

## NACo Response to the State of the Union

The National Association of Counties responded to President Donald Trump's State of the Union address with the following statement from NACo Executive Director Matthew Chase:

"We welcome President Trump's call for bipartisanship and unity. We will continue to partner with the administration and Congress to achieve our shared priorities.

"Our nation is blessed with many opportunities, yet we also face serious challenges, from the opioid epidemic to health care, from jobs to housing and infrastructure — and counties need a reliable federal partner to address them.

*See UNION page 2*



**Cracks like this along Rattlesnake Ridge in Yakima County, Wash. were discovered in late October last year. Since then they have expanded and an entire hillside is sliding now at a rate of about 1.6 feet per week threatening Interstate 82, the Yakima River and communities below. See page 3 to learn more about how the county is responding.** Photo by Steve Reidel

## Supreme Court decision muddies WOTUS challenges

**By Julie Ufner and  
Austin Igleheart**

A unanimous ruling by the U.S. Supreme Court has left in question the status of a nationwide halt to the implementation of an Obama-era rule defining the "Waters of the U.S." (WOTUS). On Jan. 22, the nine justices ruled unanimously that federal district courts have jurisdiction over challenges to the rule, rather than the appeals courts. The decision potentially invalidates a nationwide stay issued by the 6th U.S. Circuit Court of Appeals in October 2015.

WOTUS is a term used in the Clean Water Act to determine what waters and their conveyances fall under federal — versus state — permitting authority. In 2014, the EPA and the Army Corps of Engineers

undertook an effort to rewrite and expand the current WOTUS definition. The rule was finalized in 2015.

Almost immediately after the rule was finalized, lawsuits were filed in both appeals and district courts arguing that EPA and the Corps had overreached in their authority to regulate certain bodies of water. However, there was significant debate over which court — district or appeals — had the authority to hear the case, setting the stage for the recent high court decision.

Once the 6th Circuit Court of Appeals put a nationwide stay on the rule, it could not be implemented nationally until the stay is lifted. However, now that the Supreme Court has decided that cases belong in federal district courts, there is some confusion about how

this decision will affect the nationwide stay.

Initially, it is expected that the 6th Circuit will lift the nationwide stay within the next several weeks, at which point

the 2015 rule would go into effect in 37 states, which will almost certainly result in additional lawsuits in the district

*See WOTUS page 2*

## Local control, telecom fees on the table at FCC

**By Mary Ann Barton  
senior staff writer**

Shrinking telecom fees for local governments and eliminating local control are among some suggested recommendations made by the Federal Communications Commission's Broadband Deployment Advisory Committee (BDAC), which met Jan. 23 and 24 in Washington, D.C. at FCC headquarters to review draft model

codes still being hammered out. The group, charged with finding ways to expand broadband, is set to deliver finalized reports in about three weeks, its chair said. An FCC spokesman said another meeting by the full committee is expected this spring.

The recommendations so far did not sit well with BDAC member San Jose Mayor Sam Liccardo, who resigned from

*See FCC page 2*

## NACo applauds commitment to strengthen infrastructure

From UNION page 1

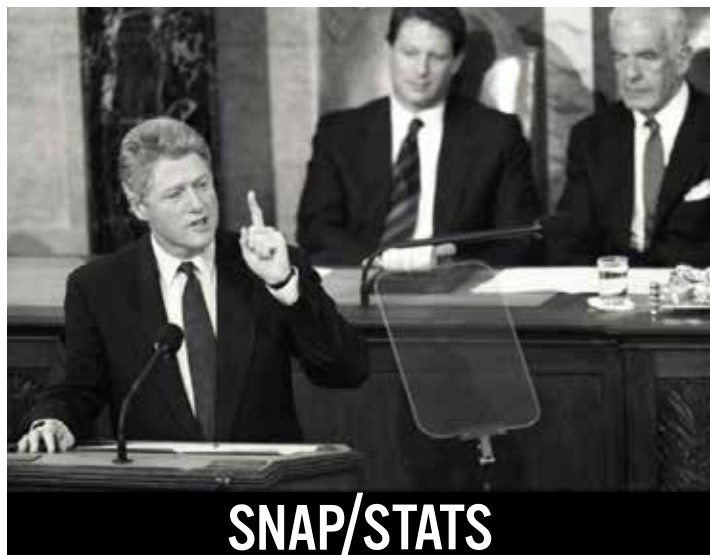
Partnerships are critical when it comes to fulfilling our nation's infrastructure needs.

"Counties invest significantly in infrastructure — physical and human — roads and bridges, public facilities, water and sewer systems, broadband and telecommunications. We own and maintain 46 percent of all public road miles and 39 percent of the nation's bridge inventory. We are involved in a third of the nation's public transportation systems and airports that connect residents, communities and businesses.

"Investing in infrastructure

means investing in every American community. With President Trump's commitment to strengthening our infrastructure, we stand ready to work across the span of society —with the public, private, nonprofit sectors —to reinvest in our communities.

"Counties represent America's diversity —urban, suburban, rural, blue, red and everything in between. Regardless of these differences, we are united behind the mission of serving our residents. Now is the time for action, and we look forward to achieving results with our state and federal partners." **CN**



**SNAP/STATS**

### LONGEST STATE OF THE UNION ADDRESS

President	Year	Length
Bill Clinton	2000	1:28
Bill Clinton	1995	1:24
Donald Trump	2018	1:20
Lyndon Johnson	1967	1:11
Barack Obama	2014	1:05

Source: The American Presidency Project

## District courts retain WOTUS jurisdiction

From WOTUS page 1

courts. Thirteen states (Alaska, Arizona, Arkansas, Colorado, Idaho, Missouri, Montana, Nebraska, Nevada, South Dakota, Wyoming, and New Mexico) would be unaffected by this action. In an August 2015 decision, a federal district court in North Dakota put a stay on the rule for the states within its district.

Meanwhile, the Trump Administration, anticipating a decision by the Supreme Court, released a proposed rule late

last year to delay implementation of the 2015 rule for two years. EPA estimates this rule will be finalized this month. Concurrently, the administration is working on an effort to withdraw the 2015 rule and recodify pre-existing regulations, while they work on a new WOTUS rewrite.

Since the 2015 WOTUS rule was originally proposed, NACo has expressed concerns with the impact a broader interpretation of WOTUS may have on county-owned and main-

tained roads, roadside ditches, bridges, flood control channels, drainage conveyances and wastewater and storm water systems. NACo has been heavily engaged with the EPA, participating in Executive Order 13132 Federalism briefings to discuss concerns with the 2015 WOTUS rule and next steps to replace it. **CN**

*Ufner is NACo's associate legislative director for environment, energy and land use; Igleheart is a legislative associate.*

## FCC's Clyburn: Local concerns ignored

From FCC page 1

the committee Jan. 25 in protest. (See story, p. 11).

Liccardo sat in on the Jan. 23 and 24 meetings at the FCC, where he voiced concerns about the draft reports the committee discussed.

The committee is composed mainly of members from the telecom industry.

BDAC participants shared drafts of confidential documents with more than 70-member companies before it was made public, Liccardo said.

FCC Commissioner Mignon Clyburn also weighed in on the makeup of the group: "It was... my hope that the BDAC's consensus-based approach would incorporate the concerns expressed by local government representatives of this Committee," she said in a statement released Jan. 24.

"... I must say it is regrettable that the concerns of localities do not appear to have been fully addressed."

Liccardo said that over the holiday break in December, de-

spite nine months of deliberations, a single industry representative completely rewrote a draft municipal code at the eleventh hour.

That left municipal representatives scrambling with insufficient time to vet the hundreds of changes, he noted. The rewritten version closely resembled legislation that the industry pushed in 20 states across the country, he said.

Much of the battle focuses on fees and whether the telecom industry or taxpayers foot the bill for infrastructure investments.

While Liccardo endorses the deployment of 5G, the next generation of wireless internet, he said the industry has used

the issue to maneuver for taxpayer-subsidized pricing for access to public infrastructure in high-demand, more affluent service areas.

Despite the BDAC's stated purpose of identifying resources to improve broadband access to underserved areas such as poor neighborhoods and rural areas, the committee did not craft a single measure that identified a new or substantial source of funding for that purpose, he said.

Below-market rates and by-right access to public infrastructure strips local governments of the ability to hold companies accountable for building out networks to serve all areas, Liccardo pointed out. **CN**

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# Slow-moving landslide gives Yakima County, Wash. time to plan



A worker inspects the Rattlesnake Ridge landslide in Yakima County, Wash. Jan. 8. Photo courtesy of the Washington Department of Natural Resources

**By Charlie Ban**  
senior staff writer

Not every natural disaster comes with a two-month notice, so Yakima County, Wash. is counting its blessings.

For several months, roughly 20 acres of a hillside — Rattlesnake Ridge — has been sliding away, threatening homes, highways and the Yakima River. In recent weeks, the slide's acceleration has slowed, muddying predictions as to when it will all fall down.

"It's unique that it gives us time to plan and coordinate, it's almost like planning for an event," said Yakima County Emergency Management Director Jeff Emmons. "It's given us plenty of time to coordinate and form relationships in advance."

A striking crack in the hillside, first visible from an airplane, has loomed large over the county since October. A brush fire during the summer cleared vegetation and

revealed the crack, alerting officials to the situation a few months earlier than they otherwise would have.

More than 50 different agencies have combined forces in response to the situation, primarily county, state and tribal governments and private contractors. The hillside is all private, owned by the Yakima Nation and a quarry.

Prediction models show the hillside, roughly 4 million cubic yards of material, traveling south, into the quarry's gravel pit and a trailer park, where 70 people lived, before reaching a county road and then Interstate 82.

"The hillside was moving at about 1.7 feet per week, but it recently slowed to 1.6 feet per week," said Joe Smillie, a state Department of Natural Resources (DNR) spokesman. "That's made it a little harder to predict how it will move, and when the hill will fail."

When the slide was first noticed in October, it was moving

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**"We don't know how long it's going to take, and that keeps people on edge."  
-Jeff Emmons**

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at a rate of 1 foot per month.

Earlier projections showed the hillside coming down in March 2018, but its slowdown has prompted observers to push that prediction back.

Smillie said roughly five layers of volcanic basalt has sandwiched soil, and the sandwiched layers are sloping downhill. The state DNR said water doesn't seem to be a factor, and an investigation into the cause of the slide will not be launched while agencies are focused on emergency preparation. KIRO News in Washington reported that aerial photographs dating back to the 1970s show a crack along the hillside, albeit much smaller than it is currently.

After a pilot informed the county about the crack, the county contacted the quarry owners, who hired a geology firm, and the county issued evacuation notices for residents south of the landslide.

"There were challenges for where they'd go, many of them were low-income, so it took two weeks to work through those challenges, but the quarry operators stepped up and paid for five weeks in hotels for residents who had nowhere else to go," Emmons said.

All residents in the path of the slide are renters. County social services are working on long-term solutions for the families. It's not apparent if, when the landslide is finished, their homes will be damaged.

"We have three scenarios, the most likely being that the landslide will stop at the quarry, but we're also concerned it will reach the homes and the roads," Emmons said. "There's a chance it could reach the river."

The state Department of Transportation has placed barriers into the projected path, in hopes of stopping material from reaching the roads.

For the county, Emmons said the challenge has been public messaging.

"It's very technical, so it took a while to get the visuals out, makes it harder for public to visualize, wrap their head around," he said. "We don't know how long it's going to take, and that keeps people on edge."

In the meantime, half-hour measurements monitor changes in the rate of the landslide.

Smillie said the whole situation has been novel.

"Usually when you do landslide studies, it's after the land has slid and you're doing a post mortem," he said. "From a wonky science standpoint it's interesting to have all of this time to study it before it happens. From a public safety standpoint, we're able to get out ahead of it." **CN**

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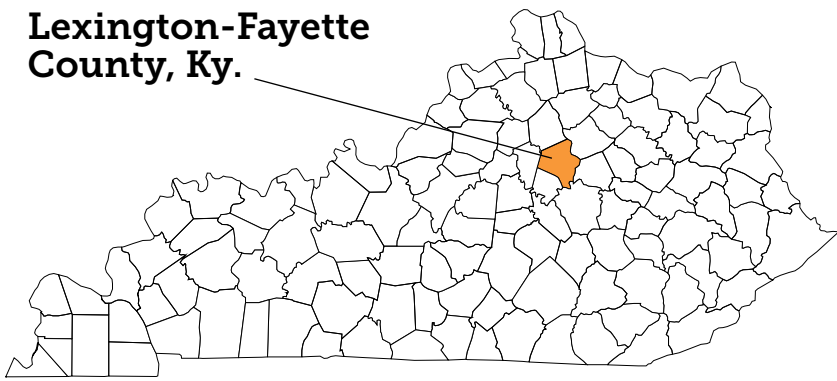
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**Lexington-Fayette County, Ky.**



**Welcome, Lexington-Fayette County, Ky.**

Lexington-Fayette County, the second-most populous county in Kentucky, is named after Marquis de Lafayette, a key figure in the French Revolution. **Known as the “Horse Capital of the World,”** the city of Lexington, which also serves as the county seat, is surrounded by esteemed farms famous for their thoroughbred racehorses. The county is the location of several historical homes, including **Ashland (Henry Clay’s home) and the Mary Todd Lincoln House, as well as the University of Kentucky.**



# FCC seeks applicants for expanded IAC

**By Jacob Terrell**  
associate legislative director

The Federal Communications Commission (FCC) recently released a public notice seeking applications from local elected officials to join its newly expanded Intergovernmental Advisory Committee (IAC).

The IAC serves as a third-party advisory board made up of representatives from state, local, tribal and territorial governments that provide the FCC with advice on issues affecting non-federal government entities.

Historically, the IAC has had 15 members; however, the FCC recently decided to expand the committee to 30 members saying it wished the committee’s membership to better represent the perspectives from relevant government sectors, as well as promote valuable, comprehensive and balanced input that reflects the views and expertise of the FCC’s regulatory partners.

Members selected to serve on the IAC do so for a two-year term, and while serving on the IAC may be directed by the chairman to produce specific deliverables that will further the FCC’s mission and objectives.

Typical duties for members of the IAC include providing guidance, gathering data and

information, aiding the agency on outreach, and performing analyses that the FCC deems necessary to respond to questions or matters being taken up by the Commission.

Current local government representatives on the IAC include:

- Hans Riemer, council president, Montgomery County, Md. (NACo Telecommunications and Technology Steering Committee member)
- Andy Huckaba, city councilman, Lenexa, Kan.
- Bob Fifer, mayor pro tempore, Arvada, Colo.
- Catherine Pugh, mayor, Baltimore, Md., and
- Kenneth S. Fellman, county attorney, Yuma County, Colo.

Elected officials from NACo member counties who are interested in applying should contact Jacob Terrell, NACo associate legislative director for telecommunications and technology, for more information by Monday, March 5.

Applications for new members are due to the FCC no later than 6 p.m. EST, on Monday, March 12. Terrell can be reached at 202.942.4236, or by email at [jterrell@naco.org](mailto:jterrell@naco.org).

NACo encourages potential applicants to join NACo’s Telecommunications and Technology Steering Committee to help serve as a liaison between NACo and the IAC. **CN**

# Happy Anniversary County News.





# 2018 ACHIEVEMENT



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## IMPORTANT DATES:

- SUBMISSIONS DEADLINE:  
**MARCH 26 AT  
11:59 P.M. EDT**
- NOTIFICATIONS OF  
ACHIEVEMENT AWARDS:  
**WEEK OF APRIL 23**
- NACo ANNUAL CONFERENCE  
AND EXPOSITION:  
**JULY 13 – 16  
NASHVILLE/DAVIDSON  
COUNTY, TENN.**



Mr. D'Ambra, an inmate from South Idaho Correctional Institution, sews pockets of polypropylene pellets into a quilt. Photo by Kelli Brassfield

# Weighted blanket project lets inmates help patients in state, local care

By **Charlie Ban**  
senior staff writer

Sleep was always trouble for Rick Winkel's 11-year-old granddaughter Cadence. Ever since he and his wife became her guardians, they saw her emotional turmoil make napping impossible, even years after suffering trauma. She often woke them in the middle of the night following bad dreams and was generally anxious.

"We were on a fixed income and didn't have the money to spend on a shot in the dark to help her," Winkel said. "But in seven years, I'd never seen her sleep in the daytime unless she was sick."

In early 2017, Winkel began his term as a Clearwater County, Idaho commissioner and started serving on the advisory board for the State Hospital North — where an administrator offered to lend him a blanket, weighed down with polypropylene pellets sewed into

pockets on the blanket. When laid on a person's chest, it has a calming effect similar to being gently hugged. The Winkels gave it a try with Cadence.

"In an hour, she was curled up, half on the couch half on a floor, out like a light," Winkel said. "We woke her up after a few hours and were worried she might not sleep through the night, but sure enough, we used the blanket again and she did just fine."

Studies have shown that weighted blankets can help manage the symptoms of autism, post-traumatic stress disorder, sleep disorders, anxiety and nervous system disorders.

The Winkels found what has been a game changer for their family, and what will give a great measure of comfort to many families throughout Idaho as a new cooperative program, now coordinated by the Idaho Association of Counties, grows.

Along with Winkel, two other

county officials and three former county officials serve on the psychiatric hospital's advisory board; also on the board is the mother of a former patient. That mother sewed her own weighted blanket for her child at home and tried to do more before telling the advisory board that her sewing machine at home couldn't handle the demand.

"One of our board members was connected to the state corrections system, and he knew who we could talk to, who could get the inmates who are making quilts to add the pellets," said Michele Chadwick, the advisory committee chairwoman and a former Gem County commissioner. "It was really a case of the right people being in the room together and making a connection."

Two state prisons have industrial sewing machines. One prison produces four blankets a month, which go to State Hospital North, with some pa-

tients taking them home after being discharged. The other prison produces two blankets every week, which go to sheriff's offices.

"A lot of times, our first responders don't have the tools to comfort people in traumatic situations," Chadwick said. "This will be something they can put around a child's, or an adult's, shoulders to help them in the moment and going forward when they are going through a lot."

Additional blankets will be distributed to foster care programs, to help foster children adjust to their new living situations. The Idaho Association of Counties is collecting materials and donated shipments of polystyrene pellets, and distributing materials to participating prisons.

"It's a win-win, because the inmates are able to contribute something to really help people, and these blankets will be a big quality of life boost for peo-

ple in need," Chadwick said.

Winkel agreed, based on his own experiences with Cadence.

"You have a life to lead, so you can't hold onto your kids 24 hours a day, even if you want to," he said. "I know for my granddaughter, it's made a difference not just for sleeping but for being able to manage her stress in a way we take for granted. These blankets can help a lot of families."

And their production could help inmates. Tennessee-based Red Barn Blankets has sent donations of supplies and has expressed interest in contracting with inmates upon their release to produce blankets for sale, according to Kelli Brassfield, the state association's government affairs associate. **CN**

To find out about material donations for the weighted blanket project, visit [www.idcounties.org/weighted-blankets](http://www.idcounties.org/weighted-blankets).

# Six counties win Spotlight honors from AETNA

Six counties are among 10 communities nationwide recognized for their creative solutions to public health issues by AETNA Foundation's newly launched Spotlight Award program.

The counties are Louisville/Jefferson County, Ky.; Chatham and Mecklenburg counties in North Carolina; Waco-McLennan County, Texas; Danville-Pittsylvania County, Va. and Thurston County, Wash. Each will receive a \$25,000 prize to support and advance their work.

Two more county teams — from Durham/Cabarrus County, N.C. and Chester County, Pa. — received honorable mentions and a \$10,000 prize.

The award is part of the Healthiest Cities & Counties Challenge, a partnership

between the Aetna Foundation, NACo and the American Public Health Association (APHA), launched in 2016.

The project supports 50 small-to-midsize cities and counties that are implementing innovative solutions to pressing public health issues in their communities.

Spotlight awardees have identified creative partnerships and enacted replicable programs that address the unique health issues facing their communities such as food access and challenges with built environments.

*For more information on the winners, visit <http://www.naco.org/healthiest-cities-counties-challenge> and join the conversation at #HealthiestCitiesChallenge.*



**Chester County, Pa. Commissioners Terence Farrell, Kathi Cozzone and Michelle Kichline hit the treadmills in Eagles gear to kick off the WalkWorks ChesCo! 2018 program — contributing to the county's goal of five billion steps by the end of 2018. The county's 2017 challenge netted 2,700 participants and 1.7 billion steps and also earned a \$10,000 kudo from NACo's Spotlight Award program, a joint project with the AETNA Foundation and the American Public Health Association.** Photo courtesy of Chester County, Pa.



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# Bits and Bytes on Bitcoin and Blockchain

By Alan R. Shark, Ph.D.

As county officials sort through the various dilemmas facing them in the wake of a ransomware attack, a first concern is usually whether to pay the hacker's demand, usually followed by the question: "What does it take to pay the amount in Bitcoins as demanded?"

All things considered, paying in Bitcoins is easy. Converting money into the popular digital currency can be made by simply setting up an account online or through a mobile app. Criminals have enjoyed dealing in Bitcoins because it is difficult if not impossible to trace transactions when compared with all other forms of currency.

Yet, despite its dubious reputation all signs appear to support the growth of digital currency and its reliance on "blockchain" technology. So, what should counties be aware of now?

## Bitcoin (digital currency)

The growth of digital currency, led by Bitcoin, has been staggering with market capitalization estimated to be over \$500 billion as of mid-January 2018. Unlike U.S. Treasury currency, digital currency such as Bitcoin (and there are others too) is unregulated and there are no consumer protections. Once a transaction is executed it can not be reversed.

So many ask, who owns Bitcoin? There is no single owner, and this is where blockchain technology comes in. Blockchain technology provides the system architecture for mostly anonymous participating computer networks aimed at near-instantaneous verification and accuracy of every transaction throughout the world. Its wide appeal is that it is free from government regulation (and protections), is inherently faster in processing transactions, often cheaper

and is largely anonymous as far as participants are concerned. Bitcoin has been described as a decentralized, peer-to-peer virtual currency that is used like money — it can be exchanged for traditional currencies such as the U.S. dollar, or used to purchase goods or services, usually online.

According to Fidelity, "Bitcoins are sometimes regarded as anonymous. They are stored in digital wallets — essentially electronic vaults — which can have public electronic addresses associated with them. But they aren't necessarily linked to names, home or business addresses, or other personally identifying information. What's more, you don't need to give your real name or other personal information to make direct transactions on the Bitcoin blockchain; only the digital addresses of the Bitcoin wallets identify the buyer and seller."

Today, there is much interest in investing in Bitcoins and one must be aware of its hyper-volatility of value coupled with the uncertainty of future

## SPEEDREAD

Join NACo's Tech Town Hall event March 2 as part of the 2018 Legislative Conference in Washington D.C. Blockchain technology will be featured in a must-attend session.

government regulation. Many nations ban digital currency and the U.S. government has offered mixed messages but to date neither endorses or accepts digital currency. Government agencies are increasingly worried about the implications of Bitcoin, since it can be used anonymously and is therefore a potential instrument for money laundering and other criminal activity requiring the exchange of money.

Based on where things stand today, there is no compelling reason for counties to accept Bitcoin payments. Those seeking digital payments should instead focus on more acceptable and regulated payments systems such as PayPal, Apple Pay or Google Wallet.

## Blockchain

Blockchain and Bitcoin are related but different. Bitcoin stores details of every single transaction that ever happened in a gigantic general ledger called the blockchain, which is distributed across the internet to all the computers that produce Bitcoin.

There are many more potential applications using blockchain technology. It is essentially a virtual database that does not store information at a single computer server or physical location, compared with traditional information databases. Instead, a blockchain is hosted by all of the participating computers across the network that store the information. This allows for publicly available and readily verifiable information.

Interest in blockchain technology is growing among state and local governments as a means toward greater and safer database management. Blockchain can be viewed as the missing link for dramatically securing our information databases and tracking the

movement of physical assets and multiple transactions at speeds unimagined just a few short years ago.

## The Future

Unlike the speculative nation of Bitcoin, blockchain technology is expected to grow dramatically. Some upcoming uses may include digital identity management, more secure cloud storage through non-centralized distributed networks, inventory control, secure records, electronic voting and purchasing. It also has the potential for revolutionizing how we sign and manage contracts. Stay tuned as we are just now beginning to see the many applications that can and will benefit from this new technology. **CN**

*Shark writes for the National Association of Counties serving as a senior advisor for technology leadership. He also serves as the executive director for the Public Technology Institute and is an associate professor at the Schar School of Policy & Government, George Mason University in Fairfax Va.*



# Major meeting explores transportation's economic impact

By Jenna Moran  
program manager

Counties were well represented at this year's Transportation Research Board Annual Meeting, which attracted more than 13,000 transportation professionals from around the world and included more than 5,000 presentations covering all transportation modes. Participants ranged from county commissioners and engineers to federal and state departments of transportation officials, and there were several panel sessions that highlighted innovative county projects which spurred many thoughtful local government-focused questions during post-panel discussions.

The meeting, held last month in Washington, D.C., sported a *Transportation: Moving the Economy of the Future* theme and spotlighted three hot topics areas: transformational technologies, resilience and sustainability and transportation and public health.

Throughout the weeklong meeting, NACo staff attended many sessions. Here are a few of the messages that stood out from those sessions:

## Plan holistically: put the traveler first rather than transportation assets

Mobility on Demand (MOD) is a traveler-centric guide to decision-making that focuses on making multi-modal transportation available to all by using technology and strategic partnerships. It looks at improving the traveler's "whole trip" from door-to-door.

Several local governments presented on their work in this area at the meeting. Some of the questions they are tackling include: How can a person without a smart phone or credit card account access a transportation network company's services (TNCs) such as Uber or Lyft? How can a wheelchair-bound individual access a TNC?

Along this theme of equitable access, one presenter also ex-

pressed the need for local governments to expand their view of affordable housing to include affordable transportation — the cost of getting from affordable housing to major job centers and other opportunities — since affordable transportation plays a role in an individual's mobility and cost of living. Mobility is important to a robust economy as economies don't happen without mobile people.

## Analyze how transportation can help your county meet its economic development goal

Transportation is a key component of economic development from the movement of people to the movement of goods. In multiple sessions throughout the meeting, the role of transportation in supply chain management became a common point of discussion.

Panelists discussed the infrastructure needed to move goods from ocean port to inland port to distribution center to destination in the most safe and efficient manner — both during regular operations and during a disaster event.

During regular operations, one of the biggest challenges that local and state governments face is congestion. Two ways to address congestion were discussed during the meeting: the incorporation of intelligent transportation system technology to expedite lanes movement and better communicate delays with drivers; and the development of inland ports to divert the flow of goods from highways onto railways.

## Build a resilient transportation system

Supply chains are often disrupted for anywhere from a few days to a few weeks following a disaster event. Business continuity planning — especially with regard to supply chains — is crucial to community resilience. Counties need to have plans in place for keeping an

uninterrupted flow of goods and food during disaster recovery even when key roadways or railways are impassable or ports are offline.

Do you know where your local supply chains originate for key goods (i.e. fuel and food)? Do you know how those goods are being transported into your community? Do you know how e-commerce has affected the availability of goods your community has on hand (i.e. have local stores that provide essentials closed)?

As was often emphasized during the meeting's resilience-themed sessions, 60 percent of local businesses fail in the first four years following a major disaster. Counties need to have plans in place for how their transportation networks can support local businesses and residents before, during and after a disaster situation.

## Begin planning with emerging transportation technologies in mind

Emerging transportation technologies are already impacting transportation systems. It is important for counties to understand how these technologies might be affecting their roadways now and how they might affect them in the future.

A few of the types of technologies discussed included TNCs, connected vehicles (CVs), autonomous vehicles (AVs), unmanned aerial vehicles (UAVs) — better known as drones — intelligent transportation systems (ITS) and mobile applications. Discussions primarily revolved around impacts, opportunities, access, equity, governance and legal liability, and focused on driving change through data, cost savings and creative revenue streams, and by pushing innovative policies.

Overall, with the rapid development of technologies in the marketplace and the historically slow nature of government, counties need to start positioning themselves to be able to take advantage of these

impending opportunities. One panelist discussed a recently conducted study in which the participating local government identified UAVs, Internet of Things infrastructure and solar panels as the top technologies they would like to pursue in the next five years.

Lastly, as with any topic area, it is important to outline performance measures at the start of any planning process; invest in your workforce; and remember that data and numbers never tell the whole story but are important to help make your case. **CN**

## ON THE MOVE

### NACo STAFF

- Rashida Brown** has joined NACo as an associate program director for human services. Brown previously served as director of policy, planning and research at District of Columbia's Office of State Superintendent of Education. Prior to that, she served as a policy analyst with the Washington, D.C. Mayor's Office and as senior policy associate with American Public Human Services Association.
- Brian Bowden**, associate legislative director for health, participated on a panel at the State of Advocacy Forum, sponsored by CQ, the Grassroots Professional Network and George Washington University's Graduate School of Political Management Jan. 31. Bowden spoke on a panel examining health care advocacy.
- Daria Daniel**, associate legislative director, represented NACo on a panel at the 2018 Workforce Develop-

ment Institute held in Orleans Parish, La. Jan. 30–Feb. 2.

**Jack Peterson**, associate legislative director, gave a legislative update at the County Commissioners Association of West Virginia's Legislative Association Meeting & Educational Training Series held in Kanawha County (Charleston) Jan. 28-30.

**Hadi Sedigh**, associate legislative director, represented NACo at a meeting held by the Addiction Policy Forum to improve awareness and understanding of substance use disorders, treatment and recovery in Washington, D.C. Jan. 24.

**Linda Langston**, strategic relations director, participated in a panel discussion on advancing data in risk assessment and resilience at a National Council for Science & Environment conference held Jan. 23–24 in Arlington County, Va.



**Brown**



**Bowden**



**Daniel**



**Peterson**



**Sedigh**



**Langston**

# FCC broadband committee bypasses local input, mayor says

By Jacob Terrell  
associate legislative director

On Jan. 25, San Jose, Calif. Mayor Sam Liccardo announced that he's decided to step down from the Federal Communication Commission's (FCC) Broadband Deployment Advisory Committee (BDAC) amid concerns the outcome of the committee's work was predetermined prior to their work beginning.

The FCC created the BDAC in April 2017 to be an independent advisory committee to the commission charged with providing advice and making recommendations on how to accelerate the deployment of high-speed internet access by reducing and removing regulatory barriers to infrastructure investment.

The FCC initially selected 29 members to serve on the BDAC, however the FCC was criticized by a number of groups that represent the interests of local governments, including NACo, for having insufficient state and local government representation on the committee.

As part of the BDAC's work, members of the committee were assigned to internal working groups focused on developing model codes for states, competitive access to broadband infrastructure, streamlining federal siting, and removing



Liccardo

state and local regulatory barriers to broadband deployment.

The BDAC's working group tasked with removing state and local regulatory barriers to broadband deployment — which had little representation from state and local officials — offered recommendations that encouraged the FCC to take actions to develop model local ordinances the FCC should encourage local governments to adopt, as well as draft language that detailed what should be included in those model ordinances.

During that process, Mayor Liccardo noted that the draft municipal ordinances created by the BDAC were completely rewritten by a single representative from the telecommunications industry near the committee's deadline, leaving local representatives on the BDAC with insufficient time to vet the hundreds of changes made.

In a written statement offered by Liccardo upon his resignation,

he said "Chairman Pai and the FCC merely pay lip service to the goal of digital equity, and this body (the BDAC) will simply serve to further the interests of the telecommunications industry over the public interest."

On Nov. 3, 2017, NACo President Roy C. Brooks—along with the presidents of the National League of Cities (NLC) and the U.S. Conference of Mayors (USCM) — sent a letter to the FCC asking the commission to make all meetings public, and share drafts of all BDAC working documents on the FCC's homepage in order to address the perception that the BDAC is solely interested in pursuing the telecommunications industry's goals. The three leaders also urged the FCC to provide sufficient time for the BDAC to develop informed opinions that can be shared in an interim final report that should be made subject to public review.

While the FCC did not respond directly to the letter from the organizations, Pai did expand the membership of the BDAC to include an additional representative from local government.

NACo continues to have concerns about the BDAC's potential recommendations to the FCC and the process that is being used to build model local ordinances without adequate representation local government. **CN**

## Pilot program focuses on resiliency

Many local governments find themselves facing difficult climate resilience challenges with few financial resources or help from state or federal governments. Climate resilience planning can be intimidating and overwhelming. To help counties, GEOS Institute is launching a step-by-step guide and companion subscription service called "Climate Ready Communities" and is offering a pilot program to counties interested in participating.

The pilot program includes a

free, step-by-step, comprehensive guide to climate resilience planning based on 10 years of experience helping communities understand and adapt to changing climate conditions. Community engagement is a key component throughout the climate resilience planning process. In addition to the guide, the program includes an affordable, annual subscription service to support county elected leaders as they move through the seven-step process, as well as several add-on

services, such as additional blocks of consulting time and on-site facilitation.

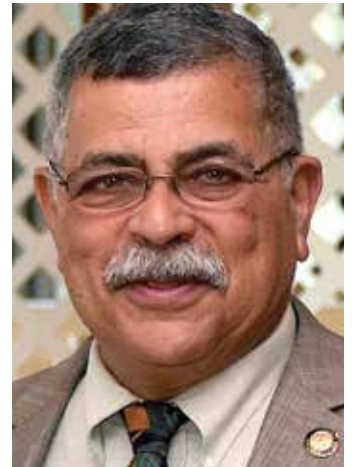
The deadline for applying is March 15. Applications are available at <http://bit.ly/2DU-jty6>. For questions, please email [climate-ready@geoinstitute.org](mailto:climate-ready@geoinstitute.org) or call 541.482.4459 x310. **CN**

*GEOS Institute is a science-based non-profit headquartered in Jackson County, Ore., focused on climate solutions.*

## PROFILES IN SERVICE

**LUIS ALVAREZ**  
Board Member

Chairman  
Sullivan County Legislature  
Sullivan County, N.Y.



ALVAREZ

**Number of years involved in NACo:** Two

**Years in public service:** 36

**Occupation:** Retired lieutenant in the Sullivan County Sheriff's Office

**Education:** Bachelor of science in physics

**The hardest thing I've ever done is:** Inform a parent that their child had died.

**Three people (living or dead) I'd invite to dinner:** My mother, sisters and children.

**A dream I have is to:** Serve and achieve, to create a better life for residents and family and to leave this country in a much better place for my children.

**You'd be surprised to learn that:** I love to dance.

**The most adventurous thing I've ever done is:** Be a parent.

**My favorite way to relax is to:** Read.

**I'm most proud of:** My children.

**Every morning I read:** Morning offering prayers.

**My pet peeve is:** People who are always negative.

**My motto is:** "Treat everyone as you wish to be treated."

**The last book I read was:** *The Name of God is Mercy*, by Pope Francis.

**My favorite movie is:** *Patton*.

**My favorite music is:** Dansa.

**My favorite U.S. president is:** John F. Kennedy.

**My county is a NACo member because:** In unity, there is strength.

**My favorite meal is:**  
Lasagna.



# CAPITAL LOOP

## WORD SEARCH

### WEAKLEY COUNTY, TENN.

LEARN MORE ABOUT THIS FEATURED COUNTY IN 'BEHIND THE SEAL'

Created by: Mary Ann Barton

C S M U A J Y H H C P D R E S D E N F S  
 Y H I N N W B G A C G V I S X R S I F L  
 L K I C C N H B S M R A F N I Q Y X F V  
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 T F C Y C X E F V A E L O O X M Y N V O  
 M Z I M Q V E L S Y W B Y S N W L Y I C

### Congress renews children's health insurance for six years in CR

The stopgap measure ends a nearly four-month long lapse in CHIP's federal funding and also delays imposing the "Cadillac tax" on health care plans for two years.



AZAR

### Alex Azar confirmed as new HHS secretary

Azar said he would focus on four critical areas: lowering prescription drug costs, making health insurance more affordable, basing Medicare

payments on quality and confronting the nation's ongoing opioid epidemic.

Most recently, Azur served as president of Eli Lilly Pharmaceutical Company. He also served as HHS deputy secretary under President George H. Bush.

### Trump administration extends public health emergency declaration on opioids

Some lawmakers and advocates had already called for an extension of the public health emergency declaration, arguing that more time and resources are needed to address the crisis.

### Local official leaves FCC committee citing concerns of local inclusion

San Jose, Calif. Mayor Sam Liccardo stepped down amid concerns that the outcome of the Broadband Deployment Advisory Committee's work was predetermined.

## CN SPOTLIGHT



**Diaper Duty** — What started as a small donation drive five years ago has turned into a bonanza for local human-aid agencies. Shown here with just some of the donations is Pinal County, Ariz. Supervisor Todd House, who has been holding a diaper drive since he was elected to the office. Each year, the donations keep on growing and growing and growing.

"It's amazing, the people's generosity is amazing," House said.

This year's donation drive netted a record total of 27,014 diapers to be donated to Hope Women's Shelter, Head Start and the Apache Junction Food Bank.

"We don't have a lot of room in this office, but we find room to store all of them," House said as he posed with some of his diaper stash. "You have to get creative to find spaces where to store all these boxes. It's a problem I don't mind dealing with."

**BROWNING:** Then-Gov. Gordon Browning dedicated the county courthouse, built in 1949 for \$750,000. It replaced an earlier courthouse destroyed by fire.

**CABIN:** The county's first circuit courts were held in a small log cabin located in what is now the courtyard. The structure did not have a door and at night a flock of sheep would stay inside until the sheriff ran them out in the morning.

**CHICKASAW:** The county was established Oct. 21, 1823 from land ceded by the Chickasaw Indians.

**CROCKETT:** Davy Crockett lived in the county before it was officially organized, building a log cabin along a fork of the Obion River. The property now lies in Gibson County, after Weakley County was restructured.

**DIVIDED:** The county, located in the northwest corner of Tennessee, was divided during the Civil War, with some (about 1,100) residents joining the Confederate Army and others (about 400) joining the Union Army.

**DRESDEN:** The county seat is named for the town of Dresden, Germany, the birthplace of German pioneer Mears Warner, one of two men delegated to choose a site for the county seat.

**FARMS:** The USDA Census of Agriculture from 2012 shows there were 861 farms in the county, a 29 percent drop from 2007. The average size of a farm in the county is 295 acres.

**GOVERNOR:** The late former Gov. Ned Ray McWherter was born in Palmersville in Weakley County. He later lived in Dresden, where his family owned the City Café. He is buried in Dresden.

**IRIS:** The county seat of Dresden is home to the annual Tennessee Iris Festival.

**KENTUCKY:** The county is bounded on the north by the state of Kentucky.

**MARTIN:** The largest city in the county; it was first named Green Glade, then changed to Frost. It was changed to Martin to honor Capt. William Martin, who purchased much of the surrounding land.

**SOYBEANS:** The leading crop in the county.

**TATER:** The Weakley community of Gleason is known as "Tater Town" in honor of the sweet potatoes that were once a top export. The annual Tater Town Special is celebrated during Labor Day weekend.

**UNIVERSITY:** More than 6,800 students from 43 states and 17 countries attend the University of Tennessee at Martin in the county.

**WEAKLEY:** The county was named for Col. Robert Weakley III, then speaker of the state Senate who also served as a congressman.

# BRIGHT IDEAS | TRAVIS COUNTY, TEXAS

## Order in the Court: Texas County Makes Jury Duty Faster, Cheaper

### PROBLEM:

Reporting for jury duty is sometimes a lengthy, costly and cumbersome process for counties and residents.

### SOLUTION:

Travis County, Texas shortened the jury selection process by creating its own online program.

By **Mary Ann Barton**  
senior staff writer

Jefferson County, Texas saved \$75,000 on postage and the jury impaneling process last year after it began using an online jury system.

"It's been very effective," said the county's District Clerk Jamie Smith. Now instead of impaneling hundreds of residents in what he calls a "cattle call," where they need to show up, stand in line and talk to the judge about why they might have a scheduling conflict, they can communicate that information online.

It not only saves time, but money: The county doesn't have to pay them the daily jury rate of \$6, even to those who don't stay to serve on a jury.

The program was developed by its neighbor to the west, Travis County. With a population of nearly 1.2 million, Travis County summoned 169,133 residents for potential jury duty last year for 1,431 trials.

"They sold it to us for a whopping \$10 and our IT folks built around it," Smith said. Some companies charge \$100,000 to install the program and another \$20,000 a year to maintain it, he said.

So while some county residents might moan and groan when they're called for jury duty, there's no reason why the process has to be a courtroom drama a la *Perry Mason* or *A Few Good Men*. Some local governments, including Jefferson County and Travis County,

are making the whole process a lot easier for everyone involved.

Travis County's IT staff, with input from judges and the district clerk's office, created their online system dubbed "I-Jury," introducing it to the public March 1, 2002. "We went online and I think within an hour or two we got our first registration," said Nancy Howell, who manages the system. Travis County spent \$250 for the purchase of a security certificate which allowed the encryption of juror data over a secure channel and county employees in the IT department developed and continue to maintain the system.

Before 2002, the county

would rent out enormous halls where hundreds of potential jurors would report. "The old system was basically people driving in and going to these rental halls," Howell said.

"Back in the day, I'd have to get ready a couple of days in advance, with folders, everything printed out," she said. "We would have two sessions, one in the morning with 500 people all coming in at the same time in the morning and more in the afternoon and take employees out of the office. Now, all of that is gone."

People called for jury duty now register for jury service and receive jury orientation by hopping online. It allows them to bypass the tedious process

of gathering in a big hall. Instead, they report directly to a courtroom for the preliminary examination to determine the competency of a juror.

Registration takes about 10 minutes, with residents filling out a questionnaire. The system also allows potential jurors to let the county know about any conflicting dates so the county can schedule them appropriately. For anyone who doesn't have a computer or internet access, they can register at a public library.

The online processing skips the cattle call for jurors.

By 2008, 90 percent of potential jurors were using it instead of reporting in-person, Howell noted.

Savings are approximately \$250,000 per year including not having to pay \$6 to each juror who reported in person for impaneling prior to being assigned to a court, Howell said. The county also does not have to pay to rent a center where hundreds of potential jurors used to gather to be vetted. Travis County was also saving money internally since district clerk and judges staff did not have to travel to another location, or print and distribute information or brochures.

"Fewer people are missing work," said Velva Price, district clerk. "The first time they are going to show up is on the actual day of their assignment. It saves time and gas."

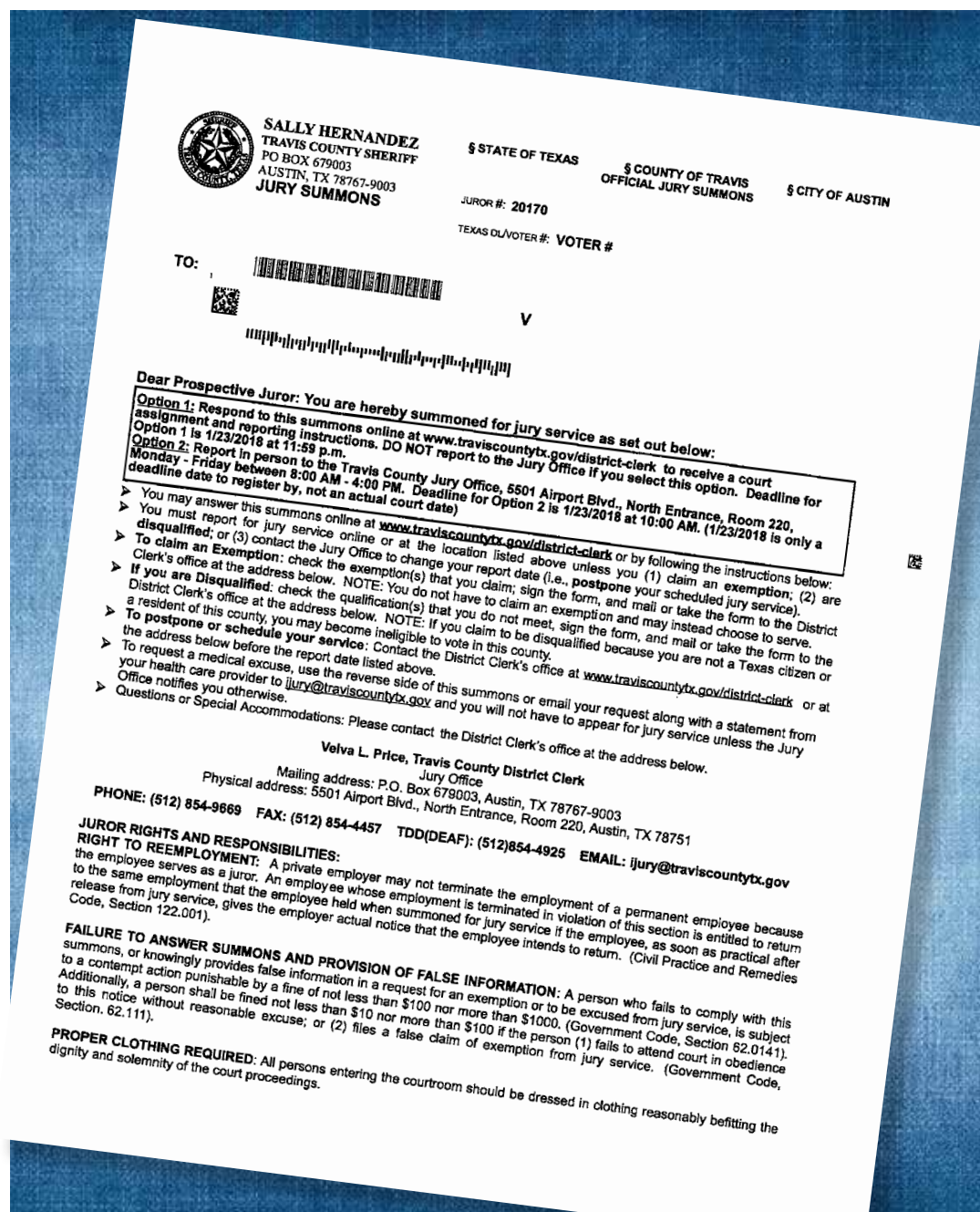
The county's IT staff continues to tweak the system to make improvements. "We've had a lot of additions that have come about," Howell said. "We used to have to look at each and every email, but now, everything is completely automated."

Another recent innovation is the ability for the county to text prospective jurors if a case gets dismissed. "When a case cancels, with jurors coming in at 1 p.m. and attorneys settling at 9 a.m., we're able to text or email them, and cancel it so you don't even have to come in," Howell said.

The Travis County district clerk received several awards as a result of I-Jury, including a Best Practices Award for Innovation from the Texas Association of Counties and the Best of Texas Award for Best Application Serving the Public, from the Center for Digital Government.

See the I-Jury website here: <http://bit.ly/2Gu5BZI>

For more information, contact Nancy Howell, jury management/passport director in the office of Travis County District Clerk Velva Price at 512.854.6403.





NEWS FROM **ACROSS THE NATION**

**ALABAMA**

Nosey the elephant enjoys foraging at The Elephant Sanctuary in Tennessee. A district judge recently ruled that **LAWRENCE COUNTY**'s animal control officer has custody of Nosey, a **35-year old African circus elephant**. The animal control officer responded to calls of neglect in November after the owners' car broke down and the elephant was reportedly left to stand in a small trailer for several days. The elephant was then seized by the county and taken to the 2,700-acre Elephant Sanctuary in Lewis County, Tenn., where its medical condition was evaluated. The elephant's owners, charged in December with animal cruelty, are expected in court Feb. 8.

**CALIFORNIA**

After five months, the **SAN DIEGO COUNTY** Board of Supervisors ended its public health emergency for a **Hepatitis A outbreak**.

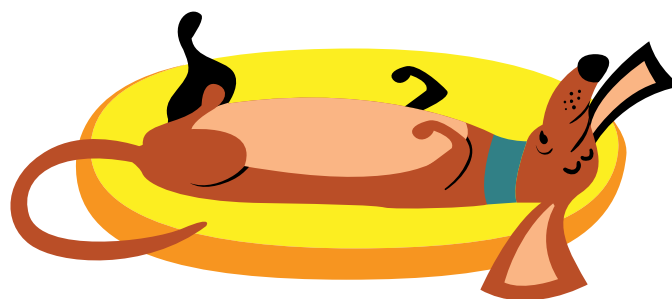
The disease killed 20 people and infected 577 others. In the four weeks leading up to Jan. 22, *The San Diego Union-Tribune* reported, there were no new cases. (See *County News*,

"San Diego County deploys 'boots on the ground,' for hepatitis outbreak," Oct. 2, 2017).

**COLORADO**

Instead of throwing out old **inmate uniforms**, bed sheets and pillow cases from the **JEFFERSON COUNTY** Jail, inmates are now sewing the materials together to make patchwork beds for homeless

dogs and cats at Foothills Animal Shelter, *The Denver Post* recently reported. "This is a project that allows the inmates



to develop soft skills and contribute to society," Rob Rear-don, detention services division chief with the Sheriff's Office, told the newspaper. So far, three inmates have learned to sew and about 50 beds have been donated to the shelter. "To me, sitting here, sewing and making these dog beds helps me focus on my inner self instead of everyone else around me," an inmate told the paper. "I sit here in my own little world, and it teaches me a lot of patience."

**FLORIDA**

**HILLSBOROUGH COUNTY** is taking a second look at **ordinances aimed at teen parties** after a recent party ended with a fatal shooting. Party planners are apparently skirting the law by holding parties in unincorporated parts of the county that allow party-goers of any age whereas the city ordinance specifies ages. Commissioner Sandy Murman told the *Tampa Bay Times*, "I think this might even be something we work with the city on and try to adopt, maybe, some kind of uniform policy on these places because they are dangerous."

**ILLINOIS**

**McHENRY COUNTY** has two officials who will represent it as part of a new **economic development** organization called the Chicago Regional Growth Corporation. Board Chair Jack Franks and Board Member Michael Skala will join other leaders to drive public and private partners to generate growth across the region. "If the co-operation that was forged in the effort to pitch the Chicago region to Amazon for its second headquarters showed us anything, it's that we can take job creation and economic development to a new level — a level that benefits everybody

— if we work together," Franks said. The organization also includes leadership from **COOK, DuPAGE, KANE, KENDALL, LAKE** and **WILL** counties and Chicago.

**IOWA**

Following on the heels of **LINN COUNTY, JOHNSON COUNTY** will become the second county in the Hawkeye State to **incentivize private solar development** through volume purchasing prices, according to a recent report by *The Gazette*. "The county is committed to using renewable energy, particularly solar, to power its buildings," said Becky Soglin, Johnson County's sustainability coordinator. Solarize Johnson County will help residents get involved in a focus on sustainability and green power. The Board of Supervisors, as well as the county's departments of planning, development and sustainability, public health and conservation are all partnering on the program, which offers bulk solar prices for individual installations.

**MARYLAND**

Within an hour of going into service the morning of Jan. 21, **HARFORD COUNTY**'s first **county-owned ambulance** responded to its first call. Previously, all emergency medic units in the county have been operated by one of the local volunteer fire and EMS companies or by the Harford Volunteer Fire & EMS Foundation, which is run by the volunteer companies' umbrella organization but also subsidized by county government. The second ambulance will go into service in July, according to *The Baltimore Sun*, and will be part of a plan to create a county-run

EMS, to meet the needs of the county's aging population.

The call was for a person in respiratory distress, and the patient was safely transported to the hospital.

- Maryland Gov. Larry Hogan (R) is hoping to **attract Amazon's attention** with a \$5 billion-plus plan to encourage the company to choose **MONTGOMERY COUNTY** as its second headquarters site. The county is among 20 finalists hoping to be chosen for the site. Collectively, Northern Virginia counties, **ARLINGTON**, **FAIRFAX** and **LOUDOUN**, also made the finalists list.

Hogan's plan calls for providing a state income tax credit equivalent to 5.75 percent of wages for each new qualifying headquarters' job for 10 years. Other incentives include a state and local property tax credit, with the state offering to reimburse the county for half of the property tax that would have been collected from the company, and an exemption from the sales and use tax for construction materials used to build the project.

**NEBRASKA**

The **DOUGLAS COUNTY** Assessor/Register of Deeds' Office has debuted a user-friendly, web-based **land-records-management**

**system** for public use. It's the first such system in the state, and its introduction fulfills a decade-plus-plan by Assessor/Register of Deeds Diane Battiato to expand her office's online presence.

"Today, we can proudly make available to our users a comprehensive, state-of-the-art land-records-management system that provides a full spectrum of electronic-records-management services, such as auto indexing, e-recording, 24/7 records accessibility, and public-access county links," she said upon the launch of the new system.

**NEW YORK**

- Bar staff members in **ULSTER COUNTY** will be trained to **predict and prevent sexual assaults** through the county's Bystanders of Sexual Assault Program. The training will help staff members to recognize some of the warning signs and to be able to understand exactly what steps they can take to be effective and be preventative.

- **WESTCHESTER COUNTY** will **eliminate bail** in most misdemeanor cases. There may be exceptions to the new guidelines such as cases involving domestic violence, sex crimes, child abuse, elder abuse and assault cases; cases

where the defendant injures a police officer, firefighter, EMT or other first responders, or violently resists arrest; cases where the defendant has a prior sex crime conviction – felony or misdemeanor; cases where the defendant has a pending felony case, or multiple pending misdemeanor cases; cases where the defendant is on parole, probation, or supervised release; or cases where the defendant has prior bail jumping charges or a history of warrants.



**TEXAS**

In addition to its emergency communications capacity, **BRAZOS COUNTY'S** Emergency Communications District can now accept **non-emergency messages via text message**. The text capability expansion was an acknowledgement that mobile phones have become a primary mode of communication for most people, and a way to include photos with reports

that don't need immediate attention, like loose dogs or noise complaints, KBTX News reported.

**VIRGINIA**

**FAIRFAX COUNTY** is ending its agreement with **federal immigration officials** to hold inmates longer than their criminal jail sentence. Since 2012, the county has been keeping inmates wanted by Immigration and Customs Enforcement (ICE) for up to 48 hours to facilitate the possibility of deportation. ICE requests must now be accompanied by a criminal detainer issued by a court, WTOP News reported. The official termination date of the intergovernmental agreement will be

March 23, after the mandatory 120 days notice.

**WYOMING**

The **PARK COUNTY** Sheriff's Office is **printing ID cards for kids**, which parents can give back to police if their child is lost. Parents were asked for permission to photograph and fingerprint their children, and the child's name, birth-date, height, weight, and eye color are added to the card, KCWY News in Casper reported.

*News from Across the Nation is compiled by Charlie Ban and Mary Ann Barton, senior staff writers. If you have an item for News From, please email cban@naco.org or mbarton@naco.org.*



**WEAKLEY COUNTY, TENNESSEE**

Designed by: Rachel Melton  
Introduced in: October 2017

**W**eakley County was established in 1823 from land ceded by the Chickasaw Indians. Named for Colonel Robert Weakley, then Speaker of the State Senate, the county is a leading manufacturing, agricultural, business and educational location in northwest Tennessee.



The field in the background features lines representing the original districts that made up Weakley County.

The nine stars in the design symbolize the nine districts that currently make up Weakley County.

The field, tractor and barn at the back left are a nod to Weakley County's history in agriculture.

The water tower image salutes the cities in Weakley County and each eye-catching and unique water tower in each community.

The power lines at the right of the locomotive acknowledge the fact that the county is one of a few in the state with a county-owned and operated electric system.

The locomotive exemplifies Weakley County's rich history in rail, and the tri-star at the front of the train illustrates the county's unity, connection and commitment to the state of Tennessee.

The color of the sky represents the dawning of each new day in Weakley County, with the locomotive moving ever forward.



**MICHIGAN**

**OTTAWA COUNTY** is asking residents what they think about the county's plans for acquiring and developing a 353-acre dune property, Michigan Live recently reported. Thanks to state grant funds of \$8.4 million and the property owner's donating 25 percent of the property value (\$11.22 million) to serve as local matching funds, the total cost to the county would only be \$28,000. Ottawa County Parks Director John Scholtz called it an "amazing opportunity" to preserve a huge section of Lake Michigan dunes and link more than 2,000 acres of parks and preservation areas along the lakeshore.

Would you like to see your county's seal featured? Contact Charlie Ban at cban@naco.org.

## the HR DOCTOR

with Philpot & Winkler

# What's the Difference between Exempt and Non-Exempt?

It's the Friday before a major holiday. Many employees had requested a vacation day, but a select few remain in the office, keeping the doors open. As the day progresses, fewer and fewer staff remain, as the exempt employees "scoot out early." The remaining employees, without leadership, spend time grumbling about being left behind. Some leave without clocking out, but a few linger until the end of the day, feeling bitter that they are not supported by members of their team. As the minutes tick by, the enduring employees if they were exempt, could come and go as they please, too. It raises the question, what does it mean to be exempt?

The Fair Labor Standards Act (FLSA) classifies employees as exempt or non-exempt based on a series of requirements including a salary level and job duties. Employees who are classified as "exempt" are exempt from overtime regulations, meaning they can be required to work more than 40 hours in a week without receiving overtime pay.

Conversely, employees who are "non-exempt" must be paid overtime if they exceed 40 hours of work in the week. An employer that classifies an employee as exempt when the FLSA and its corresponding regulations would require they be non-exempt is viewed as attempting to avoid paying overtime, which can lead to federal investigations, lawsuits and penalties. Additionally, calling an employee a supervisor or manager is not enough to have them classified as exempt; they must also meet the duties test. It is a violation of wage and hour law to misclassify a position. Despite the law, many employees perceive that being exempt is a desirable benefit.

Exempt employees are expected to put in the hours required to accomplish the work. This implies that they may be expected to frequently or regularly work more than 40-hours a week. On the timesheet, exempt employees document the days in which they worked. Some employers may only record blocks of eight-hours or four-hours. In exchange, exempt employees have some flexibility in that if they attend a doctor's appointment or run an errand at lunch, they would not record this time away from work because it does not amount to a four- or eight-hour block.

Timesheets should accurately reflect a day's work and leave accruals taken, so if an exempt employee is on a cruise ship on Friday, the timesheet should not indicate hours worked. Many times, exempt employees refer to their time as "working out in the wash" meaning the time will balance eventually. Other exempt employees refer to the personal standard of "the first 40 are in the office" meaning if they claim 40 hours on their timesheet, they worked 40 at a minimum.

As an exempt employee, supervisors, managers and directors may receive or respond to urgent questions or calls, including those occurring on evenings or weekends. Unlike non-exempt employees, they will not record this extra time as time worked. Sometimes, exempt employees will say, "I am on-call 24 hours a day, seven days a week." Yet, there is a difference between exempt employees receiving notification about an issue and having their off-work time restricted because they have to actually respond to calls.

Generally, except in limited circumstances, even non-exempt employees are not considered to be working while on call until they are called on to actually work. The exempt employee should not consider on-call



hours worked either.

Employees may complain, "I wish I was exempt because then I could come in whenever I want and work from home whenever I want." An employee's status as non-exempt or exempt should not affect their eligibility for telecommuting, but such arrangements need to be within the organization's policy and outlined in writing.

Many organizations have a telecommuting agreement, a memo agreeing to the nature of work to be performed during telecommuting, and a policy regarding such activities. This is also the case for alternative schedules. It is important that supervisors understand that an exempt employee continuously coming in late is a performance issue that should be addressed and that the FLSA does not allow the exempt employee to have 30-minutes of pay deducted for coming in late. For this reason, having agreements, communicating clearly and discussing expectations is critical.

This may be best understood with an example: Sonja has two exempt employees who report

directly to her. Claire is an outstanding performer whom Sonja has let work an alternative schedule so that she may drop off her kids at school each day. Claire more than makes up the hours, staying late and often working from home on week-ends.

Sonja's other exempt employee, Anne, is not performing consistent with expectations and has many overdue projects. Anne comes in later and later each day and has never discussed the reason why with Sonja. Anne leaves exactly at 5 p.m. each day and frequently takes extended lunches. She is not putting in 40-hours in each week, her direct reports find her to be unavailable when they need assistance and office morale is declining. When Sonja meets with Anne to discuss the performance issues, and wants to have Anne acknowledge that the office is open from 8 a.m. to 5 p.m., Anne responds, "This isn't fair, Claire doesn't come in at 8 a.m. and she hasn't signed a memo acknowledging the hours of the office. Also, I'm exempt. I don't have to clock in."

Sonja cannot reduce Anne's paid time by 30-minute or one-hour increments. But she should document Claire's alternative work schedule and address Anne's performance deficiencies. She also needs to have a conversation regarding the expectations of completing her work as an exempt employee. If the department has a policy that requires staff to request vacation one week in advance, than all staff, including exempt staff, should abide by the policy. This prevents the appearance of favoritism, bias or simple unfairness. Applying policies, rules and procedures consistently across exemption classification is an issue of fairness and respect.

All employees have a boss, whether that supervisor is an elected official, director, board, or the citizens themselves. Additionally, employees in leadership roles are expected to set a tone and model a behavior for the office, to provide leadership and guidance. The root issue in the scenario of the Friday before the major holiday is not truly an issue of exempt or non-exempt, but rather a question of leadership. In this scenario, no management or leader was willing to do the work they were asking of others, staying to serve the customers while the office was required to be open. The outcome was that the employees' integrity was tested: were they willing to leave without asking or skip clocking out?

Both exempt and non-exempt employees desire to work in an environment free from micromanagement.

Establishing expectations and policies to be followed by all employees builds a team environment full of collaboration, respect and trust, whether it is the Friday before a major holiday, or a Wednesday in August, which according to crossword puzzles is the only month without a holiday. **CN**