscally responsible National Flood Insurance Program (NFIP) that protects the businesses and homeowners who built according to code and have followed all applicable laws. NACo urges Congress to work with stakeholder groups to craft a sensible and fiscally responsible renewal of the National Flood Insurance Program that keeps flood insurance rates affordable while improving the mapping process to develop universal insurance and reinsurance programs which will make it possible for private insurers and re-insurers to make available affordable natural disaster insurance to cover damage and loss caused by natural and man-made disasters and emergencies;
- to increase funding for research aimed at improving mitigation measures which, if followed, will reduce damage and loss caused by natural and man-made disasters and emergencies;
- to provide incentives and education to encourage responsible pre- and post- disaster mitigation by states, local governments, and individuals;
- to provide incentives to encourage the public and private sectors to construct new structures according to established technical construction standards and consensus safety codes;
- to provide incentives to encourage the public and private sectors to construct and/or retrofit existing structures to reduce future losses from natural and man-made disasters and emergencies;
- to provide financial incentives to encourage state and local government and private property owners to locate new construction outside of high risk areas such as flood plains, coastal areas or on or near earthquake faults; and
- to authorize FEMA to develop pre-disaster mitigation programs; and to fund pre-disaster mitigation.

**Sponsor(s):** Buddy Boe, Chief Administrative Officer, St. Charles Parish - LA

## PROPOSED RESOLUTIONS

### Proposed Resolution Supporting Funding and Amending Disaster Program Policies for the Management and Mitigation of Post-Wildfire Flooding and Debris Flow Damage

**Issue:** Funding is either unavailable or inadequate to effectively deal with the newly created or increased flooding and debris flow risks from post-wildfire events.

**Proposed Policy:** NACo urges Congress to amend the Fire Management Assistance Grant

Program (FMAGP) and Stafford Act declaration time period to help states, tribes, and local governments respond to floods and debris flows that directly result from a declared fire.

**Background:** Large wildfires destroy huge areas of vegetation, and burn the soil so badly that it will no longer absorb water. The direct result is major to catastrophic flash flooding that can continue for up to 15 years after a fire. While prompt and robust funding is available to help local governments respond to major wildfires, there is much less support to mitigate and respond to the floods and debris flows that are directly caused by those fires. Major post-wildfire flooding and debris flows may take place numerous times per year, threatening lives and causing serious damage at drastically lower precipitation levels than ever before. The expense of each individual flood event may fall short of the criteria for a Presidential Disaster Declaration; however, the cumulative expense of multiple flooding and debris flow events creates a financial disaster for affected local governments, and may far exceed the cost of the original fire.

**Fiscal/Urban/Rural Impact:** Post-fire flooding and debris flows are common after large wildfires, including wildfires on federal lands. If policies and adequate funding are not provided for necessary management efforts, the consequence is an inability to mitigate burn areas from subsequent floods and debris flows. The result is imminent threat to life safety, public and private property damage, and detrimental economic impact to affected areas that may far exceed costs from the original event.

**Sponsor(s):** Sallie Clark, Commissioner, El Paso County, Colorado

## Proposed Resolution on Fair Restructuring of Homeland Security and Emergency Management Grants

**Issue:** Consolidation of existing Homeland Security and Emergency Management grants into block grants administered solely by the states will decrease local resilience and negatively impact national preparedness for disasters and emergencies of all types.

**Proposed Policy**: NACo continues to oppose the complete consolidation of the existing Homeland Security and Emergency Management grant programs into block grant programs administered by the states, and again proposes an alternative that will better address the needs of all levels of government without and that does not discard the advances created by the past grants:

Emergency Management and disaster related grant programs – Preserve, maintain, and enhance the Emergency Management Performance Grant and the grants related to disaster recovery and mitigation as separate, fully funded programs.

National Preparedness Program - Consolidate current homeland security grants as necessary (except as below) based on realistic risk to each state from all hazards including but not limited to terrorism. State Administrative Agencies will make prioritization decisions in transparent consultation and with the consent of local governments, and continue to require that no less than 80% of these funds be passed to local government in each state based on their realistic risk.

Urban Area Security Initiative (UASI) – Maintain specific funding to the 35 urban areas at greatest risk of disastrous event (from all hazards, including terrorism) in light of the significant populations and economic drivers of these areas. The program remains jointly administered by the State Administrative Agency and the existing UASI organizational units and continuing to require that no less than 80 percent of these funds be passed through to the Urban Areas.

NACo will work with Congress and the other stakeholders to prepare updated legislative language to accomplish these goals.

**Background:** In 2014, NACo adopted this policy. Despite repeated instructions from Congress to the contrary, the Secretary of Homeland Security and the states' Emergency Management and Homeland Security agencies have pushed for consolidation of all homeland security and emergency management grants into block grants solely administered by these state agencies. Such a policy degrades both local and national preparedness and resilience, ignoring the fact that local governments own, train, and maintain the vast bulk of the assets, capabilities, and personnel that make up national preparedness ability. NACo urges Congress to remember that the security and resilience of the homeland begins with security and resilience at the local level.

**Fiscal/Urban/Rural Impact:** N/A

**Sponsor(s):** Judson Freed, Director of Emergency Management and Homeland Security, Ramsey County, Minnesota.

## Proposed Resolution Supporting Legislation Providing Mitigation Funds for Certain Areas Affected by Wildfires

**Issue:** Support for Legislation Providing Mitigation Funds for Certain Areas Affected by Wildfires

**Proposed Policy:** NACo supports legislation that provides dedicated mitigation funds by providing up to 15% of the cost of a Fire Mitigation Assistance Grant (FMAG) to support wildfire mitigation projects.

**Background:** Recent mega-fires in the West have illuminated the fact that the Federal Emergency Management Association (FEMA) programs and policies for disaster and emergency assistance for wildfires do not work well, primarily because they were developed to address natural disasters such as hurricanes, floods, and tornadoes. For example, there is a minimal role for mitigation work, which is critical for communities vulnerable to wildfires.

Mitigation is proven to reduce the costs and long-term impacts of wildfires on communities, property, and water supplies. The long-term savings that mitigation represents are well documented; for every dollar spent on hazard mitigation, there is an average savings of four dollars. With conditions such as persistent drought, coupled with a growing wildland urban interface (WUI), mitigation financial assistance is a low cost, common-sense way to protect life and property while saving taxpayer dollars.

This legislation provides parity for wildfires with other natural disasters by providing up to 15% of the cost of a Fire Mitigation Assistance Grant (FMAG) to support statewide wildfire mitigation projects. Based on averages since 1990, this would cost less than 0.01% of the Disaster Relief Fund (DRF).

Counties who have approved FMAG's will be eligible for Hazard Mitigation Assistance Grants Program (HMAGP) funds to be used for post-fire flooding mitigation and pre-fire mitigation to help reduce the severity of fires before they happen.

FEMA's Stafford Act programs already recognize the importance of mitigation for other natural disasters such as hurricanes, floods, and tornadoes by providing 15% of the total FEMA disaster cost to states to support mitigation programs statewide. However, FEMA handles most wildfires through the Fire Management Assistance Grant (FMAG) program (P.L. 93-288, § 404), which supports "grants, equipment, supplies and personnel" to assist state~~s~~ and local governments attempting to control fires on state and private property, and to prevent fires from becoming major disasters. Unlike disaster declarations for other natural disasters, FMAG currently only provides assistance while the fire is burning and does not have the authority to assist in post-disaster mitigation.

**Fiscal/Urban/Rural Impact:** Mitigation funds for certain areas affected by wildfires will have a positive fiscal impact on affected counties. As observed during the NACo Western Interstate Region (WIR) conference field trip in Coconino County in May 2013 and other counties such as El Paso County, Colorado; Boulder County; Colorado; and Larimer County, Colorado; the financial burden from post-fire mitigation for fires such as the Waldo Canyon, High Park, and Schultz fires is crippling. Legislation providing mitigation funds will help lessen the post-fire burden on counties and lessen the chances of big catastrophic fires by providing an avenue for pre-fire mitigation.

**Sponsor(s):** Lynn Padgett, Commissioner, Ouray County, Colorado

## Proposed Resolution on Juvenile Life Sentencing without Opportunity for Parole

**Issue:** Children should never be sentenced to "life without parole" for offenses they committed at an age that is characteristic of impulsive, immature and risk-taking behavior- things we know are common for all adolescents.

**Proposed Policy:** NACo supports eliminating life without parole as a sentencing option for children. We support just and age appropriate accountability measures for children that will ensure that every child, regardless of offense, is given a meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation. We therefore, call upon State Legislatures across the country and the U.S. Congress to enact legislation that abolishes life without parole for children and provides them with meaningful and periodic sentencing reviews. These legislative changes should be applied both retroactively and prospectively so that no child is allowed to have their human rights violated because of when they were sentenced.

**Background:** The United States Supreme Court ruled in Miller v. Alabama that "Children are constitutionally different from adults… because juveniles have diminished culpability and greater prospects for reform… they are less deserving of the most severe punishments." The Court held that mandatory sentences of life without parole for juveniles violate the Eighth Amendment's prohibition on cruel and unusual punishments and are therefore unconstitutional. The Court has ruled that neither the state legislatures nor the Congress have enacted legislation to align with the ruling. This resolution is requesting this legislative change.

**Fiscal/Urban/Rural Impact:** N/A

**Sponsor(s):** Commissioner Nancy Schouweiler, Dakota County, Minnesota

## Proposed Resolution on Reauthorization of the Juvenile Justice Delinquency Prevention Act

**Issue:** The Juvenile Justice Delinquency Prevention Act has not been reauthorized since 2002

**Proposed Policy:** NACo urges Congress to support the Reauthorization of the Juvenile Justice and Delinquency Prevention Act.

**Background:** The Juvenile Justice and Delinquency Prevention Act has not been reauthorized since 2002. Action to reauthorize the Act needs to be taken by Congress.

**Fiscal/Urban/Rural Impact:** Funding for many county juvenile justice programs is allocated through the Reauthorization of the Act.

**Sponsor(s):** Commissioner Nancy Schouweiler, Dakota County, Minnesota

## Proposed Resolution on Limiting Jury Awards Against Counties for Federal Law Claims

**Issue:** County governments are largely unprotected from excessive jury awards for compensatory damages arising from claims made under federal law.

**Proposed Policy:** NACo urges Congress to place appropriate restrictions on the amount of compensatory damages awardable against County governments for claims made under federal law.

**Background:** Despite their status as political subdivisions of sovereign states, Counties do not enjoy sovereign immunity from many claims made under federal law, and available jury awards for compensatory damages against Counties for such claims are not capped or otherwise limited in most circumstances. While public policy certainly requires that Counties and their officials be held responsible for violations of federal law, some balance between the requirements of justice, the burdens placed on local taxpayers, and the continued fiscal viability of County governments is necessary.

**Fiscal/Urban/Rural Impact:** All County governments, both urban and rural, face the prospect of fiscally devastating jury awards for violations of federal law by their officers and employees and related expenses such as legal fees and insurance premiums. Forrest County, Mississippi, currently faces federal claims in excess of $80,000,000 arising from the alleged conduct of County officials and employees over 30 years ago. Others, such as Boise County, Idaho, have been forced to seek bankruptcy protection after multi-million dollar jury awards for federal law claims. Appropriate restrictions on the amount of damages awardable against Counties for claims made under federal law would contribute directly and indirectly to the continued fiscal viability of County governments.

**Sponsor(s):** Chris Bowen, Supervisor, Forrest County, Mississippi

## Proposed Resolution Supporting the Comprehensive Justice and Mental Health Act and Similar Legislation

**Issue:** Improving access to mental health services for people in the criminal justice system that need treatment.

**Proposed Policy:** Access to mental health can be improved for people who come into contact with the criminal justice system through services and providing law enforcement officers the tools they need to identify and respond to mental health issues in the community. In 2004, Congress passed the Mentally Ill Offender Treatment and Crime Reduction Act (MIOTCRA), which supports innovative programs that bring together mental health and criminal justice agencies to address the unique needs of persons with mental health conditions. The Comprehensive Justice and Mental Health Act (CJMHA) reauthorizes and improves MIOTCRA.

The proposed legislation (H.R. 1854/S. 993) also supports mental health courts and crisis intervention teams; uses new grant accountability measures and emphasizes the use of evidence-based practices; authorizes investments in veterans treatment courts; supports state and local efforts to identify people with mental health conditions at each point in the criminal justice system; supports the development of curricula for police academies and orientations; supports the development of programs to train federal law enforcement officers in how to respond appropriately to incidents involving a person with a mental health condition; increases focus on corrections-based programs and gives local officials greater control over program participation eligibility.

**Background:** People with mental health conditions are disproportionately arrested and incarcerated. Many of these inmates belong in treatment programs, not behind bars. It has been noted that around the country jails are holding more people with severe psychiatric illnesses than any psychiatric facility in the county. It is not sustainable for the criminal justice system, specifically law enforcement officers and the courts, to continue to use it as a mental health system. People who have mental health conditions would benefit more from treatment and intensive supervision than from traditional incarceration. The current system doesn’t make sense for taxpayers to pay for high incarceration costs and overcrowded corrections facilities.

**Fiscal/Urban/Rural Impact:** Taxpayers are currently paying for high incarceration costs and overcrowded corrections facilities for inmates that would better be served in mental health treatment facilities. The funding allocated for incarceration of these individuals could be redirected for other, more efficient uses.

**Sponsor(s):** Commissioner Sally Heyman, Miami-Dade County, Florida; Commissioner Audrey M. Edmonson, Miami-Dade County, Florida; Commissioner Bryan Desloge, Leon County, Florida; Commissioner Joan P. Garner, Fulton County, Georgia

## Proposed Resolution Supporting the Stopping Tax Offenders and Prosecuting Identity Theft Act (Stop Identity Theft Act) and Similar Legislation

**Issue:** Misuse of taxpayer identity.

**Proposed Policy:** Support all related bills in the U.S. House of Representatives and the U.S. Senate and urge Congress to pass legislation supporting action to reduce tax crimes and identity theft that would halt the victimization of millions of U.S. taxpayers through loses due to several billion dollars in fraudulent claims. Legislation would encourage the Department of Justice (DOJ) to dedicate additional resources, including the use of investigative task forces, to address tax return identity theft. The legislation would ask DOJ to focus resources in areas with a high rate of tax return identity theft, coordinate investigations with state and local law enforcement agencies, and protect vulnerable victims, including veterans, seniors and minors. The legislation would increase penalties to help deter this type of crime and protect victims.

**Background:** Identify theft can result in the filing of a fraudulent tax return and the subsequent refund to individuals who are stealing the names, addresses, and social security numbers, which can harm the victims credit which could take years to rectify. Further, deceased individuals, whose records are maintained in the Social Security Death Master File, which is made public by the Social Security Administration, are also susceptible to unlawful tax claims as well.

**Fiscal/Urban/Rural Impact:** Would allow for the disclosure of tax return information to federal, state, and local law enforcement personnel who are personally and directly engaged in the investigation of identity theft. The bill would impose a fine and/or prison term on any person who knowingly or willfully misappropriates another person's tax identification number and would increase the civil and criminal penalties for improper disclosure or use of tax information by tax return preparers. Additionally the legislation would require the Commissioner of the Internal Revenue Service (IRS) to report to Congress on the number of reported tax fraud cases and on actions taken in response to such reports and require the head of the Federal Bureau of Prisons to submit to Congress a detailed plan on how it will use tax information provided by the IRS to reduce prison tax fraud. Authorizes the Commissioner to transfer appropriated funds to be used solely to prevent and resolve potential tax fraud cases which can in turn make victims whole again. Prohibits the Secretary of Commerce from disclosing information contained on the Death Master File relating to a deceased individual to persons who are not certified to access such information. The Attorney General would also be authorized to award grants to state and local law enforcement agencies for the investigation and prosecution of tax crimes.

**Sponsor(s):** Commissioner Sally Heyman, Miami-Dade County, Florida; Supervisor Linda Langston, Linn County, Iowa

## Resolution Urging Federal, State and Local Adoption of a Presumption Against the Use of Indiscriminate and Unnecessary Restraints of Juveniles in Court

**Issue:** Many youth in custody are forced to appear in court proceedings in restraints that unnecessarily humiliate, stigmatize and traumatize young people. Restraining youth who pose no safety threat is inconsistent with the rehabilitative goals of juvenile justice.

**Proposed Policy:** NACo urges federal, state and local government adoption of a presumption against the use of unnecessary restraints of juveniles in court and to only allow restraints after an in-person opportunity to be heard and a finding that restraints are the least restrictive means necessary to prevent flight or harm to the juvenile or others.

**Background:** Models for Change states that: "Many youth in custody are forced to appear in court shackled with leg irons, belly chains, and handcuffs. The practice of restraining youth who pose no safety threat unnecessarily humiliates, stigmatizes, and traumatizes young people. Shackling youth is inconsistent with the rehabilitative goals of the juvenile justice system and offends due process." Additionally, the Campaign Against Indiscriminate Juvenile Shackling notes the following harms when youth are restrained in court proceedings: "The indiscriminate shackling of youth unnecessarily humiliates, stigmatizes, and traumatizes the. The practice impedes the attorney-client relationship, chills juvenile' constitutional right to due process, runs counter to the presumption of innocence, and draws into question the rehabilitative ideals of juvenile court.

**Fiscal/Urban/Rural Impact:** Fiscal impact if it exist, is minimal. No difference among urban and rural impacts.
**Sponsor:** Kay Cashion, Commissioner, Guilford County, North Carolina

## Proposed Resolution on Executive Order Establishing a Federal Flood Risk Management Standard

**Issue:** The President issued an executive order creating a Federal Flood Risk Management Standard (FFRMS) that directs all agencies to use one of three resiliency criteria in their policies, projects, and programs receiving federal funding.

**Proposed Policy:** NACo urges the President and Congress direct all federal agencies to engage NACo and state and local government agencies prior to implementation of Executive Order 13690.

**Background**: On January 30, 2015 President Obama signed an Executive Order "*Establishing a Federal Flood Risk Management Standard and a process for further soliciting and considering stakeholder Input*". Among other things, this EO made amendments to a May, 1977 EO 13690 on Federal Policy on Floodplain Management. As part of the implementation of this process, FEMA, on behalf of the Mitigation Framework Leadership Group (MitFLG, the multi-agency group that developed the standard) has published a draft of the Guidelines for implementing the amended EO 11988 by all federal agencies consistent with the FFRMS. This draft Guideline has been released for a 60 day Public Comment Period for consideration of implementation by the agencies.
The EO supplants an overarching shift in Federal Policy:

**1) Away from flood control and protection to a risk management strategy**
*From the Guidelines*: "… the FFRMS reflects a transition beyond a former emphasis on "*flood control and protection"* to a broader focus on "*flood risk management*." "Changes in terminologies from "protection" to a broader focus on resilience and risk management reflect the recognition that floodwaters cannot be fully controlled, full protection from floods cannot be provided by any measure or combination of measures, and risk cannot be completely eliminated."

**2) To avoid directly or indirectly encouraging development in a floodplain**
*From the EO*: "… requires executive departments and agencies (agencies) to avoid, to the extent possible, the long- and short-term adverse impacts associated with the occupancy and

modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative."

*From the Guidance:* "The preferred method for satisfying this requirement is to avoid sites in the base floodplain." "The Guidelines do not intend to prohibit floodplain development in all cases, but rather to create a consistent government policy against such development under most circumstances."

**3) The new standard is intended for all federal agencies in all actions**

*From the Guidance:* "The basic concepts expressed in Section 1 of the Order are: (1) all agencies are covered; (2) all actions are covered; (3) all agencies are to affirmatively carry out efforts to, and provide a good example of, sound floodplain management practices; and (4) all agencies are required to act, not merely consider, reducing risk, minimizing adverse impacts, and restoring and preserving floodplain values."

**4) Where the previous EO relied on the use of the FEMA derived 1% annual flood Plain (100yr.) for federal agency consideration, the new EO broadens the floodplain by directing the agency to consider any and all actions against a floodplain defined by one of the following:**

i) A climate informed science approach that uses best available actionable data and methods that integrate current and future changes in flooding based on climate science

ii) Expanding the horizontal and vertical size of the flood plain by adopting a 2 foot freeboard above the FEMA NFIP base flood Elevation for non-critical actions and a 3 foot freeboard for critical actions

iii) Using the 0.2 percent annual chance flood (500 yr.)

iv) Using another elevation and flood hazard area identified in a future update of the FFRMS

**Fiscal/Urban/Rural Impact:** If Implemented, Executive Order 13690 could prohibit federal agencies from making any federal investment in the expanded floodplain through any policy, project, or program. Possible federal programs/projects impacted could include: SBA, HUD, DOTD, TIGER grants, the National Flood Insurance Program, Federally backed home and business loans, Army Corps of Engineers, USDA, and Disaster Response.

**Sponsor(s):** Buddy Boe, Chief Administrative Officer, St. Charles Parish, La.; Charlotte Randolph, President, Lafourche Parish, La.; John Young, President, Jefferson Parish, La.; Marnie Winter, Director of Environmental Affairs, Jefferson Parish, La; Arlanda Williams, Councilwoman, Terrebonne Parish, La.; Julia Perrier, Councilwoman, St. Charles Parish, La.

## Proposed Resolution Urging FEMA to Address Policies re: De-obligation of Approved Disaster-Relief Funds

**Issue:** Since 2010, the Federal Emergency Management Agency (FEMA) has aggressively sought to recover and deobligate (clawback) previously-approved recovery funds distributed to local governments by FEMA through the Robert T. Stafford Disaster Relief Act. The process has created growing uncertainty in counties' abilities to accept disaster-relief funds.

**Proposed Policy:** NACo urges the federal government to clarify the process whereby FEMA can declare that funds distributed to local governments and approved by FEMA for disaster relief efforts are deobligated; so as to ensure that:

1. The deobligation process includes a reasonable timeframe for counties to respond to information requests, and
2. FEMA makes timely decisions on appeals filed by counties that face the potential rescission of previously appropriated federal funds.

**Background:** The issue of deobligation of approved funds for disaster relief comes as a great concern for counties across the nation. Deobligation is when FEMA requires grant recipients to return funds intended to provide relief after disaster. The deobligation process is often initiated following a rules change at FEMA that disallows the agency to provide funding, or following an internal review performed by an auditor that finds that grant funding was improperly awarded.

**Fiscal/Urban/Rural Impact:** Would help a counties ability to respond to information request, as well as properly prepare to reduce the chances of funding being deobligated.

**Sponsor(s):** Commissioner Sally Heyman, Miami-Dade County, Florida; Supervisor Linda Langston, Linn County, Iowa

## Proposed Resolution Supporting the Emergency Management Performance Grant Program

**Issue:** The Emergency Management Performance Grant (EMPG) is the sole all-hazards grant currently extant, and the most demonstrably successful DHS grant program. However, in light of state funding shortfalls state Emergency Management agencies have reduced the amounts of EMPG funding passed through to local government.

**Proposed Policy**: NACo requests that Congress guarantee that the Emergency Management Performance Grant (EMPG) remain a separate program, separately funded from all other grants that specifically address terrorism or other specific issues (remaining, then, a truly all-hazards program), at or above current funding levels, and require that a minimum of 70 percent of EMPG funds be passed through to local government with a 50-50 match requirement.

**Background:** In 2014, NACo adopted this policy. For several years Congress has allocated approximately $350,000,000 to the EMPG program. The program provides a 50-50 match, requiring that county Emergency Management Agencies meet a number of minimum standards in order to maintain eligibility. This ensures a level of professionalism and preparedness that benefits the entire nation.

A large body of research conducted by the National Emergency Management Association, the International Association of Emergency Managers, and others has documented the effectiveness of the EMPG program. However, as state budgets have decreased, some states have already drastically reduced the amount of funding passed to the local Emergency Management agencies, holding on to the funds to support state activities and programs while still requiring local compliance with the full set of state-established standards.

NACo urges Congress to halt this practice and ensure that funds flow to local government as originally intended by the program.

**Fiscal/Urban/Rural Impact:** N/A

**Sponsor(s):** Judson Freed, Director of Emergency Management and Homeland Security, Ramsey County, Minnesota

**PUBLIC LANDS STEERING COMMITTEE**

**PROPOSED PLATFORM CHANGES**

**Proposed Platform Change on Federal Land Management**

Under FEDERAL LAND MANAGEMENT, add:

C. Special Use Designations:

[Add one sentence at end of Section C:]

Congress and federal agencies shall consult and confer with affected counties as early as possible when considering special land use designations that impact the use and status of public lands. Counties should be fully involved in the drafting and development of any bills pertaining to wilderness designation within any affected county's jurisdiction. Public hearings must be held in the counties affected by the proposed designation. There must be compliance with the requirements of the National Environmental Policy Act (NEPA). *NACo supports special land designations of federal lands that are proposed by local residents and businesses, is consistent with existing land use policies, and is strongly supported by the affected counties and stakeholders within which the designation is proposed.*

**Sponsor:** Lynn Padgett, Ouray County

Under FEDERAL LAND PAYMENTS, add:

B. Resource Revenue Sharing Payments:

[Add fourth paragraph:]

The U.S. Forest Service and Bureau of Land Management have permanent authority to enter into stewardship contracts for management of federal forests and rangelands. The authority does not include, however, traditional sharing with counties of revenues generated from these projects. NACo supports stewardship end-results contracting projects as a tool to manage federal forests and rangelands, but only if it retains the historical receipts sharing with counties. In this context, the sharing should be based on the gross appraised value of the commodity or product harvested or produced under the contract or agreement.

**Background:** As payments under the Secure Rural Schools and Community Self-Determination Act fade away, counties will return to the traditional shared payment Acts: the 25% Fund and O&C Management Act. These shared payment agreements have much less meaning as timber sales have plummeted and as use of stewardship contracting grows.

**Fiscal/Urban/Rural Impact:** As resources for county services shrink and the number of rural communities at risk grows, there is a direct and harmful impact on statewide state/county shared services and statewide economic and social conditions. Some share for counties under stewardship contracting mitigates this decline.

**Sponsor(s):** Oregon Association of Counties

## Proposed Platform Change on Land Use Planning and the Endangered Species Act

Under FEDERAL LAND USE PLANNING, add:

B. Endangered Species Act:

<u>[Add third paragraph:]</u>

<u>NACo supports reforms that would require the US Fish & Wildlife Service and the National Marine Fisheries Service to perform cumulative and quantitative economic analysis, before the designation of Critical Habitat, that would measure the effects of such a designation on all affected stakeholders – not just on federal agencies – and would include the effects on possible uses of land, property values, employment, and revenues available for state and local governments.</u>

**Background:** Critical habitat declarations make community development more cautious and slowed, a clear economic impact. This is why the ESA requires prior to a critical habitat declaration, an economic analysis of habitat declaration costs vs. listing benefits. But USFWS analysis methodology improperly ignores economic impacts to local governments, landowners and business owners, focusing instead only on incremental costs of intra-federal agency consulting. This overly-narrow focus ignores reality and ignores the Regulatory Flexibility Act, which requires the Service to carefully consider the economic impacts rules will have on small entities. Many private sector and public sector entities (states, counties, cities, irrigation districts, etc.) spend millions annually representing and their interests in the consultation.

Other impacts result when critical habitat designations open doors to litigation from environmental non-governmental organizations potentially leading to “jeopardy decisions” under section nine of the ESA.

Reforms to require both “cumulative” and “quantitative” analysis reflecting the realities that while a listing is a biological determination, a designation of Critical Habitat is an economic decision and both must be considered.

**Fiscal Urban/Rural Impact:** Such reforms and the resulting fully researched designation of Critical Habitat will provide a more sharply defined and accepted designation. It will lessen economic impacts that harm both rural and urban communities, as well as result in significant savings to both.

**Sponsor(s):** Oregon Association of Counties; Gordon Topham, Commissioner, Sevier County, Utah; Utah Association of Counties

## Proposed Platform Change on Mineral, Oil and Gas Development

Under section H. MINERAL, OIL, AND GAS DEVELOPMENT, add:

**H. Mineral, Oil, and Gas Development:**

NACo supports comprehensive mineral, gas, and oil development laws <u>and policies, including an expedited oil shale and oil sands leasing program,</u> that address the needs of the extraction industries, the affected counties, and the environment. NACo recognizes that U.S. independence from foreign oil also requires expanded alternative and renewable resources. Federal agencies shall issue permits for mineral, oil, gas, and alternative/renewable energy development on federal land in a timely fashion. NACo supports the development and implementation of a comprehensive national energy policy, which includes conservation, efficiency, exploration, and research and provides for the domestic production of traditional and alternative/renewable energy sources. Every effort shall be made by land management agencies to reduce road blocks that require years to get an application to drill, mine or extract minerals from federal land.

**Background**: The Public Lands Steering Committee platform already supports comprehensive mineral, gas and oil development. Awareness should be raised that oil shale and oil sands are an integral part of such development. The proven and recoverable oil equivalent of shale deposits in the tri-state region of Utah, Colorado and Wyoming far exceed all recoverable oil deposits in Saudi Arabia. Recovery and production of marketable crude oil from shale have been demonstrated.

NACo's mineral, oil and gas policy should be comprehensive and focused enough to include the vast recoverable oil potential from shale and sands.

**Fiscal/Urban/Rural Impact**: Development of oil shale and oil sands deposits on the United States public lands would provide significant new federal mineral lease funds to counties and community based organizations.

**Sponsor(s):** Michael J. McKee, Commissioner, Uintah County, Utah

## PROPOSED RESOLUTIONS

### Proposed Resolution to Rescind the BLM's "Master Leasing Plan" Oil and Gas Leasing Reform

**Issue:** Rescind the Bureau of Land Management's **(**BLM) Master Leasing Plan Instruction Memorandum and Related Guidance.

**Proposed Policy:** NACo strongly urges the Department of Interior (DOI) Secretary and the BLM Director to immediately rescind BLM Instruction Memorandum No. 2010-117 and all related guidance, because they attempt to implement so-called "Master Leasing Plan" reforms that unlawfully override duly established BLM Resource Management Plans (RMPs) without local government input.

**Background:** Many local BLM Field Office RMPs were revised and updated during the past decade through the investment of much time, money and effort on the part of local governments and other cooperating agencies. RMPs are the only legally valid framework for determining the availability, conditions and stipulations for oil and gas leasing and drilling activities in the respective BLM field office planning areas.

DOI and BLM are trying to do an end-run around these RMPs and greatly restrict the extent of oil and gas leasing and drilling activities which these RMPs have approved, through the top-down ordering of so-called Master Leasing Plans, secretly negotiated with extreme environmental groups, and forced upon BLM field offices through BLM Instruction Memorandum 2010-117 dated May 17, 2010 (IM No. 2010-117). State and local governments were left completely out of any process to develop these Master Leasing Plans.

These Master Leasing Plans are really master lease cancellation and restriction plans. These Master Leasing Plans violate the Federal Land Policy and Management Act (FLPMA) and the National Environmental Policy Act (NEPA) by circumventing the Resource Plan and Plan Amendment Process, and in many instances they promote and enforce a de-facto wilderness policy in violation of FLPMA and the RMPs. They are top-down dictates issued with no local government input, done at the behest of extreme environmental groups who threaten crippling legal action unless BLM complies with their wishes. And they (the Master Leasing Plans) largely prop up the archaic "wilderness-at-all-costs-and-in-all-corners" vision of these extreme environmentalists who try to interfere with reasonable oil and gas development on the public lands.

The active management of America's public lands to accommodate beneficial multiple uses such as responsible oil and gas exploration and development is essential to the public health, safety and economic vitality of communities across the United States. Cutting off mineral development access on public lands by overriding duly established RMPs prohibits activities vital to the nation, including mineral exploration and harvesting.

**Fiscal/Urban/Rural Impact:** Revenues generated from oil and gas leasing support critical state and local government services and loss of such revenues would further cripple the economies of local communities and place unnecessary new burdens on state and local government and school budgets.

**Sponsor(s):** Michael J. McKee, Commissioner, Uintah County, Utah

## Proposed Resolution Supporting Uranium Activities

**Issue:** On January 9, 2012, the Secretary of the Interior, using faulty information, withdrew one million acres of the nation's highest grade uranium ores from mineral entry in Northern Arizona.

**Proposed Policy:** NACo believes that the January 12, 2012 withdrawal for Northern Arizona should be overturned, or revoked, and the lands returned to multiple use status, and under the terms of the 1984 Arizona Wilderness Act, release of lands not suitable for wilderness (except in Coconino County), as long as operators continue to abide by existing state and federal environmental laws, regulations, and standards, including reclamation.

**Background:** Under the authority of the 1984 Arizona Wilderness Act, uranium exploration and mining activities have occurred on BLM land in northwest Arizona known as the Arizona Strip and on similar U.S. Forest Service lands south of the Grand Canyon. A comprehensive review as part of the Department of Interior's recent draft Environmental Impact Statement has assessed impacts to the Grand Canyon Watershed and determined that no significant impacts from mining exist and that any surface impacts which do exist can be mitigated. Excerpts from internal e-mails of National Park Service personnel commenting on the draft environmental Impact Statement on water contamination in the Grand Canyon National Park:

*"My personal and professional opinion is that the potential impacts stated in the DEIS as (sic) grossly overestimated and even then they are minor to negligible."*

*"The DEIS goes to great lengths in an attempt to establish impacts to water resources from uranium mining. It fails to do so, but instead creates enough confusion and obfuscation of hydro geologic principles to create the illusion that there could be adverse impacts if uranium mining occurred."*

*"There exists no information we could find that would contradict his conclusion, nor any hypotheses suggested as to how contamination of park waters might physically occur."*

*"This is obviously a touch case where the hard science doesn't strongly support a policy position. Probably the best way to "finesse" this would be fall back on the "precautionary principle" and take the position that in absence of even more complete certainty that there is no connection between uranium mines and regional ground water, we need to be cautions (sic)??"*

The uranium withdrawn from production represents forty percent of our nation's domestic uranium resources and the deposits contain the highest-grade existing in the United States. According to a report conducted by the American Clean Energy Resources Trust, a ban on mining in this region could impact as many as 1,000 jobs and more than $29 billion in economic revenue.

On January 9, 2012, the Department of Interior announced that it would impose a twenty-year ban on uranium development on approximately one million acres of federal land in northern Arizona. The decision disregarded a negotiated compromise between the mining industry and environmental groups, which affirmed the compatibility of mining with conservation interest in areas not locked away by the Wilderness Act. The historic agreement was partially codified in the Arizona Wilderness Act of 1984. It was done as a "precaution to protect the water."

**Fiscal/Ubran/Rural Impact:** Southern Utah counties and Mohave County, AZ are aware of economic studies which estimate conservatively that some $29 billion in economic benefits due to mining will occur. The counties will benefit from sustained economic activity related to the ongoing uranium mining operations.

**Sponsor(s):** Commission Alan D. Gardner, Washington County, Utah; Supervisor Buster Johnson, Mohave County, AZ; Commissioner Leland Pollock, Garfield County, Utah; Commissioner, Dirk Clayson, Kane County, Utah; Commissioner Phil Lyman, San Juan County, Utah.

## Proposed Resolution Calling for Membership on Landscape Conservation Cooperatives Steering Committees to Include County Elected Officials

**Issue:** County membership on Landscape Conservation Cooperatives (LCC)

**Proposed Policy:** NACo supports the expansion of LCC Steering Committees to include at least one elected county official or approved regional official representing local governmental interests on each Steering Committee, and preferably one from each state in those eco-regions which are multi-state.

**Background:** LCCs are being organized nationally by the Department of the Interior to coordinate natural resources and climate science and research, and to apply science to land and wildlife management, with particular emphasis on public lands. Steering Committees, and invitations to Steering Committees, have included the spectrum of state and agencies, Indian Tribes, and non-governmental organizations (NGOs). To date local governments have not been invited to attend or participate in organization or implementation of the program in the eco-regions.

LCCs began being organized in 2009 under the leadership of the US Fish and Wildlife Service (USFWS). Subsequent leadership has been expanded to the Bureau of Reclamation in some regions. Nationally there are 21 eco-regions, 11 of which are important to public land areas in the west and Alaska. The stated intent is that these organizations are to coordinate climate change and other science among federal and state agencies and the universities, and to seek the application of science and research to natural resources decision-making. Some organization of the Steering Committees has been contracted to NGOs. The organization of several of the major LCCs to date has included long lists of invited agencies which have included all federal and state agencies involved in land, water and wildlife management, and assorted conservation-oriented NGOs, but has excluded local government. It is critical as science and natural resources research needs and results are prioritized and assessed, and as such research is considered to be applied to public lands and resources, that the views of local government be included and considered. Such input must be as a full partner as a governmental unit, and not as a mere "interest group," or "stakeholder."

Local government views must be considered by the larger group of assembled state and federal agencies related to science and research priorities and application. The concern of local governments is that research could be applied to public lands that will be adverse to local social or economic interests, which could result in local costs, particularly to rural interests and businesses which have an interface or involvement with public land usage. Federal officials have tried to assure public interests that LCCs will not be decision-making in scope. Such assurances, however, do not assure that agencies will not apply research results to public land management decisions. Local governments must be part of any forum that assesses the future of public land management practices.

**Fiscal/Urban/Rural Impacts:** The direct cost of local government participation is limited to the cost of attending perhaps three to four meetings per year for selected representatives. Exclusion will result in counties still having to attend and participate in meetings to the extent they are held in public, simply to assure that local views are recorded.

**Sponsor(s):** Alan Gardner, Commissioner, Washington County, Utah

## Proposed Resolution on Reauthorizing the Federal Land Transaction Facilitation Act

**Issue:** Reauthorizing the Federal Land Transaction Facilitation Act

**Proposed Policy:** Support reauthorization of the Federal Land Transaction Facilitation Act, a balanced approach to western lands that facilitates the sale Bureau of Land Management (BLM) lands identified for disposal, which generates revenue for high-priority conservation.

**Background:** Originally enacted in 2000 (P.L. 106-248)(led by Senators Domenici (R-NM) and Bingaman (D-NM)), FLTFA is a western lands program that facilitates strategic BLM land sales in order to provide funding for high-priority land conservation within or adjacent to federal lands in the eleven contiguous western states and Alaska. FLTFA expired in 2011. Without FLTFA, BLM has little capacity or incentive to sell land even when it has be identified as ripe for disposal; the public-private "checkerboard" of lands in the West remains frozen; and counties, communities, ranchers, businesses, landowners and others are unable to buy BLM lands identified for disposal through an efficient mechanism. FLTFA provides funding for BLM, USFS, NPS, and USFWS land conservation projects that increase public access for hunting, fishing and outdoor recreation; conserve wildlife habitat; protect water quality; and preserve historic and cultural resources. While most of the FLTFA revenue is utilized for these critical conservation projects, four percent returns to the state where the BLM lands were sold, and up to twenty percent is used to administer the program and support the realty work. A diverse set of over 150 groups support FLTFA as a useful tool for rationalizing public lands in the West, including Western Governors' Association, Public Lands Council, and many western counties, outdoor industry groups, conservation groups, and sportsmen's organizations.

**Rural and Public Lands Impact:** FLTFA is an important tool to help resolve the "checkerboard" of public-private lands in the West, as it helps consolidate various interests in local, private, and public lands. FLTFA resulted in a net decrease of federal land during its existence from 2000-2011. For every three federal acres sold, approximately two federal acres of high-value, high-priority lands were acquired, i.e. approximately 27,200 acres sold and 18,100 acquired. The acres sold were often purchased by ranchers, businesses or counties to expand their operations or meet local public needs. The acres acquired were important parcels that protected critical resources and increased public access for outdoor recreation, supporting the outdoor recreation economy that generates $646 billion in consumer spending and 6.1 million direct jobs a year. FLTFA is important for counties that would like to purchase nearby BLM lands identified for disposal. FLTFA is also an important funding source for counties and states that desire to divest of lands, for example state school trust lands that are surrounded by federal areas. FLTFA is fiscally responsible and self-supporting: BLM land sales revenue funds the program. FLTFA reauthorization decreases the federal deficit and there are no federal appropriations associated with the program.

**Sponsor:** Wyoming County Commissioners Association

## Proposed Resolution Supporting State Legislative Nullification of Federal Administrative Rules Issued Contrary to State and Local Opposition Which Threaten Health, Safety and Welfare or Damage Economic and Societal Interests of States and Localities

**Issue:** The need for State nullification of Federal agency rules issued over the opposition of State and local governments which threaten health, safety and welfare and damage to economic and societal interests of States and localities.

**Proposed Policy:** NACo supports State Legislative efforts enabling State and County nullification procedures to obtain relief from Federal agency administrative rules issued over the objection of State and local governments which threaten the health, safety, welfare of citizens or damage economic and societal interests of states and localities.

**Background:** Controversial rules such as listings under the Endangered Species Act, new Clean Air Act restrictions and asserting control of resources such as the proposed Waters of the US far exceed limited Federal constitutional powers. Issued over the objection of States and local governments, such rules exceed delicate balance of Federalism among the Unites States Government and States and threaten health, safety, welfare, economic and societal interests. Local governments as political subdivisions of States are authorized and responsible to protect such. Nullification procedures available in many cases may be the only available recourse. Such nullification procedures should be exercised judiciously when necessary pursuant to State legislation when necessary to protect against such encroachments.

**Fiscal Impacts:** Fiscal impacts to States and Counties will be significant if improper Federal administrative rules are not checked through the procedure of State legislative nullification.

**Sponsor(s):** Doug Heaton, Commissioner, Kane County, Utah; Darin Bushman, Commissioner, Piute County, Utah; Leland Pollock, Commissioner, Garfield County, Utah

## Proposed Resolution Opposing BLM's Promulgation of Duplicative Hydraulic Fracturing Regulations

**Issue:** The Bureau of Land Management's (BLM) intent to adopt duplicative hydraulic fracturing rules

**Proposed Policy:** NACo is opposed to a BLM hydraulic fracturing rule that does not clearly and fully defer regulation of hydraulic fracturing to states that already have in place comprehensive regulations.

**Background:** On May 11, 2012, the BLM published an initial proposed hydraulic fracturing rule. On March 26, 2015, the BLM issued its final rule (40 CFR Part 3160).

The BLM's rule would apply to all wells administered by the BLM, including those of federal (including federal mineral only – i.e. split estate), tribal, and individual Indian trust lands.

The rule acknowledges that some states (the rule lists Colo., Wyo., Ark., and Texas) have issued their own regulations. However, the rule also states that operators with leases on federal lands would have to comply with both the BLM rules and regulations and the states rules and regulations for hydraulic fracturing. This double layer of regulation is duplicative and unnecessary.

The BLM's rule does provide a provision which would allow the BLM to approve a variance that would apply to state, tribal, or described as field-wide or basin-wide, that is commensurate with the state or tribal regulatory scheme. The BLM would have to determine if the variance meet or exceeded the effectiveness of the revised proposed rule. It appears that the variance would apply only to operational activities and not the actual approval process; it also appears the variance process would not apply to disclosure or hydraulic fracturing chemical components or trade secret requests.

The BLM rule is extremely vague as to how the BLM will work with states to avoid duplication. As currently written the proposed rule provides only the following direction on the potential for state/tribal variances: 43 CFR 3162.3-3(K) … In cooperation with a State (for Federal lands) or a tribe (for Indian lands), the BLM may issue a variance that would apply to all wells within a State or within Indian lands, or to specific fields or basins within the State or the Indian lands, if the BLM finds that the variance meets the criteria in paragraph (k)(2) of this section." Additional language states that the authorized office may only grant a variance if the BLM determines that the proposed alternative meets or exceeds the objectives of the regulation for which the variance is being requested. Further, the decision whether to grant to deny a variance is entirely within the BLM's discretion and the BLM may rescind a variance or modify any condition of approval due. The language in the BLM rule does not defer to comprehensive regulations already in place in a number of states, nor does it provide sufficient guidance as to how the BLM may defer in the future. Therefore, the BLM's hydraulic fracturing rule is unnecessarily duplicative of existing comprehensive state regulation of hydraulic fracturing.

**Fiscal/Urban/Rural Impact:** The promulgation of duplicative hydraulic fracturing rules may cause delays in permit approval or perhaps discourage the development of some wells altogether. Most of the land and minerals under the BLM's control are located in the west. Many counties in the west rely upon the revenue generated from the production of oil and gas development. Reductions in the revenue generated from oil and gas development may have a direct impact on the services that counties are able to provide. BLM budgets and expertise are already stretched thin and additional regulatory requirements may impact existing programs.

**Sponsor(s):** Michael J. McKee, Commissioner, Uintah County Utah, Wyoming County Commissioners Association

## Resolution Urging Congress to Expedite a Commercial Oil Shale Leasing Program

**Issue:** Oil shale leasing program in the Green River Formation

**Proposed Policy:** NACo urges Congress to address in a timely manner, the regulatory review process in order to facilitate a functioning, environmentally responsible commercial oil shale leasing program in the Green River Formation.

**Background:** Declining domestic oil production and increasing world demand leave our nation vulnerable to rising energy costs. With gas prices hovering near $4 per gallon and rising, businesses and households across America are struggling to get by. Our standard of living and national security are jeopardized as oil producing capacity shifts to other countries. Alternative energy development is laudable but will make only small dents in national fuel demand. Public outcry over burgeoning energy costs is quickly reaching a crescendo. It is time to develop our nation's vast oil shale resources.

The United States has more than seventy percent of the world's oil shale. According to U.S. Geological Survey (USGS) estimates, there are 4.28 trillion barrels of in-place oil shale reserves in the Green River Formation located in Colorado, Utah and Wyoming. In place reserves deposits are estimated at 1.5 to 1.8 trillion barrels of shale oil, 800 billion barrels of which are easily recoverable. That will supply 100 percent of America's current domestic petroleum needs for more than 100 years. The intermountain west is truly the "Saudi Arabia" of oil shale. Industry has new technologies that will make oil shale extraction feasible, clean and efficient, with minimal and reclaimable disturbance.

The Oil Shale and Tar Sands Development Act of 2005 called on the Department of Interior to complete an environmental study and issue regulations for oil shale leasing 28 developments on public lands. But last year Congress passed a law prohibiting the Bureau of Land Management (BLM) from completing those regulations. Also, BLM turned what should have been an oil shale leasing environmental study, into a mere resource allocation study, which makes more studies necessary before actual leasing may begin.

America cannot afford years of delay to wade through these additional layers of bureaucratic review. Congress must streamline the overall process to quickly achieve a viable, functioning commercial oil shale leasing program. This is what Congress intended in 2005. Congress must allow completion of final oil shale regulations and streamline the regulatory process to pave the way for a commercial leasing program to begin. A multi-year delay in this process is untenable in the face of ever-rising gas prices rise and dwindling fuel supplies.

**Fiscal/Urban/Rural Impact:** Oil shale development will go forward when the final oil shale regulations are in place, providing much needed economic opportunities for the revitalization of rural counties in the intermountain west. Utah and Wyoming have workers who will benefit from the jobs created by oil shale development.

**Sponsor(s):** Michael J. McKee, Commissioner, Uintah County, Utah

## Proposed Resolution to End the Sequestration of Shared Mineral Lease Act Revenue to the States and Return All Sequestered Revenue to the States

**Issue:** The sequestration of Mineral Lease Act revenue to the States.

**Proposed Policy:** The National Association of Counties (NACo) supports ending the sequestration of Mineral Lease Act (MLA) revenue to the States and giving back all such sequestered revenue to the States, consistent with the fact that MLA revenue shared with States does not constitute federal budgetary expenditures and should not be subject to mandatory sequestration under the Balanced Budget Emergency Deficit Control Act (BBEDCA) of 1985 as amended.

**Background:** Revenue coming off of MLA and other public land leases is just that, revenue. The sharing of that revenue with the States is not a budgetary expense item, but rather an adjustment to revenue. Yet the United States Department of Interior (DOI) improperly treated that sharing as a “budget expense” and improperly sequestered over $109 million in revenue rightfully belonging to the States under the MLA and other statutes in federal FY 2013. FY 2013 sequestered revenue was eventually released to the States at the beginning of federal FY 2014, but DOI continues to sequester FY 2014 mineral lease revenue to the States with no guarantee it will ever be released. Whether it will be released or not, that revenue should have never been sequestered in the first place.

**Fiscal/Urban/Rural Impact:** MLA shared revenue to the States is a critical component of funding for county budgets and other local programs. There have been and will continue to be significant and unwarranted fiscal impacts to county budgets in States that receive shared MLA revenue, until DOI ends the sequestration of shared MLA revenues

**Sponsor(s):** Commissioner Mike McKee, Uintah County, Utah, Commissioner John Jones, Carbon County, Utah

## Resolution on Acquisition of Private Land for Wildlife Mitigation Associated with Renewable Energy Development with Subsequent Transfer to Federal Agencies

**Issue:** Acquisition of private land for wildlife mitigation associated with renewable energy development

**Proposed Policy:** NACo requests the land and wildlife management agencies adopt procedures that provide for project mitigation other than through land transfer from private to public ownership, unless supported by the affected counties. When such transfers are deemed the only appropriate mitigation, and offsetting the Payment in Lieu of Taxes program (PILT) will not occur, then agencies must provide that project developer would continue to pay the property tax on the transferred land, or fees in lieu of taxes, in perpetuity, unless the land is restored to private ownership at a future date.

**Background:** Wildlife agencies (state and federal) have required the purchase of private land and its transfer to government agencies or non-governmental organizations (NGOs) as mitigation for projects that will occupy habitat or impact species with status under federal or state law or regulation. Such acquisitions remove private land from tax rolls. When the land becomes federal or state, many counties not only lose the property tax revenue, they fall outside the limits of PILT accounting. Large renewable energy development projects have exacerbated the situation.

The land and wildlife management agencies have sought land mitigation for impacted habitat for a variety of species, mostly those with listed status under the Endangered Species Act. Such mitigation often is required at a multiplied factor, e.g. 3:1, in which the project developer must "donate" a multiple of private land to the permitting agency or designated entity as mitigation. Such land is removed from the tax rolls. Further, land is place in "conservation" status under which it has limited use and no revenue generation.

Many projects are located in counties in which PILT payments are capped because of already large estates, thus transfers may add to the federal estate and counties do not receive additional PILT payment reflecting the expansion. Further, since the acquiring agencies are usually the Bureau of Land Management or the U.S. Forest Service, counties cannot receive PILT under Sections 6904 or 6905.

Most projects utilize significant parts of local government infrastructure, including county roads for project development, operation and maintenance. In addition development may use other county services, including solid waste disposal, law enforcement, public health, and fire and emergency medical response during the life of the project.

Offsetting the loss of the tax base must be an essential part of renewable project mitigation, even when mitigation land is transferred to a state agency or NGO. Project developers should deposit funds to provide other kinds of mitigation investment equivalent to the amount that might otherwise be invested in land acquisition.

Policy options could include expanding the current PILT requirement that only additions to the federal estate by the National Park Service or in National Forest wilderness can receive payment under Section 6904 by adding all federal agencies to law and removing the five-year limit on such payments.

**Fiscal/Urban/Rural Impact:** While development may provide some positives to local economies, local governments should not be left with losses and costs associated with the project. The policy will assure a steady revenue stream regardless of mitigation requirements as well as funding for the county infrastructure and services.

**Sponsor(s):** Alan Gardner, Commissioner, Washington County, Utah

## Proposed Resolution Opposing BLM's 2012 Decision to Reduce Lands Available for Oil Shale and Tar Sands Leasing

**Issue:** The Bureau of Land Management's (BLM) 2012 Programmatic Environmental Impact Statement (PEIS), which greatly reduced the areas approved by BLM in 2008 for oil shale and tar sands leasing programs in Utah, Wyoming and Colorado.

**Proposed Policy:** NACo urges BLM to reverse the 2012 PEIS and approve for oil shale and tar sands leasing all qualifying lands in the Green River Formation.

**Background:** Declining domestic oil production and increasing world demand have left our nation so vulnerable to rising energy costs and shortages, that Congress in The Energy Policy Act of 2005 directed the BLM to consult with western governors and stakeholders to develop a commercially viable oil shale and tar sands program in the tri-state region of northeast Utah, southwest Wyoming and northwest Colorado, the virtual "Saudi Arabia" of oil shale and tar sands where the oil equivalent of recoverable deposits exceeds four trillion barrels per the latest USGS scientific estimate. A BLM Oil Shale and Tar Sands Programmatic Environmental Impact Statement (PEIS) and Record of Decision followed in 2008, amending ten land use plans to open up approximately two million acres of public lands in this tri-state region for potential leasing and development of oil resource.

However, in 2012 the BLM adopted a PEIS which drastically shrinks, diminishes and in many areas outright reverses virtually all of the lands approved for development in 2008, with no new supporting data and science. The April 14, 2011 Federal Register notice announcing this effort declared it was done under the authority of Secretary of Interior Wildlands Order 3310 and its implementing instructional handbooks. A week later, on April 21, 2011, Congress imposed a spending moratorium on all Department of Interior/BLM activities to enforce and implement Order 3310 and its regulations. Yet the BLM continues to ignore this moratorium by pushing forward on this subsequent PEIS, manifesting bald contempt of Congressional exclusive spending authority and portending a Constitutional crisis.

America cannot afford this unlawful effort to close down the majority of the two million acres of oil shale and tar sands rich lands that were legitimately approved for leasing in 2008. The BLM must comply with the 2005 Energy Policy Act and respect Congressional exclusive spending authority by sticking with BLM's original 2008 approval of acreages for oil shale and tar sands leasing.

**Fiscal/Urban/Rural Impact:** Oil shale and tar sands development at a commercially feasible scale is possible only when already approved leasing and development areas are preserved, providing much needed economic opportunities for the revitalization of western rural counties. Counties in Utah, Wyoming and Colorado have numerous workers who will benefit from the jobs created by oil shale development.

**Sponsor(s):** Michael J. McKee, Commissioner, Uintah County, Utah

## Proposed Resolution Urging BLM & Forest Service to Engage in Exclusive Government-to-Government Coordination with State, Local and Tribal Governments During Land Use Plan Amendment Processes and Other NEPA Covered Activities

**Issue:** BLM and Forest Service's responsibility to engage in exclusive government-to-government coordination with State, Local and Tribal governments before, during and throughout any Federal land use plan amendment process and other NEPA covered activities.

**Proposed Policy:** The National Association of Counties urge BLM and Forest Service to comply with applicable statutes and regulations to coordinate fully and exclusively with states, counties and tribal governments before, during and throughout Federal land use plan amendments and other NEPA covered activities, to assure consistency with state and local plans and policies.

**Background:** Federal land management agencies too often collaborate with private non-governmental entities (NGOs) to the exclusion of state, local and tribal governments when it comes to land use proposals, land use plan amendments, and other NEPA covered projects and activities. This is upside down. State, local and tribal governments, not private NGOs, have exclusive government-to-government coordination rights with BLM and Forest Service to the exclusions of NGOs until the NEPA process has reached the stage for public involvement. So-called "collaboration" where state, local and tribal governments are lumped in with other private stakeholders, does not satisfy federal coordination requirements. Only exclusive government-to-government coordination activities do. The new forest planning regulation severely waters down the requirement that the Forest Service coordinates fully and exclusively with states, counties and tribal governments, they have moved toward a collaboration only process.

**Fiscal/Urban/Rural Impact:** Local economies are impacted negatively when federal land management plans and policies are changed without government to government coordination to assure consistency with state and local policies.

**Sponsor(s):** Alan D. Gardner, Commissioner, Washington County, Utah; Leland Pollock, Commissioner, Garfield County, Utah; John Martin, Commissioner, Garfield County, Colorado; Doug Breidenthal, Commissioner, Jackson County, Oregon

**Proposed Resolution Supporting a Congressional Audit of Revenues and Expenses Associated with Federally Managed Lands and Mineral Estates**

**Issue:** The need for an audit to determine annual revenues and costs associated with the federally managed public lands and mineral estates.

**Proposed Policy:** The National Association of Counties (NACo) supports a multi-year Congressional audit of revenues and expenditures received, incurred and budgeted for Federal FY 2005 through Federal FY 2016 associated with federally managed lands and mineral estates, including broken down by state, by federal land management agency and by program and resource use within each agency including revenue sources for Payment in Lieu of Taxes and Secure Rural Schools programs as well as Land and Water Conservation programs.

**Background:** The debate over the funding source for the Payment in Lieu of Taxes and Secure Rural Schools programs would be better informed were Congress to commission a full audit of the revenues and expenses associated with the Federal government's management of the public lands, broken down by State, by land management agency and by program and resource use within each agency including revenue sources for Payment in Lieu of Taxes and Secure Rural Schools programs as well as Land and Water Conservation programs.

**Fiscal/Urban/Rural Impact:** Greater economic benefits will accrue to states and counties if public lands federal payments programs associated with public lands are managed more transparently, efficiently and productively.

**Sponsor(s):** Ron Walter, Commission Chair, Chelan County, Washington

**Proposed Resolution Urging Congress to Support the Return of 20% of Federal Mineral Lease Revenue to the County in which it was Generated**

**Issue:** Counties in which Federal Mineral Lease (FML) revenue is generated do not receive adequate disbursements to manage the impacts of energy development.

**Proposed Policy**: NACo urges Congress to enact legislation that would return 20% of all FML revenue generated within a county to that county of origin.

**Background**: The federal government collects Federal Mineral Lease revenue in the form of royalties from oil and gas production on federal lands for the benefit of the American people. Federal Mineral Lease revenues collected by the federal government are disbursed to a variety of funds including American Indian Tribes and Allottees, Historic Preservation Fund, Land and Water Conservation Fund, Reclamation Fund, State Share (offshore and onshore), and the US Treasury.

Counties with significant acreage of non-taxable federal public lands depend heavily on FML revenue to function effectively as local governments. The infrastructure and public services provided by these counties are also directly impacted by activities associated with energy development.  Despite the best intentions and assurances of state and federal agencies, counties are ultimately responsible for the protection of their citizens and management of impacts related to energy development.

In an analogous situation, Congress has demonstrated its intent to ensure that cooperative "on the ground" efforts form the core effort in managing public rangeland impacts through the Taylor Grazing Act, the Public Rangelands Improvement Act, and the Federal Lands Policy and Management Act by requiring the direct allocation of grazing fee revenue to impacted counties and conservation districts for that purpose. These funds have been used in many cooperative "on the ground" efforts to manage public rangeland impacts that have proven to be successful. The cooperative approach to managing public rangeland impacts would also be effective in the management of energy related impacts.

The original intent of the Federal Mineral Lease Act was to return forty nine percent of Federal Mineral Lease revenue back to the state of origin for planning, construction and maintenance of public facilities in areas socially and economically impacted by the mineral leasing development that occurs on federal lands. By the time Federal Mineral Lease funds have filtered through the federal and state disbursement systems, the reality is that counties and districts are left with a very small share, inhibiting their ability to engage in cooperative "on the ground" efforts to mitigate impacts.

**Fiscal/Urban/Rural Impact**: Returning more of Federal Mineral Lease revenues to counties of origin will allow them to better manage the impacts of energy development.

**Sponsor(s)**: Shawn Bolton, Commissioner, Rio Blanco County, Colorado

## Proposed Resolution Supporting the Reauthorization and Full Funding of the Land and Water Conservation Fund, and the Program's Authorization to Purchase Private Lands for the Purpose of Habitat Protection and Public Recreation

**Issue:** Continuation of the LWCF appropriations is needed by the Forest Service and Bureau of Land Management to acquire private inholdings and other lands that enhance the missions of our federal lands agencies.

**Proposed Policy:** NACO supports the reauthorization and full funding of the Land and Water Conservation Fund for purchase of lands, with the consent of Counties within which the property lies, to be administered by the USFS, BLM, National Park Service, or other eligible federal agency.

**Background:** Fifty years ago, the Land and Water Conservation Act of 1964 created our Nation's most successful land conservation program. The current funding authorization is set to expire in September. Congressional action is needed to reauthorize the LWCF within the FY 2016 Interior, Environment, and Related Agencies Appropriations Bill.

The Land and Water Conservation Fund (LWCF) has provided funding to help protect some of Colorado's most special places and ensure recreational access for hunting, fishing and other outdoor activities. Colorado has received approximately $231 million in LWCF funding over the past four decades, protecting places such as the Great Sand Dunes National Park, Uncompahgre, Arapahoe-Roosevelt, Gunnison and Rio Grande National Forests, and Canyon of the Ancients National Monument, and the Hunter Creek Valley near Aspen.

Forest Legacy Program (FLP) grants are also funded under LWCF, to help protect working forests-- supporting timber sector jobs and sustainable forest operations while enhancing wildlife habitat, water quality and recreation at places such as the Catspaw Ranch along the headwaters of the Navajo River in Southern Colorado and Ben Delatour Scout Ranch along the Front Range near Fort Collins. The Forest Legacy Program assists states and private forest owners to maintain working forest lands through matching grants for permanent conservation easement and fee acquisitions, and has leveraged approximately $15 million in federal funds to invest $10 million in Colorado’s forests, while protecting air and water quality, wildlife habitat, access for recreation and other public benefits provided by forests.

LWCF state assistance grants have further supported hundreds of projects across Colorado’s state and local parks including trails development in Lory and Cheyenne Mountain State Parks and park acquisitions at Golden Gate Canyon, Boyd Lake, and Roxborough State Parks.

**Fiscal/Urban/Rural Impact**: An increasing number of Counties in Colorado are taxing themselves for the purpose of open space acquisition. There are now over 13 counties, and over 35 municipalities, which have adopted some sort of Open Space funding. Historically, the LWCF has been available to assist local communities, in cooperation with federal agencies, in securing open space lands needed for the consolidation and enhancement of lands administered by the USFS, BLM, and National Park Service. Reauthorization of the LWCF will provided needed financial support for those Counties seeking to secure these lands.

The transfer of private lands to public ownership can somewhat diminish the local tax base. However, many of the eligible properties yield little in property taxes due to their remote locations and agricultural status, and we suggest LWCF should only be expended where there is county support for the project.

**Sponsor(s):** Rachel E. Richards, Commissioner, Pitkin County, Colorado

## Proposed Resolution in Support of Reauthorization and Full Funding of the Land and Water Conservation Fund

**Issue:** The LWCF is authorized at $900 million annually through September 30, 2015 and must be reauthorized. LWCF must also be fully appropriated upon reauthorization. Congress determines the level of appropriations each year, and yearly appropriations have fluctuated widely since the origin of the program. Of the total revenues that have accrued throughout the history of the program ($36.2 billion), less than half have been appropriated ($16.8 billion).

**Proposed Policy:** NACo supports the reauthorization and full appropriation of the Land and Water Conservation Fund prior to its expiration in September 2015 to fund existing programs which include state programs to local governments. Congress and federal agencies (the National Park Service, Bureau of Land Management, Fish and Wildlife Service, and Forest Service) shall consult and confer with affected counties as early as possible when considering federal land acquisitions. Any federal land acquisitions should be consistent with local plans and supported by local governments.

**Sponsor**: Lynn Padgett, Ouray County, Colo.

## Proposed Resolution on Amending Title III of Secure Rural Schools to Provide for Reimbursement of Patrol Expenditures

**Issue:** Support amending Title III of the Secure Rural Schools Act (SRSA) to provide for the reimbursement of sheriff patrol expenditures on federal lands.

**Proposed Policy**: NACo supports amending Title III of the Secure Rural Schools Act (SRSA) to include reimbursement to counties for sheriff patrol expenditures on eligible federal Forest Service and BLM lands. Patrol expenditure reimbursements were disallowed with the release of a 2012 GAO report to the Senate Energy and Natural Resources Committee. Before the GAO report, many counties used Title III funds to carry out routine law enforcement patrols on federal land. These patrols helped reduce and deter criminal activity and enhanced the safety of visitors to federal lands. County deputies are able to serve as first responders to any search and rescue or other emergency situation. Limiting the ability of counties to use Title III funds for patrol on federal lands has increased criminal activity and stretches the resources of sheriffs' offices to unsustainable levels.

**Background**: Counties containing federal lands have historically received a percentage of the revenues generated by the sale or use of natural resources on these lands. A steep decline in federal timber sales during the 1990s, however, significantly decreased revenues from national forests managed by the Department of Agriculture's Forest Service and from some public lands managed by the Department of the Interior's Bureau of Land Management (BLM). The Secure Rural Schools and Community Self-Determination Act of 2000, reauthorized in 2008, was enacted in part to address this decline by stabilizing payments to counties dependent on revenues from federal timber sales. The act covers all National Forest lands, as well as certain BLM lands in western Oregon.

Under the Act, Title III funds can be used for, among other things, "Search and rescue and other emergency services." The definition states that a county may use funds to reimburse the participating county for search and rescue and other emergency services, including firefighting, that are performed on federal land and paid for by the participating county.

Many counties use Title III funds to carry out routine law enforcement patrols on federal land. These patrols help reduce and deter criminal activity and enhance the safety of visitors to federal lands. County deputies are able to serve as first responders to any search and rescue or other emergency situation.

A July 2012 Government Accountability Office (GAO) report to the Senate Committee on Energy and Natural Resources disallowed law enforcement patrol expenses as eligible costs under Title III. The Secretary of Agriculture was asked to review the ruling and provide more flexibility to cash strapped rural counties. To date, there has been no resolution or revised reimbursement rate policy implemented by the Agency. Inclusion of language in the SRSA reauthorization or future extensions would provide clarity and allow sheriff patrol operations on federal lands as an eligible expenditures under Title III.

Without Title III funding, many counties will not be able to provide any law enforcement services on federal lands, especially given other large budget cuts already experienced. Title III funds are especially critical to search and rescue operations because of worsening county fiscal conditions.

Counties with significant federal lands continue to face unprecedented budget challenges. Public safety, fire, school and other basic functions of local government are not being met. Limiting the ability of counties to use Title III funds for patrol has increased criminal activity on federal lands and stretches the resources of police and sheriffs offices to unsustainable levels.

**Fiscal/Urban/Rural Impact**: Would allow counties to use already allocated federal funds to maintain law enforcement activity in federal forests.

**Sponsor(s)**: Commissioners Janet Carlson and Kevin Cameron, Marion County, Oregon

## Proposed Resolution Supporting the Reauthorization of the Federal Lands Recreational Enhancement Act (FLREA) with Updates

**Issue:** Expiration of current FLREA legislation and potential loss of significant funding needed by agencies such as the Forest Service to invest in, manage and maintain public recreational areas.

**Proposed Policy:** NACO supports the timely reauthorization of the Federal Lands Recreational Enhancement Act, to allow the Forest Service and other agencies to retain revenues from specific fee areas to pay for upgrades, management and maintenance of Forest Service recreational areas. NACO further request that the FLREA renewal include language to allow some of the revenues from ski area leases to be retained by the Forest Service (vs into the US general fund) to help pay for the greatly increased work; load of managing ski area leases generated by recently passed 'Summer Use' legislation.

**Background:** The FLREA program allows five federal agencies to collect and expend fees on the lands that they manage; the Department of Interiors' Bureau of Land Management, Bureau of Reclamation, the Fish and Wildlife Service, National Park System and the Department of Agriculture's National Forest Service lands. This has allowed for significant maintenance and improvements to sites visited and enjoyed by tens of millions of Americans every year. The third triannual report of the FLREA program can be found here http://www.fs.fed.us/passespermits/docs/accomps/wo-rpt-congress/2012-3rd-triennial-report-to-congress.pdf which details types of improvements made, from specialized hunting programs to improved boat ramps, educational programs, transportation and campground improvements to road, trails and visitor safety.

**Fiscal/Urban/Rural Impact**: Many years of flat and/or decreasing recreational budgets have not allowed agencies such as the Forest Service the resources it needs to maintain its recreational sites (campgrounds, picnic areas, trails). On the ground cost and demands for service continue to rise without availability of additional funding; and annual regional budgets for safety, maintenance and needed upgrades are further depleted when FS funds are redirected to urgent fire-fighting efforts.

The potential loss of the FLREA revenues when the current legislation expires will have a negative and direct impact on the number and quality of recreational sites that will be available to the public, and on the economies' of Counties and Gateway Communities that host millions of visitors annually.

**Sponsor(s):** Commissioner Rachel E. Richards, Pitkin County, Colorado

## Proposed Resolution Supporting Funding for Our National Parks

**Issue:** Federal funding for the National Park Service (NPS)

**Proposed Policy:** NACo calls on Congress to preserve funding for America's national parks. NACo supports maintaining funding for the National Park Service (NPS), recognizing that national parks provide recreation, economic and tourism opportunities for counties, and gateway communities. NACo also urges Congress to increase funding for the NPS to address the dire backlog of maintenance projects, now totaling $11 billion, which includes critically needed road access and bridge maintenance projects. Potential funding sources include utilizing some eligible, but unfunded off-shore gas and oil lease monies that are dedicated to Land and Water Conservation Fund (LWCF) for support of maintenance and operations for NPS.

**Background:** In today's dollars, the budget for the NPS is $465 million, or 15 percent less than ten years ago. The NPS budget has been cut by more than $140 million, or six percent, over the last two years, and even more when accounting for inflation. This reduction in funding means that the NPS is struggling to keep the parks safe, provide and protect access, serve the public, and protect our resources. The NPS operations budget faces a $500 to $600 million shortfall, a deferred maintenance backlog of more than $11 billion, including more than $3 billion for the most critical projects to protect resources, access, visitor safety and enjoyment.

Although the budget for the entire NPS constitutes only 1/13th of one percent of the federal budget, national parks face an alarming threat of deep funding cuts as a result of the current budget and deficit debate for additional cuts in FY 2013 and beyond. Cuts from sequestration would cut park's accounts across the board by as much as eight to ten percent, threatening deep impacts, not only to resource protection, but also to visitor safety and enjoyment. Other broad budget proposals could lead to discretionary cuts that would lead to closed parks.

The NPS is not only responsible for managing our national parks; they support private-sector jobs and provide law enforcement. They protect the outstanding resources that people come to enjoy and maintain infrastructure important to rural communities. Inadequate funding or further cuts would be deeply harmful. Further cuts could mean:

- An elimination of seasonal rangers, who ensure visitors have a safe and enjoyable experience;
- A decrease in available law enforcement staff;
- Some parks would shorten hours or be forced to close campgrounds or visitors centers;
- Emergency response times in many areas could increase;
- Critical access roads may be closed; and
- Many potential visitors to the parks may choose to travel, and spend their money, elsewhere.

National Parks are critical to local economies. In 2010, the NPS received 281 million recreational visits that contributed more than $31 billion to local economies and supported 258,000 jobs. Preventing further cuts to parks and supporting a trajectory towards sustainable funding has the potential to create jobs for counties. Recent research found that every dollar invested in the NPS operations generates approximately $10 million in gross sales revenue. Every two NPS jobs yield one job outside the NPS. In addition, if the NPS could address the backlog of maintenance projects, such as trail maintenance and road access projects, it could directly produces jobs in communities surrounding parks through construction contracting. The NPS also estimates that 14 to 16 jobs are created for each million dollars invested in the parks construction budget. If the federal government does not adequately fund national parks, gateway communities and counties could lose millions of valuable tax dollars and jobs.

**Fiscal/Urban/Rural Impact:** If national parks are not maintained, there will be a decline in visits to national parks and, consequently, a decrease in their economic benefit to counties and gateway communities. In the context of the federal budget debate, national parks cost very little, yet deliver countless benefits to counties across the country. There is no direct cost to counties if funding to the National Parks Service is increased.

**Sponsor(s):** Commissioner Rachel E. Richards, Pitkin County, Colorado

## Proposed Resolution on Federal Lands Management Practices

**Issue:** Federal Lands Management.

**Proposed Policy:** The National Association of Counties (NACo) supports the following changes to federal lands management policy:

1. Requiring federal lands to be managed in both an ecologically and financially sustainable manner providing a source of revenue to the federal, state, and local governments.
2. Requiring federal lands to be managed with consideration of the potential costs of remediation after a severe fire event or natural disaster.
3. Reorganization of Forest Service management to reduce the layers of organizational structure from four to three. Currently they have the Washington Office, 9 regional offices, Forest Supervisor headquarters, and Ranger District Offices.
4. Clearly defining the Forest Service mission to get more projects 'boots on the ground' with less administrative distractions.
5. Responsible management and development of natural resources on federal lands and opening more federal lands for market-based leases.
6. Requirements directing Federal Land Management Agencies to utilize all the existing authorities to actively manage their lands according to multiple use principles and that also requires them to account for all projects and methods they have used to the governor’s office of each respective state and each County governing body where those federal lands exist.
7. Requiring that any projects that are stopped by legal action be immediately remedied and turned back out for implementation.

**Background:** The majority of western counties have Forest Service, Bureau of Land Management (BLM), U.S. Fish and Wildlife Service (USFWS) and/or National Park Service lands within their counties.

Current management of these public lands is not sustainable and adequate husbandry and silvicultural practices have been impeded through statutory, regulatory and administrative, processes as well as the un-intentioned uses of the Equal Access to Justice Act (EAJA) and, Endangered Species Act (ESA).

Additionally, current management practices have created public health, public safety and financial liabilities to the federal, state and local governments.

The United States of America has an unmanageable national debt. The National Forests, BLM, NPS, and USFWS, and other federally owned lands have enormous potential for responsible resource development that would generate substantial and sustainable source of revenue that would more than adequately fund the management of federal lands.

**Fiscal/Urban/Rural Impact**: Significantly increased economic activity on federal land would improve local county financial condition.

**Sponsor(s):** Gordon Topham, Commissioner, Sevier County, Utah; Utah Association of Counties

## Proposed Resolution Supporting Changing Forest Service Employee Supervision

**Issue:** Chain of command for U.S. Forest Service (USFS) law enforcement personnel

**Proposed Policy:** NACo supports a change in USFS personnel organization to place law enforcement officers under the direction of Forest Supervisors.

**Background:** Several decades ago, there was reported abuse of USFS procedures, allegedly involving Service line officers. As a response, and at the urging of, among other, the Forest Service Employees for Environmental Ethics, the law enforcement branch of the Service was "stovepiped," meaning that these officers no longer were supervised by local or regional authority, but answered instead directly to the Washington office. As a result, there can be little to no interaction among enforcement officers and the local supervisors and line officers.

As timber harvest has dramatically declined, there is no longer a reason to isolate these enforcement officers from the chain of command.  In fact, the loss of interaction has resulted in adverse public relations between the USFS and forest communities. When new personnel are transferred into areas without an understanding of the area's culture and the agency's interdependence upon the community, all too often the result is public conflict. If there is direct supervision and accountability to local USFS officials, there is much greater opportunity for such conflicts to be resolved before it becomes a community issue. A positive influence on public relations for the agency would be of great benefit for all parties involved.

**Fiscal/Urban Rural Impact:** No fiscal impact, with a positive impact on rural communities' relationship with the USFS.

**Sponsor(s)**: Gordon Topham, Commissioner, Sevier County, Utah; Utah Association of Counties.

## Proposed Resolution Supporting Emergency Hazardous Fuels Reduction Projects

**Issue:** Supporting Emergency Hazardous Fuels Reduction Projects and reduction of the accumulation of biomass on federal lands.

**Proposed Policy:** NACo calls on Congress to grant a Governor the authority to declare a state of emergency when the severity of fire danger from fuels on identified federal lands within that state poses a significant threat to public health and safety and supports giving states the authority to identify areas afflicted by the bark beetle epidemic, drought, deteriorating forest health conditions, and high risk of wildfires and to put in place emergency hazardous fuels reduction projects.

**Background:** NACo calls on Congress to grant a Governor the authority to declare a state of emergency when the severity of fire danger from fuels on identified federal lands within that state poses a significant threat to public health and safety. Then allow states to reduce those fuels

NACo has always supported Governors in declaring risk of devastating wildfires as imminent threat; giving them the authority to designate high-risk areas within the National Forest System and lands under the jurisdiction of the Bureau of Land Management; requiring governors to consult with county commissioners from affected counties and affected tribes in designating high-risk areas; allowing the Interior and Agriculture Departments' Secretaries, working in consultation with governors, affected county commissioners and affected tribes to designate high-risk areas on lands under their jurisdiction and to provide for the development of proposed emergency hazardous fuels reduction projects for high-risk areas in consultation with states; giving states the authority to provide for the development of proposed emergency hazardous fuels reduction projects for high-risk areas; applying expedited procedures and authorities under the Healthy Forests Restoration Act of 2003 to emergency hazardous fuels reduction projects in designated high-risk areas; requires consistency with applicable land and resource management plans or land use plans; permanently authorizes the Secretaries of the Interior and Agriculture to enter into cooperative agreements with state foresters to authorize the state forester to provide forest, rangeland, and watershed protection services on applicable federal lands while protecting all valid and existing rights on applicable lands; and providing expedited approval procedures for projects carried out in response to hazardous fuels in close proximity to utility or telephone infrastructure, campgrounds, road sides, heritage sites, recreation areas, schools and other infrastructure.

**Fiscal/Urban/Rural Impact:** Healthy forests and fuel reduction efforts have long-term positive fiscal impacts to counties and their economies.

**Sponsor(s):** Gordon Topham, Commissioner, Sevier County, Utah; Utah Association of Counties

**Proposed Resolution to Modify the National Park Service Contingency Plan That Becomes Effective Upon A Lapse in Appropriations From Congress**

**Issue:** Appropriate management scheme for individual National Park Services (NPS) unit in the absence of appropriation.

**Proposed Policy:** The National Association of Counties (NACo) proposes that each Superintendent of all federal land management agencies, who have the inherent knowledge of his or her own facility and/or area, shall be responsible and charged to formulate a plan of operation and identify available funding, in coordination with state and local government, for their unit in the absence of appropriations.

**Background:** There are many federal documents to support the above proposed policy. The National Park System Closure Determination and Notice issued by the Department of the Interior, specifies that the closure of a park unit is pursuant to 36 C.F.R. 1.5. In fact, C.F.R. 1.5 specifically delegates the authority to close all or a portion of a park area, to the ***Superintendent***. Circular No. A-11, from the Office of Management and Budget, dictates that each Agency Head develop its own plan. (This could include individual unit plans as part of the whole document.) The National Park Service Contingency Plan itself acknowledges the dramatic differences between park sites and those essential activities will vary greatly between them.

Consider Lake Roosevelt National Recreation Area (LRNRA) in eastern Washington State. LRNRA is over 150 miles long, has over 600 miles of shoreline, 26 different boat launch locations, 35 campgrounds and hundreds of access points. The LRNRA is managed through a 5 Party agreement:

- Spokane Tribe of Indians (STI)
- Confederated Tribes of the Colville Reservation (CCR)
- Bureau of Indian Affairs (BIA)
- Bureau of Reclamation (BOR)
- National Park Service (NPS)

Under this agreement, management responsibilities are separated into three categories:

- Reclamation (managed by BOR)
- Reservation (managed by STI and CCR)
- Recreation (managed by the NPS).

Additionally, several campgrounds and boat launches are managed separately by either the STI or the CCR. These Tribal owned campgrounds and boat launches are not under the jurisdiction of the NPS and are not subject to closure upon lack of funding. Visitors can still access the Lake Roosevelt National Recreation Area via these facilities. In other words, LRNRA is essentially still open to the public.

Within the LRNRA there are many boat launches that also have campgrounds associated with them. While we understand the need to close the campgrounds and any facilities that would require NPS employees to operate, if each Superintendent had the ability to custom tailor each NPS unit, theoretically, it would be easy for the boat launches to remain open for public use.

None of the launches are ever staffed by NPS employees, they are open year round and are essentially, “launch at your own risk”. Liability issues surrounding people being on federal land when the government is shut down can be mitigated. For example, since Lincoln County and other counties that border LRNRA, already provide for law enforcement and all emergency services within the boundaries, there could be a formal agreement with the NPS and the counties to provide these services and assume the liability (that already exists) in the event of no federal money for the NPS to operate. Liability remains constant for all governmental entities that have jurisdiction within the boundaries of a NPS unit, whether or not congress has approved funding. These same examples can be sited in all areas managed by the National Park Service.

**Fiscal/Urban/Rural Impact:** NPS employees enforce trespassing on public land in a funding lapse in the name of public safety. But in reality, if a public safety issue arises, the local jurisdictions respond. The five counties bordering LRNRA all provide first response law enforcement, fire service, and emergency medical service within its boundaries so it would seem public safety concerns can be mitigated.

Within the boundaries of the LRNRA, hunting is allowed. This latest government shut-down just happened to coincide with hunting season causing hunters to seek alternate areas in which to hunt. This creates an economic hardship for the surrounding local governments. If a shutdown were to occur during the peak of the tourist season it would be even more disastrous to these economies.

The application of a blanket policy that treats all 401 units of the National Park System identical in the event of a government shutdown just does not make good fiscal sense and in fact *costs* even more money, all the while damaging local economies.

**Sponsor(s):** Gordon Topham, County Commissioner, Sevier County, Utah; Utah Association of Counties.

## Proposed Resolution on the Equal Access to Justice Act

**Issue:** Accountability and transparency regarding payments made under the Equal Access to Justice Act and the un-intentioned use of The Equal Access to Justice Act (EAJA).

**Proposed Policy:** The National Association of Counties (NACo):

1. Supports legislation that Amends the Equal Access to Justice Act and the federal judicial code to require the Chairman of the Administrative Conference of the United States to report to Congress annually on the amount of fees and other expenses awarded to prevailing parties other than the United States in certain administrative proceedings and civil action court cases (excluding tort cases) to which the United States is a party, including settlement agreements.
2. Supports requirements that such reports: (1) describe the number, nature, and amount of the awards, the claims involved in the controversy, and any other relevant information that may aid Congress in evaluating the scope and impact of such awards; and (2) be made available to the public online.

3. Supports legislation that directs the Chairman of the Administrative Conference of the United States to create and maintain online a searchable database containing specified information with respect to each award including the name of the agency involved, the name of each party to whom the award was made, the amount of the award, and the basis for finding that the position of the agency concerned was not substantially justified.
4. Supports legislation that requires the head of each federal agency (including, with respect to court cases, the Attorney General [DOJ] and the Director of the Administrative Office of the United States Courts) to provide the Chairman all information requested to produce such reports.
5. Supports raising the EAJA reimbursement level to $200 per hour reflecting the market rate, so that those in need (i.e. veterans and small business) and that are "directly and personally harmed" can afford a decent and marketable attorney.
6. Supports the institution of a $7,000,000 net worth cap regardless of tax exempt status to reduce the number of lawsuits filed by large nationwide fringe groups that profit from habitual lawsuits.

**Background:** EAJA is well intentioned and necessary legislation designed to provide individuals, small businesses, and non-profit organizations the ability to recover both attorney's fees and the costs of litigation with suits filed against the federal government. Unfortunately, the EAJA has been abused in recent years and a flood of non-substantive claims have been filed and there is no accounting of the costs to the federal government associated with EAJA actions. Originally enacted in 1980, EAJA was meant to provide fair access to legal remedies for individuals, small businesses and non-profits with limited means. The act accomplishes this by reimbursing attorney's fees for plaintiffs who sue the federal government if they win the case or settle out of court. The original legislation required annual reports to Congress on the amount and nature of EAJA payments. The reporting requirement ended in 1995.

Again in recent years there have been complaints about the misapplication of the EAJA by certain well-funded interest groups that allegedly have received millions of federal taxpayer dollars in attorneys' fees for settling or winning cases filed against federal agencies. In some cases, these lawsuits were based on procedural errors, or filed simply to delay or prevent authorized uses of public lands or federally authorized activities on private lands. Federal agencies may have settled these cases rather than expend public resources to litigate. Often times these receipts are used to initiate subsequent legal actions by these same groups.

Reporting requirements provide accountability and transparency in how federal funds are being spent. The Government Litigation Savings Act would help assure that federal funds are being used in a manner that is consistent with the original of the EAJA by requiring the federal government to create a publicly searchable database to include information regarding the disbursement of public funds under the EAJA.
In addition, the Government Litigation Savings Act would require that the Comptroller General commence an audit of past expenditures under the EAJA and report the results of the audit to Congress.

**Fiscal/Urban/Rural Impact:** This would have a positive fiscal effect on urban and rural budgets by providing for proper justification of federal payments of taxpayer dollars when public land policy is involved.

**Sponsor(s):** Gordon Topham, Commissioner, Sevier County, Utah; Utah Association of Counties

## Proposed Resolution on Restoring Historical Community Viability

**Issue:** Historical Community Viability

**Proposed Policy**: NACO urges Congress and federal agencies to restore responsible, multiple use / sustained yield industries that are necessary to provide economic, social, educational, and cultural stability for historic communities including a) robust bridge funding to arrest catastrophic declines and b) restoration of active public land management. Federal agencies should coordinate with local and state officials to provide the greatest improvements in those areas of greatest importance.

**Background:** Over the past three decades federal land management policies have negatively impacted families, schools, communities, and economies that have been historically based on responsible multiple use/sustained yield activities on federal lands. Escalante, Utah - for example - has experienced a population decline of 500 residents or 38% since 1996. Over the same period Escalante High School enrollment has declined by 67% (from 150 students in 1996 to 50 students in 2015). Stability of rural families, schools, communities, and counties are threatened by government gridlock and federal inactivity. Federal agencies need to restore active public land management which supports local families, schools and communities. Immediate robust economic support as well as long-term responsible, multiple use/sustained yield management solutions are needed. This resolution is needed to encourage federal land managers to recognize an arrest's negative impacts on families, schools, and communities resulting from government gridlock.

**Fiscal/Urban/Rural Impact:** There will be limited fiscal impact for urban areas. Rural areas especially public land counties that have been historically based on natural resource economies can expect a) temporary support in the form of bridge funding and b) restoration of active public land management that provides social and economic stability for families, schools and communities. Rural areas can also expect greater coordination with federal agencies.

**Sponsor(s):** Commissioner Leland Pollock, Garfield County, Utah

## Proposed Resolution on Local Law Enforcement on Public Lands

**Issue:** Local law enforcement on public lands

**Proposed Policy:** NACO urges all federal land management agencies to recognize and respect sheriffs (or the chief local law enforcement officer) in public land counties as the primary and chief law enforcement officer of the entire county. Federal agencies should execute cooperative agreements with counties to ensure fair and prompt federal payment of compensation for additional local law enforcement activities desired of sheriffs, and federal agencies submit their agents for deputization and accountability under local sheriff authority and control.

**Background:** Federal land counties are frequently impacted by lack of coordination from federal law enforcement officers. Federal officials fail to recognize the County Sheriff's role as the chief law enforcement officer within his/her jurisdiction; and, often, federal officers undermine local law enforcement efforts by usurping local authority in violation of established law. Counties are also forced to expend limited local funds to perform uncompensated law enforcement functions on federal land.

This resolution is needed to encourage federal agencies to: a) recognize the sheriff's role as the chief law enforcement officer; b) work cooperatively with local government to coordinate law enforcement functions on federal land in accordance with established law; and c) develop cooperative agreements to compensate local government for services provided on federal land and to establish clear lines of authority.

**Fiscal/Urban/Rural Impact:** There will be limited fiscal impact for urban areas. Rural areas, especially public land counties, can expect greater coordination with federal law enforcement officials, reduced duplication of effort, and increased funding resulting from cooperative agreements and clearly defined roles. Citizens will reap the benefits of more efficient responses to problems, reduced cost by eliminating duplication, a streamlined approach to law enforcement issues, and greater efficiency of all levels of government.

**Sponsor(s):** Commissioner Leland Pollock, Garfield County, Utah

## Proposed Resolution Supporting a Formal Congressional Request for a Comprehensive GAO Audit of All Revenues Generated from Federally Managed Lands, Mineral Estates and Holdings Both On-Shore and Off-Shore

**Issue:** The need for an audit to determine annual revenues generated from all of the federally managed public lands, mineral estates and holdings both On-Shore and Off-Shore.

**Adopted Policy:** The National Association of Counties (NACo) supports a multi-year GAO audit of revenues received for Federal FY 2005 through Federal FY 2016 associated with federally managed lands, mineral estates and holdings, including broken down by state, by federal land management agency and by program and resource use within each agency designated to manage such lands, estates or holdings.

**Background:** To our knowledge the Congress of the United States nor the President has ever conducted a comprehensive accounting of all revenues generated from federal lands, mineral estates or holdings both on and off shore. Information on revenues from different land management agencies government-wide is not gathered into one place using uniform accounting methods and is thus not transparent to decision makers. The information likely exists in disparate places thus confirming the need for a singular comprehensive accounting. As taxpayers, the people of the United States are entitled to know how much money their lands, mineral estates and holdings generate as a result of the management practices of federal executive branch agencies over a sustained period of time. A comprehensive audit should demonstrate comparative information with similar resources on private lands in the United States. As competition in Congress for funding for federal obligations such as Payment in Lieu of Taxes (PILT) and Secure Rural Schools (SRS) and conservation responsibilities to public lands states and counties continues to increase, Congress, the President and the people they represent should be allowed to have made available them in an easy-to-understand-way this basic information in order to review and determine how these receipts are currently allocated and how they should be allocated in the future. The request for an audit of federal receipts should be bi-partisan so that once derived, members of both political parties and the general public can at least agree on how much money these land and mineral holdings generate. Decisions on priorities and future expenditures can then be debated vigorously.

**Fiscal/Urban/Rural Impact:** Greater economic benefits will accrue to states and counties if public lands federal payments programs associated with public lands are managed more transparently, efficiently and productively.

**Sponsor(s):** Ron Walter, Commission Chair, Chelan County, WA

## Proposed Resolution on the Endangered Species Act

**Issue:** The Endangered Species Act (ESA).

**Proposed Policy:** The National Association of Counties (NACo) supports legislation

1. Favoring decisions to list plant or animal species as threatened or endangered (T&E listing decisions) that are made through best available science with increased transparency and timelines for decisions;
2. Postponing T&E listing decisions for species in states that have submitted a conservation management plan, giving such states at least a decade to demonstrate that their plans will conserve and recover the species;
3. Encouraging the Secretary of Interior (Secretary) to share critical data, research and scientific information to assist such states in their conservation efforts;
4. Authorizing federal land management agencies to amend their land use plans to comply with and allow such state based conservation efforts;
5. Strengthening the influence of local participation so that local collaboration and/or coordination processes and recommended species management policies are not overridden.
6. Supporting the inclusion of the consideration of the economic impacts to local economies from any species management decisions.
7. Authorizing the ESA to recognize and allow consideration of the predation of threatened or endangered species by natural events, as well as human activities (such as predator impacts and weather-related events).

**Background:** The present implementation of the ESA has caused expensive delays to public works infrastructure development and maintenance projects across the United States.

To paraphrase the American Public Works Association, “At issue is the need to reform the ESA to build stronger relationships, to reduce delay and uncertainty for states, local governments, private industry, and individuals: and to provide greater administrative flexibility that minimizes disruption and harmful socio-economic effects while continuing to conserve and preserve America’s priceless environmental heritage.”

**Fiscal/Urban/Rural Impact:** Significant savings to counties implementing public works projects.

**Sponsor(s):** Mike McKee, Commissioner, Uintah County, Utah; Mike Murray, Commissioner, Lewis and Clark County, Montana

### Proposed Resolution to Amend and Update the Endangered Species Act of 1973

**Issue:** The ESA of 1973 has not been significantly modified in 40 years.

**Proposed policy:** NACo urges the Congress of the United States to amend the ESA to reflect its intended purpose “to protect endangered species and the ecosystems which they depend” and to ensure that the rights of people are also protected.

**Background:** The ESA was adopted in 1973 and the Act is in need of updating. Through the 40 plus years of the ESA, Federal courts have liberally interpreted the Act, which in turn, has caused a loss of billions of dollars to state and local governments. The ESA has failed to protect and restore viable populations of endangered species as the law intended.

The ESA needs to be amended in the following manner:

1. Revise “taking” definition to protect private property rights in conformance with the United States Constitution.
2. Provide full compensation to individuals for current and long term takings. Require mandatory costs-benefits analysis for all adverse socio-economic and cultural impacts on the affected human population.
3. Require the science used to make any determination be reviewed by scientific peers not affiliated or associated with the Federal Government.
4. Mandate that a listing of endangered be reviewed every seven years to determine if a listing is still warranted.
5. Require all parties pay their own attorney’s fees involving any legal action associated with the ESA.
6. Mandate that only pure species be considered for endangered status.
7. Transfer critical habitat designations and recovery planning to the States.
8. Require Congress to approve a listing within one year, and if such approval is not timely given, the species shall be removed from the list.

**Fiscal/Urban/Rural Impact:** The potential impact to counties is tremendous. The energy industry as well as the agriculture industry would benefit from less regulation and more certainty with regards to outcomes of the ESA. This in turn would bring more revenue to the counties.

**Sponsor(s):** Robert Corn, Commissioner, Chaves County, New Mexico

### Proposed Resolution on Endangered Species Listings

**Issue:** Federal management of species under the Endangered Species Act (ESA), wherein candidate species are located entirely and exclusively within a single state, impairs the ability of the respective state and the counties wherein species are located, to provide solutions for the benefit of the species and affected communities, while also exposing USFWS to the significant risks and costs associated with extensive, unnecessary litigation. Congress and the Courts would benefit from refraining from federally funding and managing species entirely within a single state or within states and counties that have developed and implemented good faith conservation management plans.

**Proposed Policy:** The National Association of Counties (NACo) supports legislation and court decisions:

1. Empowering and supporting local management solutions at the state and county level for intrastate species;
2. Prohibiting ESA listings of candidate species found residing exclusively within a single state;
3. Postponing the listing and/or federal protection of a species that has recently been determined by USFWS to be threatened or endangered, and which are located in states or counties that have developed and/or implemented a good faith conservation management plan for said species;
4. Encouraging or directing the Secretary of Interior (Secretary) to share critical data, research and scientific information to assist such states and counties in their conservation efforts;
5. Directing federal land management agencies to amend their land use plans to comply with state and county based conservation efforts;
6. Strengthening the influence of local participation so that local coordination processes and recommended species management policies are not overridden.
7. Supporting consideration of and compensation for the economic impacts to local economies from any federal management decisions.

**Background:** Since its inception in 1973, the scope of the ESA has broadened to a point where it is becoming too invasive and counterproductive. States and counties have gotten involved and have implemented plans and strategies that are more responsive to sensitive species without all of the litigious impacts experienced by USFWS. In a recent federal court ruling from the District of Utah, the Court held that the enumerated powers expressly granted to Congress under the United States Constitution do not give Congress the authority or right to manage a species that is found to exist exclusively and entirely in a single state. At the present time, nearly Seventy Percent (70%) of all species currently protected under the ESA exist exclusively within a single state.

To paraphrase the American Public Works Association, "At issue is the need to reform the ESA to build stronger relationships, to reduce delay and uncertainty for states, local governments, private industry, and individuals: and to provide greater administrative flexibility that minimizes disruption and harmful socio-economic effects while continuing to conserve and preserve America's priceless environmental heritage."

**Fiscal/Urban/Rural Impact:** Counties and states conservation plans receive greater support from local communities, thereby reducing the costs of implementation and enforcement significantly. The ability to implement public works projects without burdensome, unnecessary delays improves job growth and stability while simultaneously reducing the burden of such costs that necessarily fall to taxpayers. Lastly, local management and direction is crucial and each species in need of protection or conservation efforts will benefit from local management that is undoubtedly able to respond in a more effective, timely manner.

**Sponsor(s):** Dave Miller, Commissioner, Iron County, Utah Commissioner; Jim Chmelik, Idaho County, Idaho

**Resolution Supporting Ongoing Efforts of Western States to Manage and Conserve The Greater Sage Grouse And In Opposition to an ESA Listing of the Greater Sage Grouse At This Time**

**Issue:** Whether the U.S. Fish and Wildlife Service (USFWS) should recognize and give deference to the efforts of western states and local governments to manage and conserve the Greater Sage Grouse and forego any Endangered Species Act (ESA) listing of the Greater Sage Grouse as threatened or endangered.

**Proposed Policy:** NACo opposes listing the Greater Sage Grouse as a Threatened or Endangered species at this time. Furthermore, the Bureau of Land Management (BLM) and US Forest Service (USFS) should give great deference to state and local sage grouse management plans when adopting any federal land use plan amendments, pursuant to the consistency and coordination requirements under federal law.

**Background**: Ongoing Greater Sage Grouse management efforts of state and local governments, stakeholder working groups, and BLM/USFS Resource Management Plans (RMPs) and Land Use Plans throughout the eleven western states are protecting and restoring Greater Sage Grouse habitats and reviving populations. Landowners across the Sage Grouse region have been adopting Candidate Conservation Agreements with Assurances (CCAAs) and Candidate Conservation Agreements (CCAs).  CCAs are formal, voluntary agreements between the USFWS and one or more parties to address the conservation needs of one or more candidate species or species likely to become candidates in the near future. Participants voluntarily commit to implement specific actions designed to remove or reduce threats to the covered species, so that listing should not be necessary. Furthermore, CCAAs go one step further and provide participating property owners with a permit containing assurances that if they engage in certain conservation actions for species included in the agreement, they will not be required to implement additional conservation measures beyond those in the CCAA. Also, additional land, water, or resource use limitations will not be imposed on them should the species become listed in the future, unless they consent to such changes. These actions, along with other state and local commitments should provide sufficient protection to the Greater Sage Grouse.

**Fiscal/Rural Impact:** The listing of the Greater Sage Grouse would stifle most economic development in rural areas of the eleven western states where the bird is found. As a consequence, these impacts would be felt in urban areas and could have national repercussions through multiple business sectors.

**Sponsor(s):** The Association of Oregon Counties; Judge Gary Thompson, Sherman County, Oregon; Commissioner Larry Givens, Umatilla County, Oregon

**Proposed Resolution Opposing the Listing of the Gunnison Sage Grouse as an Endangered Species, and Opposing the Designation of Critical Habitat without Scientific Basis, such as in Ouray and Hinsdale Counties, Colorado**

**Issue:** The proposed USFWS listing of Gunnison Sage Grouse as an endangered species and designation of critical habitat is premature, unwarranted, and without scientific basis and does not take into consideration successful ongoing voluntary efforts to protect and enhance Gunnison Sage Grouse populations and its actual habitat.

**Proposed Policy:** The proposed listing of the Gunnison Sage Grouse as an endangered species and designation of critical habitat is premature, unwarranted, and without scientific basis. Ongoing voluntary efforts of ten Colorado counties and one Utah county where Gunnison Sage Grouse critical habitat has been proposed by USFWS, are adequate to manage, stabilize and restore Gunnison Sage Grouse populations such that a Threatened and Endangered (T&E) listing of this species is unwarranted.

**Background:** While the declining population of the Gunnison Sage Grouse is a matter of concern and one that reflects upon the health of the local ecosystem, we feel that this listing is the wrong approach to preserve and recover the Gunnison Sage Grouse. Time and time again, we have seen species get listed as threatened or endangered under the Endangered Species Act (ESA), which leads to restrictions on land use while doing nothing to preserve the listed species. This “one size fits all approach” has proven to be a failure but the U.S. Fish and Wildlife Service (USFWS) seems intent to continue this trend.

There are better tools than a listing under the ESA to foster the well-being of the Gunnison Sage-grouse which will affect all those communities and approximately 1.7 million acres of land. For instance, there are better tools such as the Dune Lizard model, intergovernmental agreements between Colorado and Utah, and local, state and federal voluntary coordinated efforts. The ultimate decision of the USFWS will impact the lives of approximately 296,094 people in 11 counties in two states.

Over the past 19 years the communities with populations of Gunnison Sage Grouse have worked hard to improve the habitat and success rate of the bird. This has been a collaborative effort between private landowners, local government, land trusts, and the state of Colorado. The USFWS has been at the table advising the entities with regard to the tremendous efforts that have been made for the grouse and its survival. The Colorado Department of Parks and Wildlife has spent $30 million on easements alone. Landowners have placed 68,465 acres of land into conservation easements and an additional 22,574 acres are under Candidate Conservation Agreement with Assurances.

The proposed listing is disappointing and a blow to all the entities and individuals that have worked very hard to help this species. By listing the bird as “endangered” it takes the states of Colorado and Utah out of the process. It also sends a message that there is little reason to work together since no matter what efforts are made the USFWS will move forward with their own plan.

The USFW proposal for “Critical Habitat” is for a total of 1,704,227 acres, 48.4 percent is federal land but 49.3 percent is privately owned land. Current estimates of occupied habitat are 503,245 acres federal land and 397,499 acres private land.

The proposed designation of critical habitat is lacking in scientific support, is confusion and overly vague. Thus, it violates the requirements and protections of the Administrative Procedures Act, 5 U.S.C. Parts 5, 6 and 7 as well as the requirements of the ESA.

The published maps are without sufficient detail to be able to determine exact boundaries or inclusion areas, and several of the affected counties have been unable to confirm that the included lands meet the criteria for critical habitat.

Substantial disagreement with the draft rules have been expressed by numerous commenting agencies who maintain that the proposed rules fail to recognize that:

a) the Gunnison Basin population of Gunnison Sage Grouse is stable, growing, healthy and likely to persist in the long term;
b) USFWS has failed to establish that the Gunnison Basin population is facing material or imminent threats;
c) USFWS has failed to analyze accurately the scope of the affected counties' legal authority to address threats to the Gunnison Sage Grouse and its habitat;
d) USFWS has failed to analyze accurately the scope of the affected counties' regulations, planning regimes and intergovernmental actions to address threats to the Gunnison Sage Grouse and its habitat;
e) USFWS has failed to accurately analyze the affected counties' legal authorities, regulations, policies and actions in regulating parcels of 35 acres and larger in size;
f) USFWS has not recognized that there have been significant and successful conservation efforts made by several of the affected counties, especially Gunnison County;
g) USFWS has failed to accurately analyze the actual pace of residential development in the Gunnison Basin Population area especially;
h) USFWS has significantly overstated the magnitude, immediacy and causes of other alleged threats to the Gunnison Basin Population especially;
i) USFWS has failed to capitalize on the extraordinary efforts of the affected communities, especially the Gunnison Basin community;
j) USFWS has made no real analysis of the whether the Gunnison Sage Grouse is endangered or threatened in the Gunnison Basin, as a "Significant Portion of the Range";
k) the USFWS analysis of the satellite populations is not complete or accurate;
l) the draft rules significantly mis-cite or misinterpret studies;
m) there has been insufficient peer review;
n) USFWS did not consider all relevant scientific and commercial information available;
o) the proposed rules are inconsistent with previous USFWS formal and informal actions regarding the Gunnison Sage Grouse;
p) the USFWS cost analysis is not yet complete;
q) the USFWS is not providing to the Gunnison Basin and affected counties' communities the time afforded by the Endangered Species Act to respond to the proposed rules;
r) USFWS appears to be ignoring Gunnison County's recommendation of efforts that will effectively foster the Gunnison Sage-grouse; and
s) USFWS appears to be in conflict with its own findings which recognized that the Gunnison Basin Population of Gunnison Sage-grouse is stable and growing, healthy and likely to persist in the long term: the Gunnison Basin is 88.3 percent of the population of the species; actual increase in the Gunnison Basin population of the bird is over 33 percent since 2002; actual increase of the total population of the species is approximately 33 percent; with this number of Gunnison Sage-grouse the risk of extinction in 50 years is less than .5 percent; “The population target for the Gunnison Basin identified in the 2005 Gunnison Sage Grouse Rangewide Conservation Plan is set at a long term (10 year) average of 3,000 birds. The current 10-year average (2003-2012) population

estimate is 4,147 birds, well above the 3,000 target."

The Federal Register notice alludes to changes in grazing practices which will affect ranchers and federal grazing permits. Documented research shows that the Gunnison Sage Grouse chicks for the first three weeks of life are dependent on insects that are produced in cattle manure. When the Gunnison Sage Grouse population was the highest, there were more livestock being grazed than are currently being grazed today. The listing is far reaching and a listing under the ESA will have an economic impact to Colorado's farmers and ranchers.

The symbiotic relationship between cattle and the Greater Sage Grouse has been clearly demonstrated by well-controlled studies. As recognized by the Bureau of Land Management in Instruction Memorandum (IM) No. 2012-043, grazing can be "used as a tool to protect intact sagebrush habitat and increase habitat extent and continuity which is beneficial to [the] Greater Sage Grouse and its habitat." The IM continues, "Given the potential financial constraints in addressing the primary threats identified by the USFWS, enhanced management of livestock grazing may be the most cost effective opportunity in many instances to improve Greater Sage Grouse habitat on public lands." The recognition by USFWS that grazing provides a positive affect for the Greater Sage Grouse habitat can be extended to the Gunnison Sage Grouse. According to Natural Resource Conservation Service (NRCS), grazing "has been responsible for retaining expansive tracts of sagebrush-dominated rangeland from conversion to cropland" and can "stimulate growth of grasses and forbs, and thus livestock can be used to manipulate the plant community toward a desired condition." Additionally, NRCS studies in Gunnison Sage Grouse habitat have indicated both an increase in bird population as well as new growth of native grasses.

Livestock grazing contributes positively to the above primary principles, being both compatible with and beneficial to Gunnison Sage Grouse habitat conservation. Ranchers are the stewards of the Gunnison Sage Grouse habitat on both the private and public land they use. Without ranchers, who provide an effective line of defense against fire and noxious weeds, manage forage for optimum production and are the primary protectors of open space including protection from urbanization and development in the private lands of the west, large areas of Gunnison Sage Grouse habitat would be in jeopardy.

Substantial disagreement with the draft rules have been expressed by numerous commenting agencies who maintain that the proposed rules fail to recognize that the Gunnison Basin population of Gunnison Sage-grouse is stable, growing, healthy and likely to persist in the long term; USFWS has failed to establish that the Gunnison Basin population is facing material or imminent threats; USFWS has failed to analyze accurately the scope of the affected counties' legal authority to address threats to the Gunnison Sage-grouse and its habitat; USFWS has failed to analyze accurately the scope of the affected counties' regulations, planning regimes and intergovernmental actions to address threats to the Gunnison Sage-grouse and its habitat.

An "endangered" listing for the Gunnison Sage Grouse will be counter-productive to the efforts that have already occurred and ultimately to the species. The Gunnison Sage Grouse not be listed as endangered so that current preservation efforts can continue.

**Fiscal/Urban/Rural Impact:** In brief, listing the Gunnison Sage Grouse and designating critical habitat as proposed would be absolutely, completely, and irreversibly totally devastating to agriculture, recreation/tourism, natural/mineral resources, and all sectors of the local economies in the affected counties.

**Sponsor(s):** Bruce Adams, Commissioner, San Juan County, Utah

**Proposed Resolution Urging Congress to Bar Greater Sage-Grouse Related Federal Land Use Plan Amendments and ESA Listings to Allow Implementation of State Management Plans for Greater Sage-Grouse**

**Issue:** Barring BLM, Forest Service and Fish &Wildlife Service from Greater Sage Grouse related Federal land use plan amendments and ESA listings to allow full implementation of State Greater Sage-Grouse management plans.

**Proposed Policy:** The National Association of Counties supports a Congressional spending moratorium that bars the BLM and Forest Service from enacting Greater Sage-Grouse related amendments and modifications to Federal resource management plans and bars the U.S. Fish & Wildlife Service from listing the Greater Sage-Grouse as threatened or endangered, for at least six years to assess the effectiveness of State Greater Sage-Grouse management plans.

**Background:** Efforts of state and local governments which have been done pursuant to recent State drafted Greater Sage-Grouse management plans are protecting and restoring Greater Sage-Grouse habitats and reviving populations. These state based management plans should be allowed full implementation for at least six years before Congress considers giving BLM, Forest Service and Fish and Wildlife Service back any plan amendment or listing authority with respect to the Greater Sage Grouse.

**Fiscal/Urban/Rural Impact:** There will be significant impact to the economies of western states if the BLM and Forest Service Greater Sage-Grouse related Federal land management plan amendments take effect, and/or if the Greater Sage-Grouse is listed as threatened or endangered.

**Sponsor(s):** Michael J. Mckee, Commissioner, Uintah County, Utah; Ron Walter, Commission Chair, Chelan County, Washington; Gordon Topham, Commission Chair, Sevier County, Utah

**Proposed Resolution on U.S. Fish and Wildlife Management of the Utah Prairie Dog**

**Issue:** Utah Prairie Dog Counts

**Proposed Policy:** NACO urges the U.S. Fish and Wildlife Service (USFWS) to modify policies to permit the counting of Utah Prairie Dogs on private land for the purpose species recovery efforts.

**Background:** The Utah Prairie Dog is a protected species under federal law. Thousands of Utah Prairie Dogs have invaded cultivated fields, golf courses, cemeteries, airports and other private lands. Current federal policy prohibits the counting of prairie dogs for species recovery activities if the animals are on private ground. Federal officials incorrectly argue that the prairie dogs are unprotected if located on private ground. Facts refute that untenable position. For example: 1) More prairie dogs use private land as habitat in spite of federal lands being 2 to 30 times more plentiful. 2) The same protections that exist on federal land exist on private land. 3) Harassment of Utah Prairie Dogs on federal land is harder to detect because the areas are more remote. 4) The desire for palatable food source and improved habitat attract prairie dogs in spite of increased predators, manmade development and other natural impediments.

**Fiscal/Urban/Rural Impact:** There will be no fiscal impact for rural and urban areas outside the Utah Prairie Dog range. For the limited counties with in the species' range, residents and governments can expect delisting of the species, reduced negative economic impacts and a gradual shift to federal lands. Changing national policy to allow counting Utah Prairie Dogs on private lands will also provide a more accurate picture of the recovery efforts. Citizens will reap the benefits of improved property values and greater options for dealing with prairie dog impacts.

**Sponsor(s):** Commissioner Leland Pollock, Garfield County, Utah

## Proposed Resolution Opposing the Proposed Designation of Critical Habitat for the Black Pine Snake by the U.S. Fish and Wildlife Service

**Issue**: The U.S. Fish and Wildlife Service has proposed designating 338,000 acres in Mississippi and Alabama as critical habitat for the black pine snake, endangering the active management of timber resources, military training activities, and other economically productive public and private activities.

**Proposed Policy**: NACo urges the U.S. Fish and Wildlife Service to limit the proposed designation of critical habitat for the black pine snake to federally owned lands within the area under consideration.

**Background**: The U.S. Fish and Wildlife Service has proposed designating over 338,000 acres of public and private lands in southeastern Mississippi and southwestern Alabama as critical habitat for the black pine snake, adversely impacting not only future development but also existing land uses in the region. Special rules governing the designated area will adversely impact the active management of timber resources, current military training activities at Camp Shelby critical to the local and regional economy and to the national security of the United States, and industrial, commercial, and residential development.

**Fiscal/Urban/Rural Impact:** In addition to the loss of tax revenue from private activities, the proposed designation will also adversely impact future public activities in the affected areas, which include not only parts of Camp Shelby but also thousands of acres of sixteenth section lands held in trust for the benefit of public schools and the routes of existing and planned roadways, highways, and other public infrastructure. The proposed designation will require affected landowners, including county governments, to engage in expensive surveying and potential long-term monitoring of black pine snake populations, imposing undue economic burdens on taxpayers even in the absence of future development. The proposed designation comprises yet another unnecessary restriction on the economic productivity of the region, where extensive lands held by the federal government are already barred from development and exempt from local taxation.

**Sponsor(s):** Chris Bowen, Supervisor, Forrest County, Mississippi

## Proposed Resolution on Opposing the Listing of the Gunnison Sage Grouse as an Endangered Species, and Opposing the Designation of Critical Habitat without Scientific Basis, such as in Ouray and Hinsdale Counties, Colorado

**Issue:** The proposed USFWS listing of Gunnison Sage Grouse as an endangered species and designation of critical habitat is premature, unwarranted, and without scientific basis and does not take into consideration successful ongoing voluntary efforts to protect and enhance Gunnison Sage Grouse populations and its actual habitat.

**Proposed Policy:** The listing of the Gunnison Sage Grouse as a Threatened species and designation of critical habitat is unwarranted, without scientific basis, and ignores significant data provided by local and state government agencies. Ongoing voluntary efforts by organized private landowner-local-regional and state agencies under conservation plans working within ten Colorado counties and one Utah county where Gunnison Sage Grouse critical habitat has been designated by USFWS, are adequate to manage, stabilize and restore Gunnison Sage Grouse populations such that positive results are present and a Threatened and Endangered (T&E) listing of this species is unwarranted.

**Background**:

**Fiscal/Urban/Rural Impact**:

**Sponsor**: Lynn Padgett, Ouray County, Colo.

## Proposed Resolution on Wild Horse and Burro Management

**Issue:** Wild Horse and Burro Management

**Proposed Policy:** NACo supports Congressional legislation to give individual States exclusive authority to manage wild horses and burros on federal lands, including exclusive authority to determine appropriate herd management levels (AMLs) and dispose of animals that exceed AMLs at each State's discretion, just like States do now for other wildlife species.

**Background:** Wild horse and burro management on federal lands is in a current state of fiscal and programmatic distress.  Herd populations seriously exceed appropriate management levels (AMLs) in many horse management areas throughout the West.  The result is serious and potentially irreversible environmental destruction, including degradation of livestock forage, watershed, and wildlife habitat.  Federal efforts to curb excessive population growth are isolated, delayed and ineffective due to perennially inadequate budgetary allocations as well as restrictions on how budgeted monies are spent.  State wildlife management departments, on the other hand, are poised to appropriately determine AMLs and effectively bring populations in line with AMLs.

**Fiscal/Urban/Rural Impact:**  There will be significant and unwarranted environmental impacts to grazing forage, watershed, and wildlife species habitat if States are not given authority to exclusively manage wild horse and burro herds on federal lands.

**Sponsor(s):** Commissioner Leland Pollock, Garfield County, Utah; Commissioner David Miller, Iron County, Utah; Commissioner Mark Whitney, Beaver County, Utah

**Proposed Resolution in Support of Wilderness Legislation with County Input and Support**

**Issue:** Supporting multiple uses on all federal and state public lands so that conservation and development of natural resources is balanced with consideration of local needs. The efficient administration, conservation and development of Colorado's natural resources must be balanced with protection of the environment and consideration of local needs.

**Adopted Policy:** NACo supports special land designations of federal lands that are proposed by local residents and businesses, is consistent with existing land use policies, and is strongly supported by the affected counties and stakeholders within which the designation is proposed. NACo strongly encourages congressional delegations to only consider future wilderness legislation with affected counties' support, as exemplified by the 2014 bill introduced as S. 341, the San Juan Wilderness Act.

**Sponsor**: Lynn Padgett, Ouray County, Colo.

**Proposed Resolution Supporting Emergency Hazardous Fuels Reduction Projects**

**Issue:** Supporting Emergency Hazardous Fuels Reduction Projects.

**Proposed Policy**: NACo supports specific components of HR 818, the "Healthy Forest Management and Wildfire Prevention Act," which gives states the authority to identify areas afflicted by the bark beetle epidemic, drought, deteriorating forest health conditions, and high risk of wildfires and to put in place emergency hazardous fuels reduction projects.

**Sponsor**: Lynn Padgett, Ouray County, Colo.

**Proposed Resolution to Allow the Re-classification of Diseased and Insect Infested Forest Products**

**Issue:** The abundance of forest products (trees) that are affected by disease and insect infestation, yet still classified as a Federal Asset and regulated as such. Due to vast changes in the conditions found on forests, in many instances these assets have in fact become Federal liabilities. Federal regulations do not currently efficiently accommodate these changes in condition.

**Proposed Policy:** NACo urges the Federal land management agencies to establish the ability of local land managers to reclassify Trees and timber products that have been affected by Insect infestation or disease to a classification that would allow for the removal of these products without the accountability and oversight necessary for the harvesting of undamaged (green) timber for commercial use.

**Background:** At this time it is estimated that there are millions of acres of federal lands affected by disease and insect infestation. This dead and dying timber effects public safety, ecosystems, and economies. Vast amounts of dead trees also pose a threat of promoting catastrophic wildfires. As a result of this these products become a liability to our communities and public lands.

Historically timber products on National Forest System and other public lands are classified as national assets. This naturally and logically requires careful accountability, oversight and responsibility by those federal land managers delegated responsibility for management of federal assets.  In the Forest Service, this is line officers (i.e. District Rangers, Forest Supervisors, Regional Foresters, etc.)

Although the management of federal land always comes with a cost to the taxpayer, the management of treatments associated with recognized federal liability or not having federal assets is much lower.  This is mainly due to not having the added burden of oversight and tracking of the federal asset.

An example using the fuels treatment analogy above is in the southwest (CO, NM, AZ, etc.) there are extensive treatments to pinion and juniper woodlands adjacent to communities to reduce fuel loads.  These are generally done with biomass removal service contracts at a very low cost per acre compared to a timber sale. The accountability and oversight regulations are much lower in this example, thus the much reduced "up front" cost to the land management agency and ultimately the taxpayer.

The ability to re-classify acreage of dead or dying timber would both reduce risk on our public lands as well as establish a mechanism to economically remove the product for uses other than conventional lumber.

**Sponsor:** Jason Anderson, Commissioner, Saguache County, Colorado

## Proposed Resolution to Modify the National Park Service Contingency Plan that becomes Effective upon a Lapse in Appropriation from Congress

**Issue:**  The "National Park System" (NPS) encompasses everything from congressionally created "National Parks" to "Wild and Scenic Rivers", yet there are very distinct differences between these resources and facilities yet are generally managed in the same manner. In the event of a government shutdown it seems reasonable and fiscally responsible for the National Park Service to address the appropriate management scheme for how each individual unit will be managed when a funding lapse occurs.

**Proposed Policy**:  Each Superintendent of a NPS unit, who has the inherent knowledge of his or her own facility, shall be responsible and charged to formulate a plan of operation for their unit in the absence of appropriations.  There are many federal documents that support just this. The National Park System Closure Determination and Notice issued by the Department of the Interior, specifies that the closure of a park unit is pursuant to 36 C.F.R. 1.5. In fact, C.F.R. 1.5 specifically delegates the authority to close all or a portion of a park area, to the ***Superintendent***. Circular No. A-11, from the Office of Management and Budget, dictates that each Agency Head develop its own plan. (This could include individual unit plans as part of the whole document.) The National Park Service Contingency Plan itself acknowledges the dramatic differences between park sites and those essential activities will vary greatly between them.

**Background**: Consider Lake Roosevelt National Recreation Area (LRNRA) in eastern Washington State. LRNRA is over 150 miles long, has over 600 miles of shoreline, 26 different boat launch locations, 35 campgrounds and hundreds of access points. The LRNRA is managed through a 5 Party agreement, including the Spokane Tribe of Indians (STI), the Confederated Tribes of the Colville Reservation (CCR), the Bureau of Indian Affairs, the Bureau of Reclamation (BOR), and the National Park Service (NPS). Under this agreement, management responsibilities are separated into three categories: Reclamation (managed by BOR), Reservation (managed by STI and CCR), and Recreation (managed by the NPS). With this in mind, several of campgrounds and boat launches are managed separately by either the STI or the CCR.

These Tribal owned campgrounds and boat launches are not under the jurisdiction of the NPS and are not subject to closure upon lack of funding. Visitors can still access the Lake Roosevelt National Recreation Area via these facilities. In other words, LRNRA is essentially still open to the public.

Within the LRNRA there are many boat launches that also have campgrounds associated with them. While we understand the need to close the campgrounds and any facilities that would require NPS employees to operate, if each Superintendent had the ability to custom tailor each NPS unit, theoretically, it would be easy for the boat launches to remain open for public use. None of the launches are ever staffed by NPS employees, they are open year round and are essentially, "launch at your own risk". Although we certainly understand there are liability issues surrounding the idea of people being on federal land when the government is shut down, there are many ways to mitigate this. For example, since Lincoln County and other counties that border LRNRA, already provide for law enforcement and all emergency services within the boundaries, there could be a formal agreement with the NPS and the counties to provide these services and assume the liability (that already exists) in the event of no federal money for the NPS to operate. Liability remains constant for all governmental entities that have jurisdiction within the boundaries of a NPS unit, whether or not congress has approved funding

**Fiscal/Urban/Rural Impact**: NPS employees enforce trespassing on public land in a funding lapse in the name of public safety. But in reality, if a public safety issue arises, the local jurisdictions respond. The five counties bordering LRNRA all provide first response Law, Fire and EMS services within its boundaries so it would seem public safety concerns can be mitigated.

Within the boundaries of the LRNRA, hunting is allowed. This latest government shut-down just happened to coincide with hunting season causing hunters to seek alternate areas in which to hunt. This creates an economic hardship for the surrounding local governments. If a shutdown were to occur during the peak of the tourist season it would be even more disastrous to these economies.

The application of a blanket policy that treats all 401 units of the National Park System identical in the event of a government shutdown just does not make good fiscal sense and in fact *costs* even more money, all the while damaging local economies.

**Sponsor**: Washington State Association of Counties; Commissioner Rob Coffman, Lincoln County

**TELECOMMUNICATIONS AND TECHNOLOGY STEERING COMMITTEE**

**PROPOSED PLATFORM CHANGE**

**Proposed Platform Change to Add Cybersecurity Section to the Telecommunications and Technology Steering Committee Platform**

Add an additional section "O":

<u>**O. CyberSecurity:** NACo recognizes the ever increasing cyber threats that our nation faces from multiple sources on a daily basis. The threats are continuing to increase in sophistication and in turn requiring costly proactive measures to mitigate the potential loss of data and/or damage to our nation's critical infrastructure.</u>

<u>Understanding this, local governments carry a huge burden of responsibility in ensuring that our citizen's personal information, priceless historical records, and critical infrastructure are adequately protected, recoverable, and secured in the event of any potential breach. In efforts to ensure that local governments provide the stability, integrity, and security expected of protecting such critical infrastructure and digital assets, NACo supports the following:</u>

- <u>Funding assistance in any form deemed necessary to provide for the information technology resources required to adequately provide security at all levels;</u>
- <u>Funding assistance for basic security awareness training of employees and advanced security training for information technology professionals within local government including assistance in the completion of advance certification and degree programs;</u>
- <u>Cooperative efforts in information sharing among all federal, state, and local governments in addition to private sector organizations regarding breaches, potential threats, threat levels, and any techniques that would assist in the prevention or mitigation of cyber related threats;</u>
- <u>Collaborative efforts in the form of committees or task forces that are inclusive of local government membership with federal agencies such as the Department of Homeland Security and subprograms such as NCC, US-CERT, and ICS-CERT;</u>
- <u>Creation of programs and initiatives that designate local government Cybersecurity liaisons and/or representatives that serve in conjunction with federal agencies such as the Department of Homeland Security;</u>

**Background:** Cybersecurity has long been a large responsibility and financial burden to local governments as the ownership, management, and protection of personal and private information of our citizens becomes increasingly prevalent through everyday exchanges of information in digital formats. Additionally, local governments are in large part responsible for some of our nation's most critical infrastructure such as water, sewer, power, transportation, and communication systems. Now more than ever, Cybersecurity is at the forefront of concern as local governments struggle to balance the appropriate security measures with limited resources and funding mechanisms in place. It is for this reason I submit the following addition in the form of a new section in our policy platform language.

**Sponsor(s):** David L. Whicker, Vice-Chair, CIO, Rockingham County, North Carolina

## Proposed Platform Change on Universal Service

Change section K., UNIVERSAL SERVICE, under the POLICIES AND PRACTICES section, to read as follows:

**K. Universal Service:** NACo supports the current principles, six of which were originally codified in the Telecommunications Act and two later adopted by the FCC. At the heart of these principles lie the affordability, accessibility, reliability, competitiveness, and non-discriminatory access to communication related services to all Americans regardless of any circumstance. NACo opposes any federal actions to preempt state universal service programs and any efforts to redefine, modify, and/or expand technological services of any type that does not include local government input and guidance.

Given recent technological advances in both the quality and delivery of communication related services, these fundamental principles should continue to survive both now and in the future by shifting the focus of current program support mechanisms toward the expansion of advanced technological services that a good majority of Americans are afforded today.

In general, NACo supports efforts that continue to promote these principles such as:

- Updating and modernizing the “Schools and Libraries” program to provide funds in the form of discounts, grants, and/or reimbursements to local governments that ensure schools and libraries have access to the technology services of today in an affordable manner;
- Expansion of the “Schools and Libraries” program to allow for flexibility of local governments to collaborate and create partnerships with schools, libraries, non-profit organizations, and the private sector through innovative efforts to provide infrastructure such as fiber and outside cable plants that will assist in extending access throughout rural areas. These efforts should not be limited to the thinking of the past as many students and citizens alike need access to these services from their homes;
- Stronger support and equal funding methodology expected from service providers of all types is strongly encouraged as the federal government looks to expand broadband access through the “Connect America Fund”;
- Focused and concerted efforts among all governing bodies and agencies must continue to be streamlined to ensure that broadband expansion and adoption efforts are carried out in the most timely and efficient manner as possible with specific emphasis on rural underserved areas

**Background:** With continued technological advancement and a strong emphasis on broadband expansion into rural and underserved areas by both committee members and NACo members in general, the following policy platform modification is proposed to the section outlined below.

**Sponsor(s)**: David L. Whicker, Committee Vice-Chair, CIO, Rockingham County, North Carolina

# PROPOSED RESOLUTIONS

## Proposed Resolution on the Protection of State and Local Government Rights Through Congressional Policy Efforts that Include Collaborative Input from Appropriate NACo Committee Leadership

**Issue:** Disparate initiatives, legislation, and regulatory rule-making by governing bodies such as the FCC and Congressional Committees are threatening local government authority. Additionally, the primary law (Telecommunications Act of 1934) that governs the entire telecommunications and technology sector should be modernized in a concerted effort to update and modernize legislation through congressional oversight. Recent regulations by the FCC as well as proposed congressional legislation at best are premature attempts to only address micro level issues that do not align with the technological advances of our time. In fact, some of the recent rule-making by the FCC and proposed legislation in congress have the potential to create an unsustainable path forward in our nation and could have unintended consequences on the future of the telecommunications and technology sector.

**Proposed Policy:** NACo strongly supports a bipartisan and concerted effort among congressional leaders, committees, federal agencies, local governments, national associations, and any other organization deemed necessary to focus on the modernization of our current law(s) and regulation(s) that govern the telecommunications and technology sector. This effort must include unbiased and non-partisan subject matter experts within the information technology and computer sciences field. We strongly believe that the issues surrounding Internet regulation, taxation, fees for services, Net Neutrality, and FCC authority can best be resolved through directing our focus toward updating existing legislation through congressional authority.

**Background:** There are several major policy related areas that have gained much attention in our nation as of late. These include, but are not limited to, recent FCC rulings regarding "Open Internet"; Net Neutrality; IP Transition; Internet Tax Freedom Act (ITFA); and the Communications Act Update. NACo finds specific interest in the non-partisan congressional effort by the House Energy and Commerce Committee that began in early 2014 that began seeking input in what is deemed to be a multi-year initiative toward updating and modernizing the Telecommunications Act of 1934. Although this Legislation has received some updates over the past few decades, there is much work yet to be done. It is within this body of legislation that we derive our understanding of regulations regarding the telecommunication, radio, wireless, television, and information services. It is this legislation that created the FCC and assigned the very regulatory powers, rule-making, and oversight of the law. Unfortunately, the law has not kept pace with technological advancement and at the very root of the problems aforementioned lies the outdated terminology used to define the technology and services we so heavily rely on today.

**Fiscal Urban/Rural Impact:** Multiple studies conducted by leading industry experts specifically point out the negative funding implications that current FCC rulings and legislation such as the Internet Tax Freedom Act (ITFA) will have upon local governments. Current and future efforts must be inclusive of state, county, and city governments given the potential negative impact upon issues such as franchising authority, revenue streams, zoning authority, and other funding losses through current federal programs depended upon annually for operational cost.

**Sponsor(s):** David L. Whicker, Committee Vice-Chair and CIO of Rockingham County, North Carolina

**Proposed Resolution to Ensure the Protection of Local Government Lands Use and Franchise Authority**

**Issue:** Congressional efforts are underway to modernize and/or update the primary law (Telecommunications Act of 1934) that governs the telecommunications and technology sector. Additionally, recent regulatory activities conducted by the primary federal agency, known as the FCC, continue to increase leading to concerns of how current and future regulations might negatively impact local government authority. Of immediate concern is that of the powers and authority granted to state and local governments regarding land use and cable franchise decisions under current federal law (ref: 47 USC 332; 531; 541). In many states, local governments statutorily serve as franchising authorities.

**Proposed Policy:** NACo urges all federal agencies and governing bodies to collaborate with local governments, state governments, and similar associations both early and often when considering any modifications to legislation and/or regulation such as the Communications Act Update initiative in the House Energy and Commerce Committee. NACo strongly opposes any removal or modification to current federal laws and/or regulations that would remove at the very least local government authority currently granted. Furthermore, NACo strongly encourages that local governments be given ample time to consider, provide input, and collaborate with respect to any additions or modifications to current federal law and/or regulations regarding telecommunications and information technology related services.

**Background:** There are several major policy related initiatives underway within both congress and the FCC. Currently, a major undertaking by the House Energy and Commerce Committee that began in early 2014 has been deemed a multi-year initiative toward updating and modernizing the Telecommunications Act of 1934. Although this Legislation has received some updates over the past few decades, there is much work yet to be done. It is within this body of legislation that we derive our understanding of regulations regarding the telecommunication, radio, wireless, television, and information services. It is this legislation that created the FCC and assigned the very regulatory powers, rule-making, and oversight of the law.

Given that the law has not kept pace with technological advancement there appears to be an urgency of examining the various sections of the law which is interlaced with language that heavily impacts local governments through authoritative measures, regulations, and other measures. Within the Telecommunications Act, the use of terminology in some respects has become outdated, confusing, or at best unclear leading to more questions than answers at this point. When governing authorities find themselves in this position it is through caution and inclusion that efforts become successful in the end.

**Fiscal Urban/Rural Impact:** Any provision that removes, prohibits, or minimizes state and local government authority with regards to land use and cabling franchise decisions would lead to devastating consequences given revenue streams and other funding levels depended upon annually for operational cost.

**Sponsor(s):** David L. Whicker, Committee Vice-Chair and CIO of Rockingham County, North Carolina

**Proposed Resolution in Support of FCC Chairman Tom Wheeler's Reforms to the Lifeline Program**

**Issue:** A broadband connection to the internet is increasingly essential to the economic and communication needs of all residents. Unfortunately, low-income residents disproportionately lack access to broadband.

**Proposed Policy:** NACo supports efforts to bring the FCC's Lifeline Program into the digital age by expanding Lifeline to cover broadband services.

**Background:** In 1985, the Reagan administration created the Lifeline Program to subsidize landline telephone services for low-income Americans. As mobile technology gained prominence, the program similarly evolved to include subsidies for mobile phones. Now as more communications services are being delivered over broadband connections, the Lifeline program must evolve again to remain relevant and serve its core mission.

In 2015, broadband service is essential to finding a job, keeping that job, and accessing healthcare and educational services, among many other things. However, low-income residents disproportionately lack access to the most basic level of broadband service. 95% of households with an income over $150,000 have broadband, while only 48% of households making less than $25,000 have broadband service at home. To begin addressing this broadband income gap, FCC Chairman Tom Wheeler has proposed reforms to Lifeline. The reforms will include expanding Lifeline subsidies to broadband, setting minimum standards of service for voice and broadband, and reforming the way Lifeline determines eligibility to curb fraud and abuse.

Given Lifeline's important role in serving low-income populations, NACo supports efforts to bring the program into the digital age by, among other things, expanding Lifeline to cover broadband services.

**Fiscal Urban/Rural Impact:** Most sectors of the US economy are inextricably tied to the internet, and as such, expanding access to broadband has a positive economic impact across all income bands. Moreover, low-income residents in both rural and urban settings stand to gain from improving access to broadband.

**Sponsor(s):** Hans Riemer, Councilmember, Montgomery County, Maryland

**Proposed Resolution in Support of Empowering Counties to Be Active in the Deployment and Operations of High Speed Internet**

**Issue:** High Speed Internet is an essential element to modern commerce but local governments in many states are prohibited from being an active participant in the deployment of these services.

**Proposed Policy:** NACo supports the removal of barriers to counties supplying infrastructure to the Private sector, partnering with the Private sector or operating Internet services as a public utility when no commercial service is available.

**Background:** High Speed Internet is becoming as essential as sewer, water and roads to the commerce of our nation but unlike these classic infrastructures, the private sector does an admirable job of supplying it in most cases. There are however specific areas in many counties where due to terrain, low population density or other situation which contribute to a low potential return on investment that the private sector alone is unable to provide High Speed Internet service. Counties may in some cases be able to provide these services or partner with the private sector to provide these services. However state laws and Federal grant restrictions may prohibit the county's involvement. While becoming an Internet Service Provider is very different than providing water and sewer, it needs to be an option for counties to consider in underserved areas. In some cases the successful deployment may only require the use of a county owned asset such as a tower or existing microwave system. It may be as simple as the county laying in Fiber as a part of their road maintenance and then leasing the fiber to an ISP or in some cases the county may have to build the entire infrastructure needed to fill the gaps between commercial coverage. Although NACo does not endorse the concept of all counties becoming ISPs we do support local government's ability to enter into cooperative agreements with the Private sector and if necessary act as a Public Utility to provide this crucial service.

Accordingly, we call on our member's State Associations to work to repeal any laws which restrict their counties' activities in regard to supplying Internet services. Further we call for the Federal government to remove any restrictions on the use of federally funded infrastructure for the providing of Internet Service in underserved areas so long as this use would not adversely impact National Security.

**Fiscal/Urban/Rural Impact:** The US economy is now tied to the internet and as such nationwide access to High Speed Broadband has a positive impact on the economy as a whole. Additionally, cost decreases in the overall cost of deployment of the High Speed reduces the requirements on the Universal Service Fee which is paid by consumers of telecommunications services such as wired and wireless phones.

**Sponsor(s):** Hon. Joe Briggs, Commissioner, Cascade County, Montana

## Proposed Resolution of Support and Recommendations for the Work of the Broadband Opportunity Council

**Issue:** Establishment of the Broadband Opportunity Council to reduce barriers to Broadband deployment created by Federal Regulations.

**Proposed Policy:** NACo strongly supports the creation of the Broadband Opportunity Council (BOC) and their efforts to reduce Federal Regulatory barriers to the ongoing deployment of Broadband capability throughout the nation. Further we encourage the BOC to facilitate the use of publicly held infrastructure via lease and partnership arrangements with the private sector to increase the deployment of Broadband to underserved areas. This is especially important in relation to any additional federally funded build out required to meet First Net's Public Safety requirements. Lastly, we urge the BOC to utilize the "align funding policies" section of its charter to solicit input from the Broadband industry as to changes necessary to maximize the impact of the Universal Service Fee (USF) dollars on "last mile" High Speed deployment.

**Background:** On March 23rd 2015, President Obama issued a Presidential Memorandum creating the Broadband Opportunity Council. The Council, which is made up of 25 federal agencies, was established to develop a framework of recommendations to explore ways to remove unnecessary regulatory and policy barriers, incentivize investment, and align funding polices and decisions to support broadband access and adoption. The council is chaired by the Secretaries of Commerce and Agriculture. The action also allows for the inclusion of additional Federal agencies or entities as appropriate.

Access to the Internet at High Speed has moved beyond the realm of luxury or convenience it is rapidly becoming essential for economic competiveness. This is especially true in less populated areas where the cost of providing service exceeds the revenue potential. Any reduction in cost that could be obtained by elimination of unnecessary and duplicative regulation or by the leasing of Federal assets to the Private sector or by Public-Private Partnerships would serve to accelerate the deployment of High Speed Broadband into underserved areas.

**Fiscal/Urban/Rural Impact:** The US economy is now tied to the internet and as such nationwide access to High Speed Broadband has a positive impact on the economy as a whole. Additionally, cost decreases in the overall cost of deployment of the High Speed reduces the requirements on the Universal Service Fee which is paid by consumers of telecommunications services such as wired and wireless phones.

**Sponsor(s):** Hon. Joe Briggs, Commissioner, Cascade County, Montana

## Proposed Resolution Opposing the Closing of Federal Communications Commission Field Offices

**Issue:** The Federal Communications Commission (FCC) has several field offices which help counties identify, track down and mediate radio frequency interference that causes not only public safety communications to become limited or inoperable, it has effects on the broadcast community as well.  Currently, the FCC is proposing to close field offices due to budget issues.

**Proposed Policy:** NACo opposes the closing of FCC field offices.

**Background:** The FCC is considering closing field offices due to budgetary reasons.  Counties rely on FCC field offices for mitigation to eliminate interference on public safety communications systems utilized for law enforcement, fire and ems first responders nationwide.

As taxpayers, we are sympathetic to the need for the Commission to reduce costs.  However, as discussed below, it is difficult to believe that the Commission can close 16 (over 70%) of the current field offices without a negative impact to its public safety, commercial, broadcast constituents, and the public they serve.

As industry has also strived to reduce costs, an increasing number of employees work out of their homes.  It is unclear whether having field engineers work out of their homes has been considered as an alternative to eradicating the field presence in 16 areas.  It would appear that a home office approach could benefit the Commission's constituency and the public by maintaining the current field engineer presence while also significantly reducing costs.

As an example, in Virginia the two field engineers have home offices and this model appears to work very well. There has been no open opportunity for the public safety, broadcast, and commercial constituents who would be affected by field office closures to review the contractor's report and rationale so we can provide comments.

The $9M savings may sound positive on the surface.  However, it doesn't consider the overarching impacts for travel costs for field agents, or intermittent problems that could happen with these interference issues.

Industry and public safety agencies already dedicate their own resources to assist in interference mitigation. We have a positive relationship working with FCC field engineers to assist in those efforts, especially when the Commission's authority is needed to help resolve an issue.

**Fiscal/Urban/Rural Impact:** Would negatively impact urban and rural counties because FCC field office services would terminate without an alternative and counties would not have a federal resources for assistance with radio interference which could negatively impact a county's ability to provide public safety services.

**Sponsor(s):** Terry Hall, Chief of Emergency Communications, York-Poquoson-Williamsburg Regional 911 Center, Virginia

## Proposed Resolution Supporting PSAP Consolidation and Recommending Other Factors for the FCC's PSAP Task Force to Examine as the Task Force Moves Forward with its Report and Recommendations

**Issue:** The Federal Communications Commission has initiated a task force to study public safety answering point architecture which will examine whether consolidation of PSAPs would promote greater efficiency of operations, safety of life and cost containment.

**Proposed Policy:** NACo supports PSAP consolidation if the consolidation would result in greater public safety and increased efficiencies. Additionally, as the federal communications commission's (FCC) task force on optimal public safety answering point architecture moves forward with the goal of examining whether additional consolidation of PSAP infrastructure would promote greater efficiency of operations, safety of life and cost containment, NACo would urge the FCC to consider the following:

1. **Redundancy and Hardening:** the FCC should require redundancy between PSAPs as well as site hardening of infrastructure. The FCC should consider supporting standards for site hardening.
2. **Common Standard:** NACo supports the NENA i3 standard for the nationwide development of NG911.
3. **Cybersecurity:** the FCC should consider the cost of cybersecurity measures for consolidated NG911 networks and work with Congress to identify funding streams that would assist PSAPs with cybersecurity.
4. **Training:** the task force should identify opportunities for staff training on NG911 systems.

**Background:** NACo should support the NENA i3 standard for nationwide development of NG911

- The National Emergency Number Association (NENA) has worked for several years with the public safety community and the vendor community to develop i3 as a standard. This will allow multiple vendors equipment to be technically interoperable via the internet between multiple vendors and will facilitate next generation hardware and software to be compatible. The i3 technical requirements document is a living document that has constant oversight and provides a road map for future technologies as they are developed.

NACo should support consolidation of PSAPs nationwide

- Governance at the local and state level is currently and will remain difficult to have one uniform policy. Some states manage, deploy and purchase statewide 9-1-1 networks where others have numerous individual systems. As an example, Virginia has 121 PSAPs that are managed separately and are partially funded by a state wireless board and grant processes. As we evolve these technologies, it is very cost effective to share this equipment and cost over a regional basis.
- A main issue of consolidation is the perceived loss of independence. Bench marking plays a heavy role in some of the lessons learned, as well as ways to overcome the political hurdles.
- Across the country there are numerous legislative proposals both state and local to fund regional communication centers. Several states and regions offer grants for consolidations.
- Consolidations have been proven to increase services and save money. One example would be providing emergency medical dispatch (EMD). Over 80% of the 9-1-1 centers in the country have less than 10 dispatch positions; some may have only 1 or 2. It becomes extremely difficult and opens up the jurisdiction to liability if a 9-1-1 dispatcher cannot be totally committed to providing EMD if a citizen is calling reporting a heart attack, breathing difficulty, child birth, etc. Increasing the number of 9-1-1 dispatchers provides backup to the call taker giving EMD instructions.
- Training – This remains an issue across the country as several states still have no minimum training requirements for dispatchers.
- One of the challenges of a consolidation is how large the center should be. Of the over 7000 9-1-1 centers in the country about 15% are looking at some type of consolidation. I am unaware of any that are looking at a total state consolidation and most are looking to combine 2 or more PSAPs.

Building public safety mission critical networks and infrastructure

- NACo should support redundancy between PSAPs as well as site hardening of infrastructure and should support standards being developed to harden for site hardening. One of the best examples was after the storms moved through northern Virginia and not only did cell phones fail, 9-1-1 failed to operate in numerous PSAPs in several states as well.
- NACo should support the development and funding to deal with cybersecurity across the 9-1-1 networks. Each day in most communications centers our anti-virus software and existing cybersecurity stops a lot of hackers that continue to attempt to gain information and bring our networks down.

**Fiscal/Urban/Rural Impact:** PSAP consolidation can save money for counties if done properly.

**Sponsor(s):** Pat Irwin, Commissioner, Pershing County, Nevada

## TRANSPORTATION STEERING COMMITTEE

## PROPOSED PLATFORM CHANGE

Under RAILROADS. add**:**

[Add new “Section E”]:

**E. Railroad Safety:** Rail safety is a critical issue for our communities. NACo urges Congress to support improved rail safety through the following measures:

a. **Grade Separations**: NACo urges Congress to provide additional funding to local governments, states and railroads to improve grade crossings allowing for safer interactions between road and rail traffic (23 U.S.C § 130).
b. **Routing Risk Assessments**: NACo supports the Rail Routing Risk Assessment required annually by the FRA. NACo urges Congress to further require local and state government review and input into the risk model. (49 CFR § 172.820)
c. **Oversight Staff**: NACo believes additional support is needed for FRA staff to monitor and enforce recommendations made by routing risk assessments and other safety inspections.
d. **Rail Line Relocation**: NACo supports appropriations for this critical program that would provide communities options to relocate rail lines as needed.
e. **Rulemaking on Enhanced Tank Car Standards**: NACo supports the new enhanced tank car standards, however the timeline for industry implementation of the enhanced breaking system should be expedited prior to 2023.
f. **Credit Assistance for Safety: NACo supports allowing federal appropriations to pay for the credit risk premium for loans that support safety improvements through the Railroad Rehabilitation and Improvement Financing Program.**

## PROPOSED RESOLUTIONS

### Proposed Resolution Supporting the Expansion of Mass Transit in Lieu of Road Construction

**Issue:** Americans need reliable transportation, and without reliable mass transit are dependent upon automobiles. Yet automobile transportation is increasingly more unsustainable.

**Proposed policy:** Support more mass transit instead of more and more roads. Promote transition to reliable mass transit with multimodal regional transit hubs and local transit hublets, with safe connections to pedestrian and bikeways.

**Background:** Our roads are congested and the environment is being covered with more and more roads and associated hardscape, adding to global warming and drought. Only by decreasing the use of automobiles and creating dependable systems of mass transit with associated hubs and hublets with connecting safe pedestrian access ways and bikeways will we achieve a workable traffic and transportation plan. Coordinated mass transit also contributes to healthier life styles, bringing communities together and promoting more walkable environments associated with mass transit.

**Fiscal/Urban/Rural Impact:** Would divert funds and planning resources to mass transit rather than for more roads and associated hardscape.

**Sponsor(s):** Margaret Wille, council Member, County of Hawaiʻi 808-887-2043

## Proposed Resolution on County Priorities for MAP-21 Reauthorization

**Issue:** This year, the nation's transportation system will face two looming crises: the expiration of the current surface transportation authorization law, Moving Ahead for Progress in the 21st Century Act (MAP-21); and the dwindling solvency of the Highway Trust Fund.

**Proposed Policy:** With MAP-21's current extension set to expire on July 31, 2015 and the Highway Trust Fund nearing a major fiscal cliff, NACo urges Congress to adopt a secure and long-term funding strategy for the future of the Highway Trust Fund and pass a long-term surface transportation bill (preferably six years in length) that provides sufficient funding and supports counties' surface transportation priorities.

**County surface transportation priorities in the reauthorization of MAP-21:**

- **Provide Long-Term Funding Certainty:** Support passage of a new surface transportation authorization that provides long-term funding certainty by raising the federal gas tax and/or finding alternative sources of revenue to make the Highway Trust Fund solvent.

- **Increase Funding for County Road and Bridge Projects:** Support county road and bridge projects by: 1) maintaining the set-aside for off-system bridges and continuing states' ability to reduce the set-aside requirement if there are insufficient off-system bridge needs; and 2) providing more funding for locally-owned on-system roads and bridges by increasing the overall funding level for the Surface Transportation Program (STP) and continuing the STP suballocation to local areas but increasing the share to greater than 50 percent.

- **Increase the Role of Counties in Statewide Planning:** Provide an increased role for counties in statewide transportation planning by: 1) requiring state departments of transportation, at a minimum, cooperate with local government officials (including county transportation officials) in the development of planning and funding allocation processes, including the development of State Strategic Highway Safety Plans; and 2) requiring state departments of transportation coordinate with local government officials in defining the term 'high risk rural road' – or developing a federal definition of the term 'high risk rural road' after considering input from state and local stakeholders and other performance measurements.

- **Build on Reforms from MAP-21 that Strive to Expedite Project Delivery:** Continue and expand efforts to streamline and expedite project delivery by: 1) maintaining the categorical exclusion for projects receiving limited federal assistance ($5 million or less); and 2) simplifying the process for pursuing categorical exclusions.

- **Support Public Transportation Systems of all Sizes:** Support rural, small and large transit systems by: 1) continuing to fund transit programs through the Mass Transit Account of the Highway Trust Fund; 2) increasing federal funding for rural transportation systems; 3) continuing and expanding transit operators' flexibility to use federal dollars for operating assistance; 4) restoring historic funding levels for the Bus and Bus Facilities program and revising the program to require that all funds for Urbanized Areas with a population of 50,000 or more be apportioned directly to the designated recipients of 5307 funding; and 5) providing discretionary funding for both rural and urban transit systems to address one-time and/or major investments.

- **Make Safety a Priority on all Roads and Bridges:** Emphasize safety on all roads and bridges by: 1) revising the High Risk Rural Road (HRRR) safety rule under the Highway Safety Improvement Program, which requires an increase in existing fatality rates on HRRRs over a two-year period before a state must obligate funds to improve rural road safety – rather than waiting for safety problems to get worse, states should either be required or incentivized to decrease existing fatality rates on HRRRs through safety investments; 2) prioritizing investments for federal-aid bridges to address safety and infrastructure improvements for bridges with the greatest need – regardless of whether they are on or off the National Highway System; and 3) continuing existing limits on truck size and weight due to the enormous threat larger and heavier trucks pose to road safety and locally-owned infrastructure.

- **Support Innovative Funding and Financing Methods:** Continue and encourage alternative financing methods that help local governments stretch federal, state and local investments farther by: 1) continuing robust funding for the TIFIA program; 2) incentivizing innovative project funding and financing through an increased federal match (up to 100 percent) or by allowing local governments to use savings realized through innovative contracting methods toward their local match; and 3) creating a pilot program or providing technical assistance to local governments that support the planning for and design of multi-jurisdictional project bundling.

- **Invest in Passenger Rail:** Include funding for passenger rail in the reauthorization of MAP-21 that supports current rail service and the development of high-speed rail.

- **Continue Funding for the Reservation Road Program:** NACo believes reservation road funding should be continued for the improvement and maintaining of roads that are used to transport children to or from school or Head Start programs on or near reservations.

**Background:** Counties play a critical role in the nation's transportation system. They own and maintain 45 percent of the nation's road miles and 39 percent of the nation's bridges. Counties are also involved with over a third of the nation's transit systems and airports. MAP-21 and the highway trust fund provide vital funding for county roads, bridges and public transportation.

NACo believes counties should be recognized as major owners of transportation infrastructure and provided an opportunity to participate in the development of federal policy that dictates the levels of funding and authority counties receive under the federal transportation program.

**Fiscal/Urban/Rural Impact:** MAP-21 reauthorization legislation will dictate the federal funding available to the transportation infrastructure owned and operated by county governments.

**Sponsor(s):** Peter McLaughlin, Commissioner, Hennepin County, Minnesota

## Proposed Resolution on Funding for Tribal Roads and School Bus Routes

**Issue:** In general, tribal roads are in dire need of maintenance and improvement and many of these dirt and gravel roads become impassable during the rain and snow seasons. The unsafe condition of tribal school bus routes is unacceptable and unfair to students who miss school when the roads become impassable. Previous federal highway bills, the Transportation Equity Act for the 21st Century (TEA-21) and the Safe Accountable, Flexible, Efficient Transportation Act: A Legacy for Users (SAFETEA-LU) offered dedicated funding for the maintenance of these unimproved Indian school bus routes. The current highway authorization, Moving Ahead for Progress in the 21st Century (MAP 21) removed this authority.

**Proposed Policy:** NACo urges that the new federal highway authorization include funding for school bus routes in a similar fashion as was provided by Section 1806 of SAFETEA- LU. Section 1806 allowed for federal funds to be made available for the maintenance of Indian reservation school bus routes to States that have within their boundaries, all or part of an Indian Reservation having a land area of ten million acres or more. The latest authorization provided by SAFETEA-LU, fiscal year 2011, provided $1.8 million. The new federal highway authorization should include Indian school bus route authorization at a level of $20 million.

**Background:** Tribal roads present a unique problem in that the majority of the roads are dirt roads that require continuous routine maintenance to sustain safe road conditions. Unsafe conditions that imperil the traveling public are found in many of the water crossings that intersect tribal roads. Any weather disturbance makes the roads unsafe and impassable. The condition of many of these roads would be considered unsafe if found on non-tribal entities and safety issues for the traveling public, especially larger vehicles like school buses are common and real. School children in tribal communities normally have to be transported long distances to get to school. In fact, it is not uncommon for a child to spend four hours daily traveling in a school bus and most of that time spent on marginally maintained dirt roads. When roads become impassable, the school children have no choice but to miss school. Section 1806 funding has made a positive difference for children who, on a daily basis, ride school buses a great distance across dilapidated dirt and gravel roads. The multi-state, regional appropriation provided by school bus route funding has allowed counties to work in partnership with tribes to improve school bus route.

**Fiscal/Rural Impact:** The requested Federal funding would allow for maintenance and improvements to school bus routes providing safer and more reliable passage for tribal school children.

**Sponsor(s):** Jesse Thompson, Board of Supervisors, Navajo County, Arizona

**Proposed Resolution to Support Restoration of a Level Playing Field Through Open Skies Policy**

**Issue:** Immense subsidies totaling in the billions of U.S. dollars from the countries of Qatar and the United Arab Emirates to their state-owned airlines, Qatar Airways, Etihad Airways and Emirates Airline, skew the international aviation marketplace and give those air carriers an unfair competitive advantage and threaten thousands of American jobs throughout the nation.

**Proposed Policy**: NACo supports having the U.S. government initiate consultations with Qatar and the United Arab Emirates as provided for within existing Open Skies agreements, and requests a freeze on new capacity for Gulf carriers to the U.S. while those talks take place.

**Background**: These airlines have rapidly expanded their routes and service to the United States because of the subsidies, effectively shifting flights and business away from U.S. carriers. The Partnership for Open & Fair Skies released a white paper in January, 2015, *Restoring Open Skies: The Need to Address Subsidized Competition from State-Owned Airlines in Qatar and the UAE*, showing how Qatar and the UAE have propped up these airlines, some of which most likely would not otherwise be commercially viable, with $42 billion in subsidies over the last decade. The United States Department of Transportation and Department of State have negotiated many Open Skies Agreements since 1992 that have successfully opened new markets for U.S. air carriers and promoted free and fair competition which resulted in much greater consumer choice as well as better service and price for passengers.

**Fiscal/Urban/Rural Impact**: These government subsidies from Qatar and the United Arab Emirates clearly pose a substantial threat to both direct and indirect jobs at major air transportation hubs across the country and to the United States airline industry as a whole.

**Sponsor(s):** Glen Whitley, Tarrant County Judge, Tarrant County, Texas

**Proposed Resolution on the Bridge to Sustainable Infrastructure Act**

**Issue**: Sustainable funding of the Highway Trust Fund

**Proposed Policy**: The National Association of Counties (NACo) encourages and supports efforts to provide long term funding certainty and endorses the Bridge to Sustainable Infrastructure Act to address the solvency of the Highway Trust Fund.

**Background**: Counties play a critical role in the nation's transportation system. They own 45 percent of all public roads and 39 percent of the nation's bridge inventory, and are involved with a third of the nation's transit systems and airports that connect residents, communities and businesses.

The nation's transportation system is currently facing two looming policy crises: the expiration of the current surface transportation law (Moving Ahead for Progress in the 21st Century Act (MAP-21); and the declining solvency of the Highway Trust Fund. The programs authorized by MAP-21 are primarily funded through the Highway Trust Fund, which collects revenue from a number of sources including the federal gasoline tax.

The federal gasoline tax has not been raised since 1993. Due to several factors, including a reduction in vehicle miles traveled, increased fuel efficiency, and decreased purchasing power, the trust fund has faced growing shortfalls since 2008. As a result, Congress has enacted six general fund transfers to keep the Highway Trust Fund solvent. In order to effectively address the ongoing shortfall all options, including raising the gas tax or other alternative sources of revenue, must be on the table and considered by Congress.

**Fiscal/Urban/Rural Impact**: Counties own 45 percent of the nation's roads and 230,690 bridges, and are stewards of nearly a third of the nation's transit system and airports, counties understand the nation's infrastructure needs and the detrimental cost of inaction at the federal level.

**Sponsor(s):** Daniel P. Troy, Commissioner, Lake County, Ohio

## Proposed Resolution on Modifying the Train Horn Rule

**Issue:** Supporting feasible and safe implementation of railroad quiet zones through modification of the Train Horn Rule

**Proposed Policy:** NACo urges the U.S. Congress and Federal Railroad Administration (FRA) to reexamine the Train Horn Rule (49 CFR, Part 222, the Use of Locomotive Horns at Highway-Rail Grade Crossings) in order to determine how local communities can feasibly implement quiet zones without insurmountable costs, requirements and processes while also continuing to protect public safety. Additionally, NACo encourages Congress to provide new or unobligated federal funds to localities for the express purpose of establishing quiet zones.

**Background:** Train horn noise can be a considerable concern to residents 1 in local communities and can affect economic and residential developments locating in the heart of communities. The Train Horn Rule, established in 2005 to protect public safety at railroad crossings, requires train operators to sound train horns at specified levels of at least 96 decibels at crossings in town centers and residential areas even when there are signals and crossing gates, unless a quiet zone has been implemented.

The Train Horn Rule allows for communities to create quiet zones in which train operators are not required to sound the horns. However, the steps that communities must take to establish quiet zones are time intensive and can be expensive. Implementation of the requisite studies and new infrastructure for quiet zones costs local communities hundreds of thousands or even millions of dollars, and many communities have numerous crossings in their populated area which multiplies the expense significantly.

Working in conjunction with the FRA and the railroad industry, local governments can help identify streamlined solutions that allow communities to establish quiet zones in a way that is economically feasible yet also continues to protect the public's safety at rail crossings. A variety of less costly options exist that currently are not permitted. For example, through examination of accident data, frequency of crossings and other factors, it likely would be determined that in many cases a simple gate or lighted sign might be appropriate. It is important that the U.S. Congress and Federal Railroad Administration work with the nation's counties to reexamine the Train Horn Rule to allow communities to effectively create quiet zones.

In addition to reexamining the Train Horn Rule, efforts are underway to identify federal funding to help finance quiet zones. Congress should consider using a portion of unobligated transportation funding to provide grants to localities for the direct costs associated with establishing quiet zones. If unobligated transportation funding is not a viable solution, Congress should identify a new, dedicated funding source to help communities nationwide to establish quiet zones.

**Fiscal/Urban/Rural Impact:** Modifying the Train Horn Rule for greater flexibility would enable rural and urban local communities to more affordably implement safety measures that allow for decreased train horn noise in town centers and residential areas. Additionally, federal grant funding for quiet zones would help off-set the cost of implementing such zones to communities nationwide.

**Sponsor(s):** Colorado Counties Inc.

## Proposed Resolution Requesting Modifications to Rules for Challenges to Federal Aid Highway Construction

**Issue:** Project development and Environmental review challenges to federal Aid Highway Construction Projects result in unnecessary delays and excessive litigation with unwarranted added costs.

**Proposed Policy:** NACo urges proposed legislation to modify the relevant laws and regulations that will prohibit the ability to make legal challenges to federal aid highway projects, delaying them from moving forward, after the Jurisdictional entity proposing the project has received a “record of decision” in relation to the project and all required project submittals have been made and accepted to receive the “Record of Decision”.

**Background:** Transportation infrastructure is a critical component of any local economic development program. There are numerous regulations and project development requirements currently in place concerning federal aid highway projects and the required project scope/environmental studies. Legal challenges to these projects are often done very late in the project development and regulatory compliance process. These legal challenges result in both significant added costs to litigate the Challenge as well as very costly delays to the construction and again resulting in the significant added costs.

Ensuring that there is some limitation on when legal challenges can be made to a federal aid project will ensure that much needed transportation projects can move forward in a timely manner and at the Best value to the tax payers. This limitation does not eliminate the opportunity to challenge these type projects but only limits the ability to challenge a federal aid highway project after all required documentation and submittals have been made and accepted and a “record of decision” has be received by the entity proposing the highway project.

**Fiscal/Urban/Rural Impact:** Limiting these legal challenges is in the economic interest of the Counties by ensuring some level on assurances that projects can move forward in a timely manner after all required submittals have been made and accepted as well as the economic benefits that the transportation improvements allow to the Counties.

**Sponsor(s):** Joe Carpenter, Commissioner, Gaston County, North Carolina; Daniel J. Fedderly P.E., P.L.S., Executive Director, Wisconsin County Highway Association

### Proposed Resolution Supporting Equitable Funding and Expenditures of the Highway Trust Fund

**Issue:** The long-term solvency of the Highway Trust Fund

**Proposed Policy**: NACo urges Congress to ensure the long-term solvency of the Highway Trust Fund by considering revenue sources that will better capture all users of the nation's highways and account for all vehicles. Congress should also consider reducing the allowable administrative costs in order to direct more funding toward highway improvement funding.

**Background**: The equitable funding resolution for long-term solvency of the Highway Trust Fund passed without objection at last year's conference. The resolution supports the concept that all vehicles using our highway system need to pay into the trust fund to ensure enough funding is available to states and counties to make needed repairs and safety upgrades to our urban and rural road systems. It makes sense to move this resolution into our platform and for NACo to continue to lobby for a user fee that supports the needed increases in our highway funding. Our desire with the resolution is to influence Congress to restore highway funding in a long-term highway bill that allows state and county governments to plan for and have time to design projects that benefit our citizens, providing maintenance money, safety funding and more local control.

**Fiscal/Urban/Rural Impact**: The two month extension of Map 21 is a band-aid and jeopardizes long-term planning efforts. Map-21 changes in funding eliminated the old Highway Bridge Program and reduced available funding for infrastructure by 30% from previous highway funding. Only 23% of the nation's bridges are part of the NHS funding and 77% need to compete with other eligible projects for limited funding. Additionally, local governments own 52% of the federal aid highway miles that are not part of the NHS. Equitable funding would restore federal aid to states and counties to address our growing list of highway projects and safety upgrades. I would ask that NACo consider moving the Equitable Funding and Expenditures of the Highway Trust Fund Resolution to our platform agenda and continue to place a focus on restoring highway funding to a sustainable level in a long-term highway funding bill.

**Sponsor(s)**: John Ostlund, Commissioner, Yellowstone County, Montana

### Proposed Resolution on Elevating the Role of Local Governments in the Development of State Strategic Highway Safety Plans

**Issue:** The need for elevated coordination with local governments in the development of State Strategic Highway Safety Plans (SHSPs).

**Proposed Policy:** NACo urges Congress to make safety on county roads a priority in the reauthorization of MAP-21 by requiring that state departments of transportation, at a minimum, cooperate with local government officials (including county transportation officials) in the development of State Strategic Highway Safety Plans (SHSPs) and by directing proportionate

Highway Safety Improvement Program funding to areas of safety concern regardless of roadway ownership.

**Background:** Historically, there has been significant variation in how state departments of transportation include local government officials in the development of the Strategic Highway Safety Plans. This can be problematic for counties since a state's SHSP identifies key safety needs and guides investment decisions, including the allocation of Highway Safety Improvement Program dollars. The Moving Ahead for Progress in the 21st Century Act (MAP-21) requires states to develop, implement, evaluate and update an SHSP that identifies and analyzes highway safety problems and opportunities on all public roads. As the owners of 45 percent of the nation's road miles, counties should have the opportunity to help identify and evaluate safety needs with their state departments of transportation during the development and updating of the SHSP, particularly when it comes to addressing significant safety needs and high fatality segments of county-owned roads.

**Fiscal/Urban/Rural Impact:** Requiring state departments of transportation to, at a minimum, cooperate with local government officials, would likely provide additional federal funding to counties for addressing safety issues on county-owned roads in urban and rural areas across the country.

**Sponsor(s):** Daniel Fedderly, Executive Director, Wisconsin County Highway Association; Richie Beyer, County Engineer, Elmore County, Alabama

## Proposed Resolution on the Establishment of a 'Toward Zero Deaths' Grant Program

**Issue:** The need for additional funding for safety improvements on county roads in the reauthorization of MAP-21.

**Proposed Policy:** NACo supports the establishment of a federal Toward Zero Deaths (TZD) grant program that will provide funding to local governments and non-profit organizations for the purpose of implementing proven safety practices and programs.

**Background:** Toward Zero Deaths (TZD) is a national safety vision of eliminating fatalities on our nation's roadways. The TZD national vision brings together a wide range of organizations and individuals under a unified commitment to transform our nation's traffic safety culture, including the nation's educators, state and local governments, roadway designers, engineers, law enforcement officers and motorists. As a national strategy, TZD includes initiatives that are known to be – or are expected to be – effective in addressing specific factors contributing to roadway crashes, have the potential to make a significant reduction in fatalities and serious injuries nationally, or address areas of growing concern. With one person dying every 16 minutes in the United States due to a roadway crash, and with counties owning 45 percent of the nation's road miles and serving as emergency responders and health care facility owners, reducing fatalities and moving toward zero deaths is a commitment that's important to all of the nation's counties. Establishing a federal TZD grant program in the reauthorization of MAP-21 could provide funding to deploy safety initiatives and strategies to support this national strategy and increase transportation safety across the country.

**Fiscal/Urban/Rural Impact:** A federal TZD grant program would provide additional federal funding for counties to address safety issues on county-owned roads in urban and rural areas across the country.

**Sponsor(s):** Daniel Fedderly, Executive Director, Wisconsin County Highway Association and Richie Beyer, County Engineer, Elmore County, Alabama