CN
CountyNews

NEW JERSEY BAIL REFORM COSTS COUNTIES PG. 3

NIXING FEDERAL RULES POSSIBLE, BUT CAN BE CHALLENGING PG. 7

EFFORTS BEGIN TO REPEAL AFFORDABLE CARE ACT PG. 8

NATIONAL ASSOCIATION of COUNTIES VOL.49, NO. 3 FEBRUARY 6, 2017

King County to open safe injection sites for opioids

By Charlie Ban
senior staff writer

The nation's first supervised drug injection sites will open in King County, Wash. after County Executive Dow Constantine and Seattle Mayor Ed Murray approved recommendations by their joint Heroin and Prescription Opiate Addiction Task Force.

The Community Health Engagement Locations (CHELs) will be more than an alternative to taking drugs in public without the risk of overdose. They'll be staffed with medical and counseling personnel and will represent a public health-oriented approach to the epidemic, complementing the criminal justice side that cracks down on deal-

See OPIOIDS page 2

The Paradise Village Mobile Home Park was demolished by tornadoes that struck on Jan. 21–22, killing four people in Dougherty County, Ga. and injuring scores more. Throughout southwest Georgia, there were 16 fatalities. The largest concentration, seven, was in Cook County, Ga., where Commission Chairman Dwight Purvis described "massive devastation ... almost like a bomb went off." In all, seven counties were declared federal disaster areas from the weekend's severe storms and another tornado outbreak in Dougherty County a few weeks earlier. Photo by Jon Gosa / Albany Herald

Public Technology Institute new partner with NACo, NLC

A new partnership with the Public Technology Institute (PTI) will bolster the ability of NACo and the National League of Cities (NLC) to support public sector leaders in addressing pressing technology issues. The alliance will also provide additional technology expertise at NACo and NLC events throughout the year.

With the new partnership, NACo will house PTI's personnel and assume its administrative operations at its North Capitol Street headquarters. PTI will provide mutual program support to NACo in developing cutting-edge technology resources for America's city and county governments.

"Given the technology opportunities and challenges facing county government — from big data and data-driven decision-making to cybersecurity and digital communications — we're confident that working with PTI will help position America's counties to build healthier, safer and smarter communities," said Matthew Chase, NACo executive director.

"From the beginning, PTI has provided city governments

See PTI page 2

NACo launches Counties Futures Lab

By Bryan Desloge
NACo President

My NACo presidential initiative's theme is "Brilliant Ideas at Work" because counties operate within ever-changing physical, social and economic environments, and county government leaders must anticipate, adapt and innovate to address complex challenges every day.

To help America's county leaders foster this spirit of innovation, we're proud to announce the launch of the NACo Counties Futures Lab.

The Counties Futures Lab will build on the NACo Research Department's existing products to explore the evolv-

See FUTURES page 15

COUNTIES FUTURES LAB NACo

Injection sites will include counselors, nurses

From OPIOIDS page 1

ers and drug traffickers. The task force report recommends they be operated on a pilot basis for three years.

In 2014 and 2015 respectively, 156 and 132 deaths in King County were the result of heroin overdoses.

"It's not really groundbreaking, there are about 90 of these operating around the world," said King County Public Health Officer Jeff Duchin, a task force member. "They've been around for over 30 years.

"The point of it is not to give somebody a place to shoot up and not discard their needles in public. We will provide them with the full range of mental health behavioral health and social service needs and medical care."

While participating in a panel discussion in March 2016, Sheriff John Urquhart said that his deputies would not arrest people entering or leaving what became CHELs, months before the recommendation to create them was made and Constantine approved it.

The task force report stresses the multi-faceted approach these sites will use: "The primary purpose of these sites is to engage individuals experiencing opioid use disorders using multiple strategies to reduce harm and promote health. These include, but are not limited to, overdose prevention through promoting safe consumption of substances and treatment of overdose.

One CHEL will be located in Seattle and the other will be away from the county's urban core.

The task force views the CHELs as a new harm-reduction strategy, along the lines of a needle exchange. King County played host to one of the first needle exchanges nearly 30 years ago and at the time, drew the kind of public skepticism and pushback Duchin anticipates for the CHELs.

"People thought (exchanges) would increase drug use or frequency of drug use," he said. "What we know now is that needle exchanges are effective in decreasing deaths and transmissions of blood borne viruses such as HIV. Letting people overdose in a fast food bathroom or a port-a-potty is not effective treatment. Bringing them into a health care environment, making sure there's treatment available to them, will save lives and give people a chance to recover."

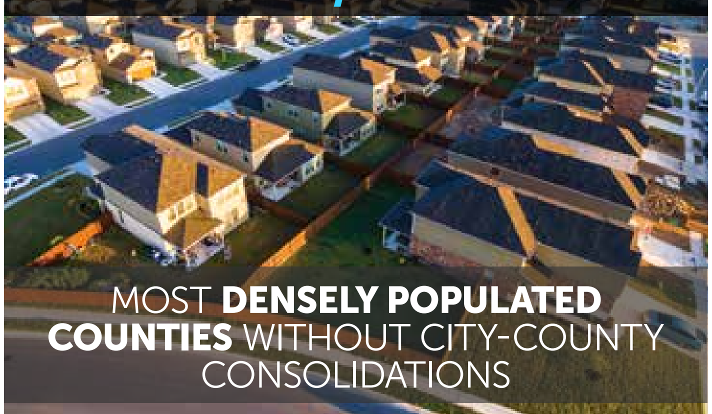
Task force members visited various safe injection sites in Europe and Canada — including one in nearby Vancouver, British Columbia — before including CHELs in the final recommendation, which also included expanding naloxone availability, increasing the number of patients allowed to be served by and establish parameters for methadone clinics and developing screening practices in schools to better spot signs of addiction.

Research published in the Journal of Global Drug Policy and Practice reported that safe injection facilities were successful in reducing infectious diseases reducing overdoses and did not increase crime levels.

"They can be a tool to keep people alive until they're ready for treatment," Duchin said. "We don't think anyone wants to be addicted to drugs, or alcohol, or sleeping pills. It's a chronic disease; you can't go cold turkey and not everyone is ready for treatment at any one moment.

"CHELs will be a place where we can establish a trusted relationship where we're providing these people with necessary medical care counseling and health care." CN

SNAP/STATS



Rank	County	People per square mile
1.	Hudson County, N.J.	14,617
2.	Arlington County, V.A.	8,817
3.	Baltimore County, M.D*	7,682
4.	Essex County, N.J.	6,318
5.	Cook County, Ill.	5,541

*Baltimore City is a seperate jurisdiction from Baltimore County with same powers and responsibilities as the county

Source: U.S. Census Bureau, Population Estimates Program, Vintage 2015

Mix of policy, technology help leaders,managers bridge gaps

pti Public Technology Institute

From PTI page 1

with technology solutions that address local challenges and help them better serve their residents. We look forward to continuing to work together to educate and inform local officials on the technology issues that impact their communities," said NLC CEO and Executive Director Clarence E. Anthony.

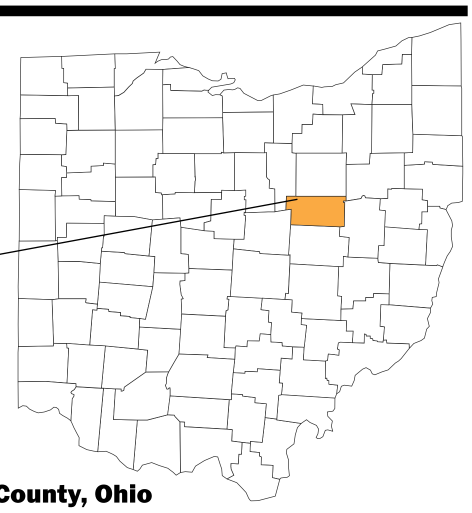
Said PTI CEO and Executive Director Alan Shark, "We couldn't be more pleased as we navigate the many exciting and collective opportunities moving forward. Today, more than ever, policy and technology are intertwined, and we need to work harder at bridging any gaps that may exist between elected leaders and public managers, as well as technology executives and practitioners."

Established in 1971 by the several major national associations representing state and local governments, PTI is the advocate and resource for early adopters and thought leaders who have a passion for the furtherance and wise deployment of technology. CN

New NACo★ Member

GET TO KNOW…

Holmes County, Ohio



Welcome, Holmes County, Ohio

Holmes County **holds the record for the highest percentage of Amish residents of any U.S. county -- 42 percent** of its 43,000-person population. Its Amish heritage attracts many visitors throughout the year, making tourism vital to the county's economic success. **Visitors can experience Amish Country charm by shopping for bargains at the Amish Flea Market, taking a horse drawn buggy ride through the countryside or shopping for homemade Amish goods** such as heirloom furniture, jams and jellies.

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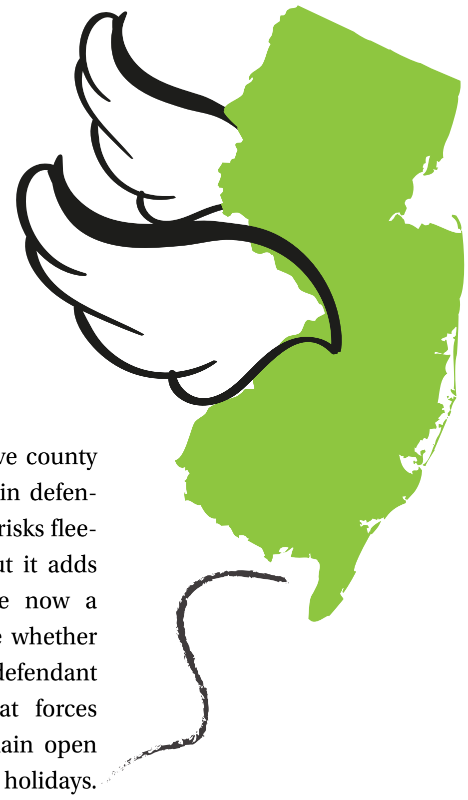
Eliminating bail speeds adjudication, adds costs to N.J. counties



By Charlie Ban
senior staff writer

The new year brought bail reform to New Jersey, keeping many nonviolent offenders out of jail while they await trial. But the counties responsible for managing the process say the costs to do so will mount.

The Garden State follows another reform effort in Kentucky six years earlier and may add momentum to similar efforts in nine other states.

In the meantime, while supporting the measures that will eliminate bail, New Jersey Association of Counties Executive Director John Donnadio said the necessary staff additions and information technology upgrades could cost the state's 21 counties $50 million annually. Along with bail elimination, adjudication schedules were sped up.

“We supported the law all along; we think it's good public

Brian Hughes
Mercer County, N.J. Executive

policy and we never opposed it on the merits,” he said. “We believe it will help long-term to control county jail costs, but we don't know when we will realize those costs savings. It's very difficult to recoup money for capital improvements or staff.”

Voters approved a constitutional amendment in 2014 that permitted judges to keep high-risk defendants detained without bail, while eliminating bail for most nonviolent charges and prescribing supervised release for others.

“The problem, historically, has been … that too many poor defendants who pose a minimal risk of danger, minimal risk of flight, sit in jail for too long pretrial because they can't make even modest amounts of bail,” state Supreme Court Chief Justice Stuart Rabner said when announcing the reforms.

Penny Stinson, president of the National Association of Pretrial Services Agencies, characterized bail population reduction as a bipartisan issue that has been gaining momentum, with state governments examining their bail policies in Alabama, Arizona, California, Maryland, Minnesota, New Mexico, Texas, Washington and Wisconsin. The national political climate, however, could change things.

“You never know with the change of administration, there's hope that it won't abate and there are strong voices from both sides,” she said. “The reliance on bail is very ingrained in our criminal justice culture, but there's a push by practitioners who work in the field who have seen the results of what money in the system did and who we ended up incarcerating and who were inclined to be involved in criminal activity in the future.”

Overall, it will relieve county jails of having to detain defendants who don't pose risks fleeing or reoffending, but it adds new urgency because now a judge must determine whether to detain or release a defendant within 48 hours. That forces court facilities to remain open on weekends and holidays. Guidance on whether to detain

See BAIL REFORM page 13

HOW NEW JERSEY'S SPEEDIER TRIALS WILL WORK

1 The arresting officer speaks to a judge, who determines whether the defendant will be issued a summons or a warrant.

2 If a warrant is appropriate, the defendant is detained and within 48 hours, the judge determines, with the aid of the Public Safety Assessment, whether the defendant should be detained or released, possibly with electronic monitoring.

3 Prosecutors have 90 days to take a charge to the grand jury.

4 If indicted, a defendant must be tried within 180 days, though 13 exemptions can extend that time to two years.

CN SPOTLIGHT

With NACo's Live Healthy program helping to save Montgomery County, Md. residents more than $32 million on prescription drugs, County Executive Ike Leggett (center) and Councilmember George Leventhal (left) announce expanding the county's program to include discounts on dental and health services. Also helping to announce the new service for county residents is Alan Kaplan, M.D., Montgomery County Commission on Health. Photo courtesy of Montgomery County, Md.

King County, Wash. Councilmember Kathy Lambert launches the Live Healthy prescription drug discount program. King County becomes one the largest counties in the nation to sign up for the program. Joining her in the announcement is Eric Johnson, executive director, Washington State Association of Counties. Photo courtesy of King County, Wash.

APPLY FOR THE 2017 ACHIEVEMENT AWARDS

Does your county have an innovative program that improves county government and enhances services for county residents? Apply for the 2017 Achievement Awards! There are 18 categories ranging from information technology, health, criminal justice, human services and many more.

By applying for the 2017 Achievement Awards, entries will be in the running for the Counties Matter Challenge: Brilliant Ideas at Work, NACo President Bryan Desloge's presidential initiative.

To begin your application visit: **www.naco.org/achievementawards**

QUESTIONS?

Contact **awards@naco.org**

IMPORTANT DATES:

- SUBMISSIONS DEADLINE: MARCH 27, 2017 AT 11:59 P.M. EDT
- NOTIFICATIONS OF ACHIEVEMENT AWARDS: WEEK OF APRIL 24, 2017
- NOTIFICATIONS OF COUNTIES MATTER CHALLENGE: WEEK OF MAY 29, 2017
- NACo ANNUAL CONFERENCE AND EXPOSITION: JULY 21 – 24, 2017

BRIGHT IDEAS | SAN BERNARDINO COUNTY, Calif.

County Program Helps Fathers Matter More

PROBLEM: Children of absentee fathers are at higher risk of poverty, emotional and behavioral problems and incarceration.

SOLUTION: Provide interested fathers the resources, training and support to reengage with their children.

By Charles Taylor
senior staff writer

Lesford Duncan isn't a father. But if he becomes one, he couldn't wish for a better role model than the dad who raised him as a single parent.

"I had a father who was personally engaged with my life, who even though my parents had separated — my mother having experienced mental health issues — our father took custody of us and he really became our advocate," said Duncan, child abuse prevention coordinator at San Bernardino County, Calif.'s Children's Network. "He became our champion."

Now, in his work, Duncan gets to help ensure that other fathers can enjoy the same kind of relationships with their children through the Inland Empire Father Involvement Coalition (IEFIC). It's a group of community-based, county and faith-based organizations that are working together to reduce father absenteeism and support fathers' engaging with their children.

The need exists. Between 2009 and 2013, 34.3 percent of households in San Bernardino County were single-parent homes, according to U.S. Census data. That's nearly 10 points higher than the national average of 24.4 percent. Those same data show that of all fatherless households with children under the age of 18 in the county, 43.5 percent were below the poverty level (the county's average poverty rate is about 20 percent).

Absentee fathers increase a child's risk of a number of poor outcomes, according to IEFIC, such as poverty, poor school performance, child abuse and neglect, emotional and behavioral problems, and incarceration.

Named for the Inland Empire region of California, east of Los Angeles, IEFIC encourages healthy child development by promoting the involvement, necessity and value of the role of fathers in the family and community. Its vision is to help fathers "fully engage as stable, supportive educators and providers, and serve as healthy family role models."

Duncan said the need for such a coalition evolved from discussions with First 5 San Bernardino, a state-funded program to promote, support and improve early childhood development with the help of communities and child-serving agencies.

From those meetings, one takeaway was that fathers felt a lack of father-friendly resources to help them become more involved in their children's lives — that there were of barriers both within the home and in county and community systems. And that negative media portrayals of fathers as deadbeats or incompetent were destructive.

IEFIC combats those notions with a four-pillared approach:

- mentoring and education opportunities for fathers
- support services that are more accessible to fathers
- public relations and outreach to promote positive images of fatherhood through media, and
- evaluating program outcomes and identifying best practices for father engagement.

Imo Momoh, a member of San Bernardino County, Calif.'s Inland Empire Father Involvement Coalition, pauses for a snapshot while out shopping with his daughter, Imonikhe.
Photo courtesy of San Bernardino County, Calif.

Since forming in 2013, IEFIC has conducted two fatherhood conferences, attracting more than 400 fathers and families, targeted towards new and young fathers, low-income parents, fathers of children with special needs and those involved in the child welfare and probation systems.

To provide educational opportunities for fathers, the coalition has adopted the Nurturing Father's Program's nationally accredited, 13-week curriculum and trained 11 trainers from nine organizations and agencies to expand the program's reach.

Last summer, the coalition launched the multimedia campaign — "Be the Hero of Their Story"— designed to improve the image of fatherhood through TV interviews, the use of billboards, flyers, radio ads and social media posts.

The coalition has brought together more than 200 partners representing 50-plus county, community and faith based organizations for monthly meetings to collaborate and strategize.

"The coalition is still in its infancy," Duncan said, "but there's a lot more that we envision ourselves doing."

A key partner in the coalition is the county's Children and Family Services (CFS) division, with which IEFIC has partnered on annual community fatherhood breakfasts.

Duncan noted that over the past several years, CFS has helped to increase the number of fathers involved in case planning to reunify children who have been removed from homes back into stable home environments.

"A father doesn't necessarily need to be regularly in the home with the child because we recognize that many marriages fall apart, many children are born out of wedlock," Duncan said. "We also promote co-parenting where the father is actively taking steps to work with the mother to ensure that they're getting visits, that they're seeing their kids at least once a week or every couple of weeks for an extended period of time."

Harking back to his own story, he said, "Even though I personally have experienced a lot of adversity as a child growing up, I credit my dad's presence to really building resilience in my life." CN

Bright Ideas features noteworthy and award-winning county programs.

GUEST EDITORIAL

NACo, Health Means Business campaign join forces to create healthier counties

By Marc DeCourcey
senior vice president
U.S. Chamber of Commerce Foundation

The National Association of Counties (NACo), with your incredible network of more than 2,000 county leaders, brings tremendous influence and power to its collaborations. The U.S. Chamber of Commerce Foundation also has a large network of businesses of all sizes — the largest business network in the country. We've seen, first-hand, the positive and enduring impact that is possible when businesses come together with our cross-sector partners, including those in county government. That's why we are asking NACo leadership and membership to sign up as *Health Means Business* champions and join us by taking our Wellness Pledge.

In 2015, the U.S. Chamber Foundation, with the support of the Robert Wood Johnson Foundation (RWJF), launched the *Health Means Business* campaign, a two-year commitment to foster business engagement in a national wellness movement to help create healthier citizens and a healthier workforce.

According to the RWJF's *County Health Rankings* report, an estimated 40 percent of our health condition is influenced by the environment where we live, work and play. These intrinsic links between health, education and economic outcomes are among the reasons why American businesses — and our partners in county government — care deeply about building healthy communities.

It's no secret that national health trends are alarming. According to the Centers for Disease Control and Prevention, largely preventable productivity losses cost employers $225.8 billion, or $1,685 per employee per year. Employers cite even higher costs in intangible financial terms and in lost opportunity. These findings emphasize again that good health is linked to economic success.

Recently, the *Health Means Business* campaign unveiled a new initiative, called the Champions Network. The Champions Network provides community stakeholders with resources, skills and support needed to become leaders in community wellness, including peer-to-peer best practice sharing, learning modules, fast tracks, and an online resource center.

The first step begins with taking our Wellness Pledge at: *www.chamberofcommercefoundation.org/form/health-means-business*.

This simple action can help unite leaders in 3,069 counties with businesses of all sizes and others in an important cause: empowering our citizenry to lead happier, healthier and more productive lives.

We urge NACo members to utilize the *Health Means Business* Champions Network as a resource for cross-sector discussion and cooperation to foster civic engagement within your own county

Many counties across the nation are already pursuing comprehensive approaches to improving community health. We believe the *Health Means Business* campaign, and importantly, our Champions Network, will be instrumental in furthering NACo's own vision of healthy, vibrant and safe counties across the United States.

We encourage county elected officials to seize this opportunity to make a difference by taking the Wellness Pledge. If the over 25,000 members of NACo got involved by taking the *Health Means Business* Wellness Pledge, the impact in counties across America would be dramatic and far-reaching.

Working with NACo, the *Health Means Business* campaign can reach the heart of American communities to advance a national culture of wellness.

We value the hard work you are already doing in America's counties — and we look forward to future collaborations to promote healthier communities, healthier citizens and a healthier workforce.

Please join us by taking the *Health Means Business* Wellness Pledge today. I commend NACo President Bryan Desloge for providing the opportunity and for supporting this endeavor. CN

Potential threats to Medicaid loom over health care debate

By Brian Bowden
associate legislative director

As Congress and the Trump administration work to coalesce around a "replacement plan" for the Affordable Care Act (ACA), the Medicaid program looks to be a likely target for policy changes that could impact counties.

Significant changes to Medicaid have been suggested under previous Republican proposals, including the blueprint released by House Speaker Paul Ryan as a part of his "Better Way" vision and a draft FY17 budget resolution proposed by the nominee for the secretary of the Department of Health and Human Services (HHS), Rep. Tom Price (R.-Ga.).

Most recently, President Trump's advisor Kellyanne Conway mentioned the block-granting of Medicaid as one of the policy changes that the Trump administration is considering, and the topic was again raised during the GOP's recent congressional retreat in Philadelphia.

Medicaid is a federal entitlement program administered by states, often with assistance from counties, that provides health and long-term care insurance to over 70 million low-income families and individuals, or one in five Americans.

Authorized under the Social Security Act, Medicaid is jointly financed by federal, state and local governments, including counties, which contributed most of the $28 billion in local government contributions to the non-federal share of Medicaid in 2012, the latest year for which data was available.

Medicaid helps counties meet their often-mandated requirements to provide health care to the low-income, underinsured and uninsured. Medicaid decreases uncompensated care costs, lessening the strain on county budgets while providing much needed patient revenues that helps communities retain doctors and health professionals, especially in rural and underserved areas.

Federal Medicaid spending is expected to continue to rise over the coming decades due to the aging of the population and the expansion of the program in 32 states and the District of Columbia. Cuts to Medicaid, a program seen as less politically popular than Medicare, have been proposed to stem rising costs.

All of the proposals would shrink federal funding for state Medicaid programs over time. Under a block grant, states would receive a fixed amount of federal funding each year, regardless of changes in program enrollment and mandates. Under a per capita cap, which was also proposed as an option in Ryan's plan, states would receive a fixed amount of federal funding per beneficiary category. Capping funds would further shift costs to counties, and as uncompensated care costs increased, counties' capacity to provide health services to their residents would decrease.

While administration officials have indicated that a Medicaid block grant is likely to be included in any major health reforms, Trump has indicated that he is waiting for Price to be confirmed before sharing details about his plan.

In recent confirmation hearings, Price has declined to answer direct questions about whether he supports block-granting Medicaid, instead he stated his interest in changing a "system that isn't working." Meanwhile, the nation's governors, represented by the National Governors Association, have said that it is "critical" that Congress doesn't shift more costs onto states as lawmakers pursue changes.

NACo, in a letter to House leadership, has also urged Congress to consider the implications of health reforms that would merely shift costs to counties.

In order to help policymakers better understand why it is essential to preserve the federal-state-local partnership for Medicaid, NACo recently updated the legislative presentation, Medicaid and Counties: Understanding the program and why it matters to counties. It can be found on NACo's website at *www.naco.org/medicaid*. CN

Trump administration has options and challenges for repealing Obama administration's regulations

By Julie Ufner
associate legislative director

President Trump has stated that one of his top priorities in the first 100 days of his presidency is to repeal a number of controversial regulations that were finalized during the Obama administration. Among these regulations are several that significantly impact America's counties, including rules on "waters of the U.S." (WOTUS), and rules relating to ozone, climate change and overtime pay.

Although the president's intent is straightforward, in reality, dismantling existing rules and regulations is challenging and fraught with difficulties. Although regulations that have been finalized but not yet implemented by the outgoing administration, commonly known as "midnight rules," might be somewhat easier for the new administration to nullify — and Trump has already issued executive orders halting their implementation — finalized rules will prove tougher to unravel. To turn back finalized rules, the Trump administration will have three options, each presenting a series of challenges.

First, the administration can leave the matter in the hands of the courts; second, the administration may ask Congress to take action on specific regulations; and third, the administration can use the existing regulatory process. Below is a detailed explanation of these options and their challenges.

Let the Rules Play Out in the Courts

The incoming administration's first option is to leave the matter in the hands of the courts and hope the courts rule against Obama administration regulations. Within the last several years, EPA's finalized rules on WOTUS, ozone and the Clean Power Plan have been challenged in the courts by a number of states, industry and environmental groups. The states and industry have typically argued that the final rules are too stringent, while environmental groups often claim that the rules do not go far enough to protect the environment.

While letting the courts assess and rule on controversial regulations in this manner might produce the results desired by the new administration, this tactic is often extremely time-consuming, and, even if the courts ultimately side with the Trump administration, the rules in question might not be wholly dismantled.

Below are some potential scenarios regarding how lawsuits on controversial regulations may play out:

● **If the rule is struck down by the district or appeals courts,** the administration could simply refuse to continue to defend the case or appeal to a higher court. However, since other parties (e.g., environmental groups, states or industry groups) would be able to intervene to appeal a lower court's ruling, it is likely that litigation would continue with or without the Trump administration's involvement.

● **If the rule is upheld by the lower courts or if the case has not been decided,** the administration could ask the courts for a "voluntary remand" of the rule back to the appropriate agency for reconsideration.

Under a voluntary remand, the agency would be required to reassess and revise the rule through a public comment period. However, to request a voluntary remand, the administration must have a strong and legally defensible argument for reconsideration — otherwise the request is likely to be challenged in the courts.

Even without a request from the administration, the court can instruct the agency to rewrite the rule.

An important caveat here is that all lower court decisions involving federal regulations are likely to ultimately be challenged before the Supreme Court, which has considered cases with only eight justices since Antonin Scalia's death in 2016.

This has important implications for any controversial lawsuits that may come to the court before a replacement for Justice Scalia is confirmed — if the justices split evenly on any case, the lower court's ruling will stand.

Ask Congress to Take Action

The new administration's second option would be to ask leaders in House and Senate to pass legislation that would require agencies to repeal specific rules. This option, of course, would present the same difficulties and challenges as any attempt to pass legislation in the Congress, including filibusters from Democratic lawmakers and potential policy disagreements within the Republican caucus. Nonetheless, some of the options Congress may use to nullify existing regulations include:

● **Passing a free-standing bill that withdraws the regulation and requires the agency to rewrite the rule.** While this may be an ideal and straightforward scenario for the Trump administration, the Senate's rules will make it difficult for the GOP — with its current 52–48 majority — to reach the 60 votes needed to bypass filibusters by Democratic lawmakers.

● **Employing the Congressional Review Act (CRA) to roll back rules with a simple majority of votes.** While the CRA enables GOP leaders to bypass a potential Democratic filibuster, this option is only applicable to rules finalized in the last 60 legislative days of the 114th Congress, meaning rules finalized before June 13, 2016 could not be nullified in this way. CRA has only been used successfully once, to overturn a 2001 Department of Labor rule on ergonomics.

● **Repealing the provision of the federal law that instructs the agency to write or revise the rule** is another option. However, for popular regulations like those related to the Clean Water Act and Clean Air Act, this option may be difficult to use since both of these rules have broad congressional support and may be difficult to amend. Further,

See NO REGS page 9

EXECUTIVE ORDERS 101

BY LISA SORONEN
EXECUTIVE DIRECTOR, STATE AND LOCAL LEGAL CENTER

President Obama, like most of the presidents who recently preceded him, issued about 300 executive orders. On the campaign trail candidate Trump promised to cancel President Obama's "unconstitutional" executive orders. Meanwhile, in his first days in office Trump has signed a number of executive orders of his own.

Through executive orders presidents are able to direct the work of administrative agencies and implement authority granted to them by a federal statute or the Constitution.

Executive orders are controversial because no provision of the Constitution explicitly authorizes them. Regardless, they have been used consistently since George Washington.

Executive orders, while considered to have the force of law, can't be used to overturn laws but can be overturned by Congress.

The Supreme Court has declared some executive orders unconstitutional. Perhaps the most famous example is the 1952 case of *Youngstown Sheet & Tube Co. v. Sawyer.* The Supreme Court struck down President Truman's executive order directing the secretary of commerce to seize and control all United States steel mills. The Supreme Court ruled that neither the Constitution nor the laws of the United States authorized this action.

More recently the Supreme Court agreed to decide if President Obama's executive order allowing certain undocumented immigrants to stay and work in the United States indefinitely was unconstitutional. The Supreme Court issued a 4–4 decision last summer, which effectively affirmed a lower court ruling striking down the executive order.

Can President Trump cancel President Obama's "unconstitutional" executive orders? Yes, and he can reverse President Obama's "constitutional" executive orders as well. For example, President Trump has already reinstated the "Mexico City Policy" by executive order, which prohibits non-governmental organizations that receive federal funds from providing or promoting abortions overseas. Since President Reagan, Democrat and Republican presidents have alternatively cancelled or reinstated this policy by executive order.

More relevant to state and local government President Trump may reverse Obama executive orders on climate change, energy and immigration.

NACo is a founder, a funder and a board member of the State and Local Legal Center, headquartered in Washington, D.C. The center extends NACo's advocacy on behalf of counties to the highest court in the land.

ANALYSIS

New administration, Congress begin efforts to repeal, replace Affordable Care Act

By Brian Bowden
associate legislative director

After months of discussion during the 2016 presidential campaign and in the weeks since President Trump's election, the new Congress and Trump administration have placed repealing the Affordable Care Act (ACA) at the top of their legislative agenda.

While specific plans are still emerging and the timing for proposed changes remains uncertain, Republican lawmakers and President Trump are wasting little time in laying the groundwork for dismantling and potentially replacing President Obama's signature health care law.

Trump dedicated his first Executive Order to "easing the burdens" of the ACA and members of Congress introduced some proposals in the first weeks of the 115th Congress. Consensus, however, has yet to be reached on exactly how the ACA will be repealed and what or if anything will replace it.

Dismantling the ACA through Budget Reconciliation

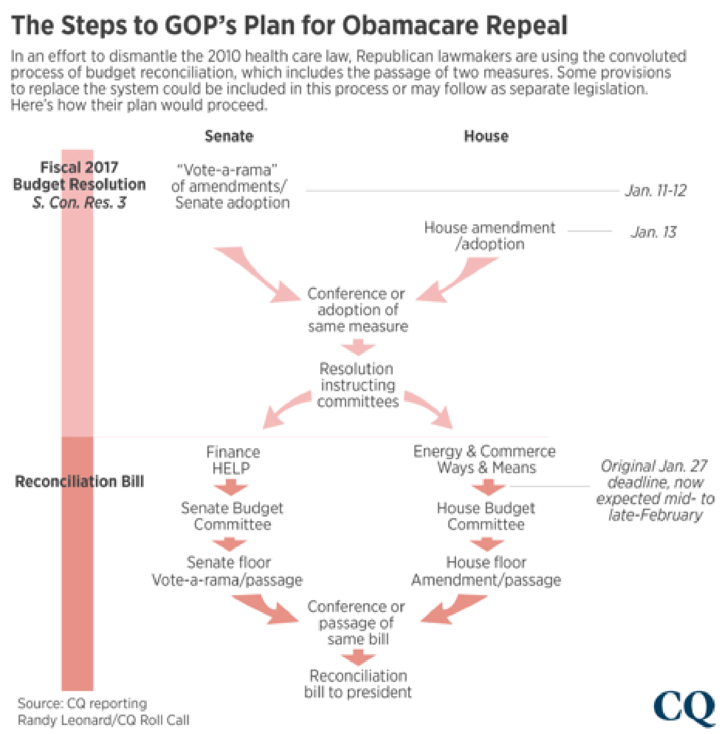
To dismantle many portions of the ACA, Congress is proposing to use a complex legislative procedure known as budget reconciliation. Under this procedure, Congress can use its annual budget resolution to expedite the legislative process on any matters that affect the federal budget, with a simple 51-vote majority. This allows Republican Senate leaders to avoid potential filibusters by Democratic lawmakers, which would require 60 votes to overcome under ordinary circumstances.

While the federal budget is not affected by all provisions of the ACA, many key provisions — such as tax credits for low-income individuals to purchase insurance, penalties for the individual mandate, and Medicaid expansion — affect the federal budget and therefore can be rolled back using budget reconciliation.

Senate Budget Chairman Michael Enzi (R-Wyo.) unveiled the FY17 budget resolution (S Con Res 3) on Jan. 3, and on Jan. 12, the Senate voted 51–48 to adopt the resolution, with Sen. Rand Paul (R-Ky.) representing the only Republican vote against the measure. The House followed suit the following day, passing its budget resolution with a vote of 227 – 198, with nine Republicans voting against the bill.

The reconciliation instructions in the fiscal blueprint direct two committees in the House (Ways and Means and Energy and Commerce) and two committees in the Senate (Finance and Health, Education, Labor and Pensions)to produce legislation cutting the federal deficit by at least $1 billion over 10 years. The subsequent legislation will determine the precise methods that lawmakers plan to use to repeal the ACA through budget reconciliation.

Congress initially set a Jan. 27 non-binding deadline for the committees to send reconciliation legislation to their respective budget committees, but it is now expected that the deadline will be pushed back to mid-to-late February at the earliest. In the meantime, House and Senate leadership continue to request input from stakeholders, and on Jan. 6, NACo sent a letter to House leadership urging Congress to consider implications of ACA reforms that would merely shift the costs of caring for indigent populations to counties.



Dismantling the ACA through Executive Order

As Congress continues to debate the path forward on health care, President Trump has also signaled his prioritization of efforts to repeal the ACA. Shortly after his swearing-in, he signed an Executive Order calling on the secretary of health and human services (HHS) and other federal agency leaders to "ease the burdens" of the Affordable Care Act. Specifically, the order calls on the HHS secretary to "exercise all authority and discretion available to them to waive, defer, grant exemptions from or delay the implementation of any provision or requirement of [the ACA] that would impose a fiscal burden on any state or a cost, fee, tax, penalty or regulatory burden on individuals, families, healthcare providers, health insurers, patients, recipients of healthcare services, health insurance purchases, or makers of medical devices, products or medications."

Although the order does not call on federal agencies to take specific actions to achieve the goals listed above, and major changes to health policy will need to be carried out through legislation, the scope of the executive order, and its timing immediately after his inauguration, sends a strong message of the Trump administration's intent to repeal the ACA.

Replacing the ACA through Legislation

On Jan. 23, Sens. Bill Cassidy (R-La.) and Susan Collins (R-N.H.) introduced S. 191, the "Patient Freedom Act," the first of what is likely to be a series of pieces of legislation that could ultimately replace the ACA. The bill shares some features with prior proposals to replace the ACA in that it encourages the use of health savings accounts and eliminates the individual insurance mandate for states that opt out of the ACA.

Under the proposal, states could: 1) keep the ACA in place; 2) receive approximately 95 percent of federal funding and automatically enroll individuals in health savings accounts; or 3) reject all federal assistance. Certain mandates are repealed, such as the requirement that employers provide and individuals purchase insurance. Other ACA provisions are maintained, such as not allowing insurance companies to deny coverage based on pre-existing conditions and allowing children to be covered by their parents' insurance plans until age 26.

On Jan. 24, Sen. Rand Paul (R-Ky.) introduced S. 222, the Obamacare Replacement Act, that would eliminate many central elements of the ACA, including the mandate that everyone has coverage and essential health benefits that insurance plans must cover.

Paul's proposal would change the rules for patients with pre-existing conditions, allowing them a two-year open enrollment period to get coverage and requiring that they maintain continuous coverage thereafter. A key element of his proposal is the use of a tax credit of up to $5,000 per person to use as part of a health savings account to pay for health insurance, and prescription and over-the-counter drugs. The tax exclusion for employer-sponsored health insurance would be replaced by a universal deduction on income and payroll taxes. States would no longer be required to seek federal approval for their Medicaid waiver plans.

While members of the Senate try to coalesce around "replacement" plans, members of the House have indicated they may introduce smaller piecemeal legislative proposals.

It remains clear — coming out of the GOP retreat held Jan. 26 and 27 in Philadelphia — that agreement has still not been reached on how to go about replacing the ACA as differences between the House and Senate, and between moderate and conservative Republicans within each chamber continue. Meanwhile, the Congressional Budget Office recently warned that at least 18 million people would lose health insurance in the first year if Republicans repeal major parts of the Affordable Care Act without including a safety net. CN

Administrative procedures can also tackle regulations

From NO REGS page 7

this option is also subject to filibuster by Democratic senators.

● **Inserting legislative riders into appropriations bills** to prohibit the agency from using appropriations funding to develop, implement or enforce the rule would serve as another way to undercut a rule.

This language would have to be carefully written to ensure that if the courts remand the rule, the agency would be able to work on new rules. Further, this option remains subject to Senate filibuster rules.

As such, despite their control of the White House and both chambers of Congress, the Republican party will likely need some Democratic support to achieve filibuster-proof vote counts on rules that they wish to repeal.

Address Rules through the Administrative Process

Third, in addition to the courts and Congress, the Trump administration has several administrative options to address controversial Obama administration regulations, including:

● **The administration may use the Administrative Procedures Act (APA) to withdraw the rule.** The APA is the U.S. statute that governs the way administrative agencies may propose and establish regulations.

However, the APA lays out specific requirements for proposing or deleting rules that can prove complex and difficult to satisfy.

For example, to repeal a rule through APA, a public comment process would need to be carried out and the process would need to be done deliberatively and thoughtfully to prevent the courts from invalidating the rule.

Additionally, the administration must provide a strong and legally defensible justification for withdrawing the rule through the APA, and this justification could be vulnerable to legal challenges if is controversial or not sufficiently supported by existing science.

● **The agency can choose to selectively enforce portions of the law** by, for example, instituting a hiring freeze on enforcement agents or moving employees to other programs. However, this tactic is unlikely to work since federal agencies typically have internal processes to ensure the agency follows the letter of the law.

Lastly, while President Trump may also use executive orders to address controversial aspects of the Obama administration's policies, executive orders cannot be used to overturn regulations. That said, these orders can be used to undo past executive orders, or to change the scope of a regulation, as long as such a change does not violate existing law.

As an example, President Obama issued Executive Order 13693 to instruct all federal agencies to consider the impact of greenhouse gas emissions on their operations. Trump could reverse this instruction through his own order. CN

BEHIND THE SEAL

YAKIMA COUNTY, WASH.

Redesigned in: 2016

Designed by: Harper D. Signs

The design of the Yakima County seal, which was recently updated, reflects its residents' pride in the area.

The Yakima River supports a huge agricultural community, which produces more apples, hops, sweet cherries and mint than any other county in the nation (hence the apples on the seal).

The trees represent more than 500,000 acres of U.S. Forest Service land within the county's borders.

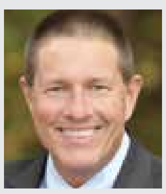
Mount Adams provides the backdrop not only in the seal but also throughout Yakima County.

Tiera Girard, clerk of the Board, assisted.

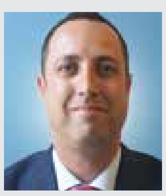
Would you like to see your county's seal featured? Contact Charlie Ban at cban@naco.org.

ON THE MOVE

NACo, COUNTY OFFICIALS



Desloge



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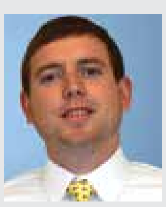
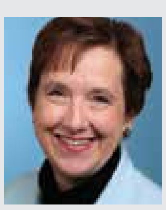


Morgan



Langston

● The Federal Communications Commission (FCC) recently announced that **Hans Riemer**, Montgomery County, Md. councilman, has been appointed to the FCC's Intergovernmental Advisory Committee (IAC). Reimer is a member of NACo's Telecommunications and Technology Steering Committee.

● NACo President **Bryan Desloge** spoke at the American Association of Community Colleges in Orange County, Calif. on Workforce Development Jan. 25.

NACo STAFF

● **Chris Marklund**, associate legislative director for public lands, addressed the Wyoming County Commissioners Association Legislative Conference in Laramie County (Cheyenne), Jan. 25–27.

● **Kevan Stone**, associate legislative director for transportation, attended the Federal Aviation Administration's Drone Advisory Committee meeting in Washoe County (Reno), Nevada Jan. 30–Feb. 1.

● **Matt Chase**, executive director, represented NACo at the Association of Indiana Counties Legislative Conference in Marion County (Indianapolis) Jan. 31.

● **Jack Morgan**, program manager, served as a session moderator and facilitator at the New Partners for Smart Growth Conference held in St. Louis on Feb. 2–4.

● **Linda Langston**, strategic relations director, represented NACo at the County Commissioners Association of Ohio's New Elected Officials Conference in Franklin County Feb. 5–7.

Entries for $2,500 NACo, Nationwide Scholarship Now Being Accepted

High-school seniors whose parents, grandparents or legal guardians actively contribute to a 457(b) plan offered through the NACo Deferred Compensation Program are eligible to apply for a $2,500 college scholarship. Four $2,500 scholarships will be awarded in the spring in honor of the scholarship program's 12th year in existence.

The NACo-Nationwide scholarship essay contest is an educational opportunity for high school students about to transition into a new stage of their lives. Young adults should understand the importance of preparing for a comfortable financial future as well as be aware of potential obstacles, according to NACo's President Bryan Desloge. "These challenges will continue to escalate in years to come so it will be incumbent on our organization and our exclusive retirement services partner to listen to the creative voices and obtain the transformative ideas of our next generation.

"These scholarships and its criteria allow us to examine this information and build even better retirement tools and resources. We look forward to receiving these thought-provoking ideas from many of these impressive graduating high school seniors through this process," said Desloge.

To help students consider why saving early and consistently may be important, Desloge shared key points from last year's scholarship winners, who answered the question, "Upon entering the workforce, what would convince you to start saving now for retirement? Consider not only the reasons why, but the communication methods that would be most effective to receive this information."

● **Alexander Olson** of Livingston County, Ill. saw potential in using various new technologies to communicate with and educate millennials about retirement planning. He wrote, "My generation has grown up with the internet, social media and smart phone apps being our way to communicate with each other as well as the world. These methods would be a great way to reach my generation and get us willing to start investing as early as possible for retirement."

● **Chandler Thompson** of Sullivan County, Tenn. pointed to the media's focus on the rich and famous as playing a role in discouraging today's youth to save for retirement. Instead of focusing on qualities like patience and responsibility, Thompson said messaging should focus more on:

The NACo-Nationwide scholarship essay contest is an educational opportunity for high school students about to transition into a new stage of their lives.

"...maintaining a lavish, fun filled life of wealth and prosperity by making the connection that placing an untaxed portion of their income in a secure location with a reasonable rate of return will guarantee continuance of their successes."

● **Jake Shim** of Broward County, Fla. wrote about how parents can be a valuable

See SCHOLARSHIP page 11

ELIGIBILITY REQUIREMENTS

● Graduating high school seniors who are legal U.S. residents are eligible to apply.

● Applicant's parent, grandparent or legal guardian must be enrolled in and actively contribute to a 457(b) plan offered through the NACo Deferred Compensation Program.

● Applicants must enroll in a full-time undergraduate course of study no later than the fall term of the 2017-2018 school year at an accredited two- or four-year college.

● Immediate family members of NACo employees, or members of the NACo Defined Contribution and Retirement Advisory Committee, or its governing board of directors, or staff of individual state associations of counties that are members of the LLC, or Nationwide employees are not eligible to apply; this program is not offered outside the United States.

● Application and entry must be submitted online at *www.nrsforu.com/scholarship* by March 5.

Essays reflect importance of planning

From SCHOLARSHIP page 10

source of knowledge to their children when it comes to retirement planning. While Jake's mom is more of the free-spirited, impulsive type, his father instilled in him the value of saving at a young age.

Jake writes, "Mom used to laugh at dad sometimes because he would always be thinking of how to make things more efficient and ways to save money. However, I think my dad will have the last laugh when it comes time to retire."

● **Ayana Riley** of San Diego County, Calif. points out a major deficit in education her generation receives surrounding retirement planning, writing, "Financial literacy is just as important to learn as the English language." She sees potential in using "visually stimulating" social media communications to connect with her generation. She wrote, "A social campaign with a catchy hashtag would engage your intended audience and inspire them to educate themselves."

How Eligible Students Can Apply

Parents, grandparents or legal guardians should talk to their eligible high school seniors about applying right away. The application can be completed online at *www.nrsforu.com/scholarship*.

Nationwide sponsors the NACo-Nationwide Scholarship to recognize the more than three decades of partnership with the NACo and its member counties. CN

For additional information about the NACo Deferred Compensation Program, please contact David Belnick at david.belnick@nationwide.com or 410.790.5440; or contact your Nationwide representative at 877.677.3678.

CAPITAL LOOP

NACo sends letters to president, congressional leadership outlining public lands priorities

NACo sent letters Jan. 23 to President Trump and bipartisan congressional leaders calling on them to work together to fully fund the Payments in Lieu of Taxes program (PILT) and enact a long-term reauthorization of the Secure Rural Schools program.

Public lands stakeholders urge Congress to repeal BLM Planning 2.0 regulations

In a Jan. 26 letter, NACo, WIR, regional and state level organizations representing public lands stakeholders urged congressional leaders to ensure that BLM's Planning 2.0 rule does not go into effect.

Legislation to streamline cybersecurity oversight introduced in the Senate

A bipartisan resolution to establish a Select Committee on Cybersecurity in the U.S. Senate would create a single Senate committee with jurisdiction over cybersecurity and cyberspace issues.

NACo submits letter to Congress about impacts of unfunded mandates on counties

On Jan. 20, NACo sent a letter to Jason Chaffetz (R-Utah), chairman of the House Committee on Oversight and Government Reform, about the impacts of unfunded mandates on state, local and tribal governments and private industry. Chaffetz has said that strengthening the regulatory process and bringing transparency to the impacts of unfunded mandates is a top priority for the 115th Congress.

Roadside ditches may contain 'waters of the U.S.' under EPA regs being challenged in federal courts.

President Trump signs executive orders to advance Keystone XL and Dakota pipelines

On Jan. 24, President Trump released executive orders on two pipeline projects blocked by the Obama Administration: the Keystone XL and the Dakota Access pipelines.

FEMA releases second disaster deductible proposal

The Federal Emergency Management Administration released its second Advanced Notice of Proposed Rulemaking (ANPRM) on the agency's "disaster deductible" proposal.

The "disaster deductible" would require recipients of FEMA Public Assistance funds to expend a predetermined amount of their own funds on disaster costs before receiving federal funding.

According to FEMA, the updated ANPRM aims to "offer the public a more detailed deductible concept upon which to provide additional feedback."

Trump administration temporarily stops work on all pending regulations

In a Jan. 20 memo to all federal agencies, Reince Priebus, President Trump's chief of staff, instructed all federal agencies to halt work on all new or pending regulations. This work order will be in place for 60 days, until March 21, pending further review.

Senate Democrats unveil $1 trillion infrastructure blueprint

While the Senate Democrats' 10-year, $1 trillion infrastructure plan has little chance of being enacted in Republican-controlled Congress, Democrats hope the plan, introduced Jan. 24, will help them find common ground with President Trump.

Supreme Court to decide which lower courts have authority over WOTUS lawsuits

The U.S. Supreme Court unexpectedly announced Jan. 13 that it would review a lawsuit to determine which lower courts have the authority to decide cases challenging recent updates to federal "waters of the U.S." (WOTUS) regulations.

Trump executive orders reflect campaign promises

In the hours and days following his inauguration, President Trump has signed a series of executive orders that represent official federal action on promises made during the lengthy campaign, giving shape to his administration's positions on a variety of matters.

EPA suspends Risk Management Program (RMP) rules for chemical facilities

A final rule slated to take effect March 14 and intended to improve emergency response planning for local emergency response activities or facilities that use hazardous chemicals has been put on hold for 60 days as a result of the Trump administration's order to halt implementation of new regulations adopted at the end of the Obama administration.

House advances bill to strengthen network access during disasters

On Jan. 23, the House passed the Securing Access to Networks in Disasters Act, H.R. 588, which would direct the Federal Communications Commission (FCC) to examine the public safety benefits of making privately owned Wi-Fi networks such as Verizon or AT&T available to the general public during emergencies.

PROFILES IN SERVICE

GROVER C. ROBINSON, IV

Board Member
Commissioner
Escambia County, Fla.

Number of years active in NACo: 7

Years in Public Service: 11

Occupation: Commercial real estate agent

Education: B.S. economics, Birmingham-Southern College

The hardest thing I've ever done: Deal with the tragic death of both parents as a young adult.

Three people (living or dead) I'd invite to dinner: George Washington, Tim Tebow and Reese Witherspoon

A dream I have is to: Have everyone love NW Florida like I do.

The most adventurous thing I've ever done is: Raft the Zambezi River rapids in Africa.

My favorite way to relax is to: Be with friends and family on Pensacola Beach.

I'm most proud of: The work I did on the RESTORE Act to help the Gulf Coast recover from the Deepwater Horizon Oil Spill.

Every morning I read: Constituent emails (I'm sure I'm not the only one!).

My favorite meal is: Fried or blackened Gulf shrimp, oysters or fish with cheese grits.

My motto is: Work, share, enjoy.

The last book I read was: My agenda package for my last Commission meeting.

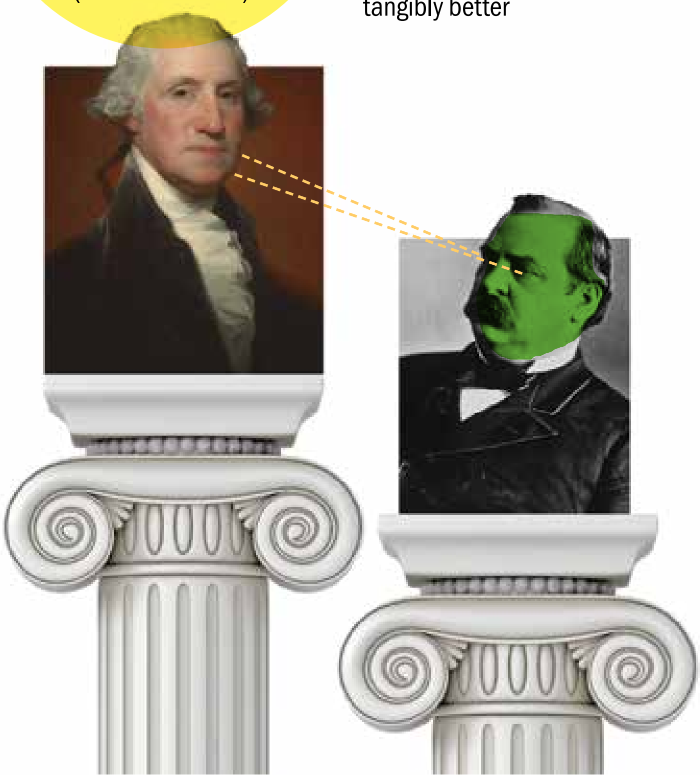
My favorite movie is: *Grand Budapest Hotel*, anything Wes Anderson.

My favorite music is: 80s and 90s Alternative, REM and U2.

My favorite U.S. President is: As a colonial history enthusiast, George Washington. He set the foundation.

My county is a NACo member because: For everything the relationships NACo fosters and the opportunities NACo provides to make my county tangibly better

You'd be surprised to learn that: Grover Cleveland is not my favorite president (see below).



MONEY MATTERS

New Tool Offers Retirement Readiness Score Tailored to Each Participant

Recognizing that just 29 percent of retirement plan participants know how much they need to save for retirement, Nationwide now offers a quick, easy way for your participants to find out. Our new Retirement Readiness tool is Nationwide's latest enhancement to My Interactive Retirement Planner.

Using just four pieces of information that individual participants can easily provide, our new Retirement Readiness tool gives them:

- tailored retirement score
- projected monthly income, including payouts from:
  - deferred compensation
  - pension
  - Social security
- desired income and projected income gap
- actionable next steps to resolve their gap, and
- *Retirement Readiness Report* as downloadable and printable file.

Once participants log on to their account, they'll see a retirement readiness slide bar that immediately gives them a sense of how well they're preparing for their future financial needs. They can walk away with meaningful next steps within just a few seconds, or use My Interactive Retirement Planner to help to dig deeper, test-driving various scenarios to further personalize their retirement outlook.

When they have arrived at a projection they like, they can have the tool prepare their Retirement Readiness Report and put their initial steps into action right away. The Report is designed to help participants understand their current status towards their retirement goal, and give them actionable information they can use to improve that status. Participants can easily access this report anytime for a robust and personalized discussion with their Nationwide Retirement Specialist or financial advisor.

We encourage you to test drive the tool for yourself. Just log into your Nationwide retirement account. The new feature will be available in February. CN

Nationwide, through its affiliated retirement plan service and product providers, has endorsement relationships with the National Association of Counties and the International Association of Fire Fighters-Financial Corporation. More information about the endorsement relationships may be found online at www.nrsforu.com.

WORD SEARCH

YAKIMA COUNTY, Wash.

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

Created By: Charles Taylor

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A.E. LARSON BUILDING Historic Art Deco, 11-story building in downtown Yakima

AGRICULTURE Mainstay of county's economy

CAPITOL THEATRE Performing arts center on National Register

CASCADE MOUNTAINS Prominent mountain range

COLUMBIA RIVER Its Yakima River tributary flows through county

HOPS 75% of U.S. hops crop grown here

KLICKITAT County to the south

LEWIS AND CLARK Expedition explored what is now the county in early 1800s

MOXEE City, pop. 3,800

SKAMANIA County to the southwest

SOUTH CENTRAL Region of state in which located

TOPPENISH City, pop. 8,900

YAKAMA RESERVATION Comprises 36% of county's land

YAKIMA VALLEY AVA Wine-grape-growing (American Vinicultural Area) region

ZILLAH City, pop. 3,100

Some N.J. counties had already instituted bail reform

From BAIL REFORM page 3

a defendant is provided by the Laura and John Arnold Foundation's Public Safety Assessment algorithm, which judges have discretion to override, according to state Administration of Courts spokesman Peter McAleer.

In January 2017, defendants in 283 of 506 cases were held for detention; many of the rest were under supervised release.

The state association appealed to the State Council on Local Mandates to delay the implementation of the new law, but was denied. It did succeed, however, in getting authorization to do videoconferencing with judges in half of the state's counties, which Donnadio said should cut some costs. Still, expediting the determination of detention will require counties to hire more investigators, prosecutors, corrections officers and make capital improvements for court facilities and information technology upgrades.

County executives around the state have touted their own reductions of their bail population, and while they support the law, they're skeptical about how quickly they will save money.

"Bail reform? Sure bail reform sounds great, but we didn't know exactly how they were going to do it," said Atlantic County Executive Dennis Levinson.

"I voted for it like everyone else. It was never articulated how it would occur. It was sold as a cost savings measure; they said you wouldn't be responsible for the cost of incarceration. Nobody mentioned the costs we would be responsible for."

And how it occurred, he said, put a financial burden on counties before allowing them to try their own.

"We've been cutting down on our own bail population with tracking bracelets," he said, noting that Atlantic County had reduced its earlier 1,200-person bail population by 500.

He estimates annual costs of $800,000 for his county of 270,000.

Judicial discretion was the focus of Kentucky's bail reform that started in 2011.

"It's a mixed bag," said Shellie Hampton, director of government relations for the Kentucky Association of Counties. "It depends on the judge you get in front of. Every person who isn't held in jail is a little savings, but it's not as widespread as in New Jersey."

She said that judges could be overly cautious to release defendants with tracking monitors, a fear that back in New Jersey, Mercer County Executive Brian Hughes echoed.

County executives around the state have touted their own reductions of their bail population, and while they support the law, they're skeptical about how quickly they will save money.

"I've talked to judges and prosecutors who are worried they'll release someone on a minimal charge with a bracelet on their ankle and they'll go out and commit a murder," he said.

Hughes is optimistic the changes would lighten the load on the jail, but in the meantime Mercer County hired seven more investigators, 12 prosecutors and a handful of additional clerical staff, costing $750,000 to $1 million per year for the county of 379,000 people.

"They'll need cars, cell phones, training; it's going to be a hefty number," Hughes said.

He said Mercer County had already cut thousands from its bail population by eliminating bonds less than $2,000.

"Hopefully this will have a payoff in the end," he said. "It's going to take time to break even. Unless we can close an entire wing of the jail, we won't be able to start saving money, but if we can get there, we'll be able to start reducing the number of corrections officers."

Pilot programs in March 2016 gave Camden, Morris, Passaic and Sussex counties a chance to get a head start on implementation. Although the state had not yet allowed judges to deny bail to defendants, those counties still operated a parallel system to see how cases would be treated starting in 2017, according to Sussex County First Assistant Prosecutor Greg Mueller.

Once the law was enacted in January 2017, Mueller's office moved only six defendants to pretrial detention. He estimated that Sussex County's criminal court sees roughly 1,000 cases per year, the majority of which are resolved via plea.

"I think that it's resulting in far fewer people being held in the county jail pending trial," he said. "Those screenings have taken 20–30 minutes each and haven't been too taxing on the courts, our office or the public defender's office."

From the prosecutorial side, Mueller supports the change.

"The schedules we have to stick to are fairer for the defendants and get things moving faster for us," he said. "We had cases in the old system that took as long as five years, that's not good for the defendant or the victims. Cases can get weaker, recollection can be impacted, it's better all around."

Now, prosecutors have 90 days to get a case to a grand jury and if indicted, 180 days to try them. Even with any combination of 13 exemptions, the case must be tried within two years.

Mercer County's Hughes said due diligence in applying the new law would go a long way to making it work well.

"I'm very optimistic," he said. "There's a lot of young men and women who commit a minor crime and their second chance is not being stuck in jail because they can't afford to get out. As long as you have a way to monitor them and keep in touch with them, it's not going to lead to a life of crime." CN

SCOTUS to decide court jurisdiction for WOTUS

By Julie Ufner
associate legislative director

The Supreme Court has agreed to decide whether federal courts of appeals or federal district courts (lower courts) have the authority to rule whether the "waters of the United States" (WOTUS) regulations are lawful.

While numerous states and local governments have challenged the WOTUS regulations, in the case being considered — *National Association of Manufacturers v. Department of Defense* — the Supreme Court will not rule whether the regulations are lawful. Instead, they will simply decide which court gets to take the first crack at deciding whether they are lawful.

The regulations define the term "waters of the United States," as used in the Clean Water Act. The definition of this term determines the scope of federal authority to regulate water and when states, local governments and others must seek federal permits to develop land because it contains waters of the United States. States and local governments object to numerous aspects of the definition as too broad.

Most federal legal challenges begin in federal district courts, whose decisions are then reviewed by federal courts of appeals. For the Clean Water Act, some decisions by the EPA administrator must be heard directly in federal courts of appeals, including agency actions "in issuing or denying any permit."

A definitional regulation like the WOTUS regulation does not involve the issuing or denying of a permit. Nevertheless, the 6th Circuit Court of Appeals concluded that it has jurisdiction to decide whether the WOTUS regulations are lawful. Judge David W. McKeague, writing for the court, relied on a 2009 6th Circuit decision, *National Cotton Council v. EPA*, and held that the WOTUS definition impacts permitting requirements.

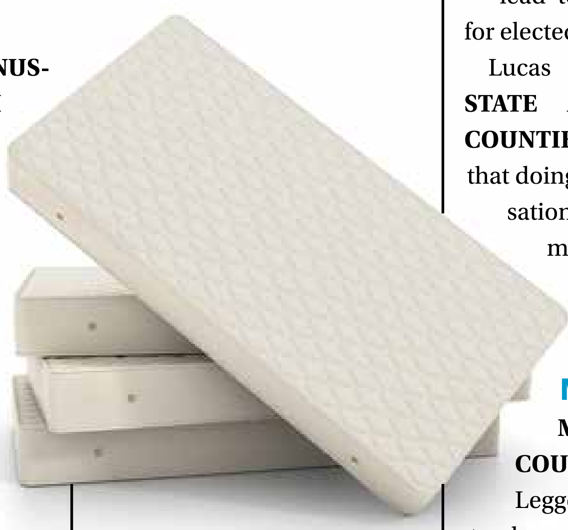
The Supreme Court has likely stepped in to resolve this dispute because it is a waste of judicial resources for federal courts of appeals to decide whether WOTUS regulations are lawful if they don't, in fact, have the jurisdiction to make this determination. Even before deciding whether it had jurisdiction to hear the case the 6th Circuit issued a nationwide preliminary injunction ruling that the WOTUS regulations are unlawful.

Why does it matter whether federal courts of appeals or federal district courts have the authority to decide whether the WOTUS regulations are lawful?

In its amicus brief asking the court to decide this case Ohio, joined by nearly 30 other states, points out that if these (and other) regulations must be reviewed by federal courts of appeals, within 120 days following their enactment and are not, they can no longer be challenged in a later enforcement proceeding.

But whether states and local governments and others object to a regulation will often depend on how it is applied. Subsequently, future litigants may have no reason to challenge a regulation until long after the 120-day window has passed but would be barred from doing so in the future. CN

NEWS FROM ACROSS THE NATION



ALASKA

It's unanimous: **MATANUSKA-SUSITNA BOROUGH** Assembly members' **terms won't increase** from three years to four years.

On a 7–0 vote, the Assembly — including the measure's original proponent — rejected longer terms. Sitting members and the mayor would not have been affected.

Assembly Member Randall Kowalke said he put the idea forward to see what the public thought of it. Apparently not much. His original motivation was to make it easier for his successors to navigate and govern in a district larger than the other six combined.

"My situation — I have the most of the darned land in the borough — I'm running ragged and trying to get up to speed," Kowalke said.

CALIFORNIA

SANTA CLARA COUNTY's top elected official says the county's **immigration-related policies won't change** in the wake of President Trump's executive order to slash federal funding to "sanctuary" cities.

"We have known of Trump's immigration plans for months now," said Dave Cortese, president of the Board of Supervisors. "We have moved to build our own institutional walls to protect the interests of all of our residents, including those without proper documentation," he added, hinting at Trump's vow to build an actual wall along the U.S.-Mexico border.

"We will assess the impact these orders will have on our county and residents, but note that we will not back away from a legal fight if we must."

COLORADO

Recyclers in **PITKIN COUNTY** can rest a little easier now that fewer mattresses will be ending up in the county's landfill.

"Sometimes, when you get a hotel replacing their mattresses, you can get a boatload of 20 to 40 of them," Cathy Hall, the county's solid waste manager, told the *Aspen Times*.

A Denver-based recycling company says that 95 percent of mattress components can be recycled. It will park a semi-truck trailer at the landfill, to be hauled off when it's full.

The county will charge people $25 per mattress for the transportation cost, Hall said, adding that the facility won't make money from the project.

Mattresses take up a lot of space, don't compact well and interfere with landfill equipment once they are buried. "A 95,000-pound compactor can drive over it and it just springs right back," she said.

IOWA

A bill at the state Legislature would **do away with compensation boards** that determine county supervisors' pay raises.

County officials currently appoint a seven-member board to determine and recommend pay adjustments for the supervisors, auditor, recorder, treasurer, sheriff and county attorney. The Board of Supervisors can approve, reduce or reject the recommendation.

State Rep. Megan Jones, a supporter of the measure, said the compensation boards — which every Iowa county has — lead to "exorbitant raises" for elected officials.

Lucas Beenken, an **IOWA STATE ASSOCIATION OF COUNTIES** policy analyst, said that doing away with compensation boards would remove a necessary layer of "checks and balances."

MARYLAND

MONTGOMERY COUNTY Executive Ike Leggett "reluctantly" vetoed a measure passed by the County Council to **raise the minimum wage to $15 an hour** by 2020, *The Washington Post* reported.

In a memo to County Council President Roger Berliner, Leggett said he supports efforts to raise the minimum wage "over an appropriate timeframe." He added that he might consider a revised bill, after an assessment of the potential economic impact on businesses in the county of a $15 minimum wage phased in by 2022.

Leggett would also like to see an exemption for small businesses and employed youths.

MINNESOTA

Should the job of **BENTON COUNTY** recorder be an **elected or an appointed position?** That's a question on county commissioners' minds, according to the *St. Cloud Times*.

Commissioners have asked the state Legislature for authority to make the recorder an appointed position.

The recorder's office, which oversees real estate records, has just three employees and is the smallest department in the county. County officials are considering whether it would make sense to combine it with another department, such as the assessor's office.

MISSOURI

Abusers of prescription painkillers have a new foe. **JACKSON** and **ST. LOUIS counties** are collaborating in a **prescription drug monitoring program**. Missouri is the only U.S. state without a system to track prescription drugs sales, *The Kansas City Star* reported.

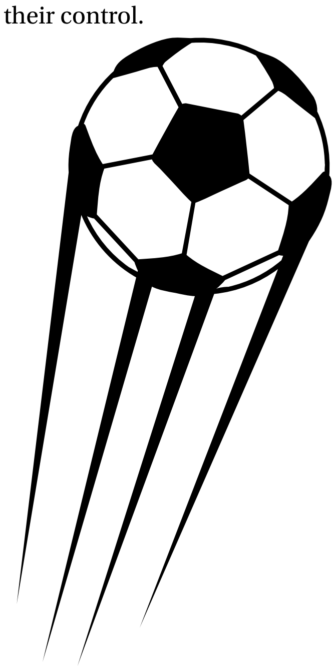
Over the past decade, the General Assembly has been unable to pass legislation that would set up a statewide program. Opponents have cited privacy concerns.

Two bills are being considered this session, which, if passed, would greenlight a statewide program.

Meanwhile, at the urging of Sen. Claire McCaskill (D-Mo.), the Department of Justice okayed the use of federal funds by local governments for prescription drug monitoring programs to help fight the opioid epidemic. Previously federal grants for such programs were available only to states.

NEW YORK

ULSTER COUNTY is considering **banning memorializing resolutions** by the County Legislature. Those resolutions don't involve legislators taking action on issues directly under their control.



NORTH CAROLINA

MECKLENBURG COUNTY Commissioners passed a plan to contribute $43.75 million toward a plan to attract a **major-league soccer franchise** to Charlotte. The city would also pay $43.75 million. An investment group would pay the remaining $84.5 million.

The county would also loan the team $75 million, which would be paid back over 25 years, WBTV News reported.

OHIO

In July, the state of Ohio, its counties and eight transit authorities will be barred from collecting sales taxes on organizations that manage Medicaid patients' care. That will total $15 million a year that **HAMILTON COUNTY** will lose, which it otherwise uses to pay for basic services, pay off stadium debt and fund transportation renovations, according to the *Cincinnati Enquirer*. That totals roughly 7 percent of the county's sales tax revenue. **BUTLER COUNTY** stands to lose 7.5 percent of its revenue, **CLERMONT COUNTY** will lose 7.2 percent and **WARREN COUNTY** would lose 3.5 percent.

Gov. John Kasich (R) plans to wean counties off of this revenue in a plan he will detail in his budget proposal.

OREGON

The expiration of the **Secure Rural Schools** program will mean a more than a **90 percent cut** in revenue-sharing timber harvest payments to Oregon counties, the *Statesman Journal* reported. The program's 2015 payment of $86.4 million will fall to $7 million.

SOUTH CAROLINA

The **FLORENCE COUNTY** Library System was recently awarded a grant from the Foundation for the Carolinas

See NEWS page 15

From NEWS page14

to provide **internet-ready kits** directly to families without home internet access. Kit include a mobile Wi-Fi hotspot, a Chromebook computer, accessories and instructions. The library is partnering with school districts throughout the county to identify families to participate in the project.

TENNESSEE

Assessor Marty Haynes has told **HAMILTON COUNTY**'s 10 municipalities he will **start charging** them half the cost of reappraising property within their boundaries. A 27-year-old state law requires municipalities to pay half of those costs but the cities have not done so.

The *Times Free Press* reports that the cities would have to pay a combined $772,674 by June 30 unless they reach an agreement with the County Commission to continue not paying.

TEXAS

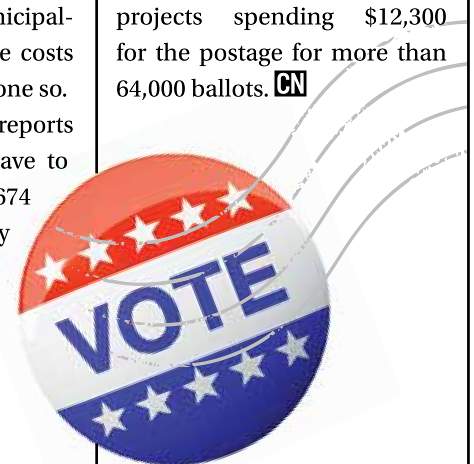
Texas Gov. Greg Abbott (R) has cut funding for **TRAVIS COUNTY** after Sheriff Sally Hernandez announced the agency would scale back its **cooperation with federal immigration**.

Starting Feb. 1, sheriff's officials began honoring federal immigration detainers only if a suspect is booked on charges of capital murder, aggravated sexual assault and human smuggling, the *Austin American-Statesman* reported.

The county could lose up to $1.8 million in grants, which represents 1 percent of the sheriff's office's budget.

WASHINGTON

With hopes of boosting voter turnout, **KING COUNTY** will provide **prepaid return postage on ballots** for voters in two small, local elections in February. *The Seattle Times* reports that the elections department projects spending $12,300 for the postage for more than 64,000 ballots. CN



News From Across the Nation is compiled by Charles Taylor and Charlie Ban, senior staff writers. If you have an item for News From, please email ctaylor@naco.org or cban@naco.org.

NOBCO fosters high hopes in 2017

By Steward Beckham
National Organization of Black County Officials (NOBCO)

Late last fall, the National Organization of Black County Officials, or NOBCO, began operations in its new office, co-located with the National Association of Counties, and on Dec. 1 — World AIDS Day — recognized the day by sharing red ribbons with NACo staff throughout the office.

World AIDS Day is an important day of recognition, and a growing number of institutions set aside time to bring awareness to people about the continuing spread of the HIV and AIDS virus. There are events held throughout the world to honor survivors living with HIV, while bringing public attention to people on useful ways to avoid being infected.

NOBCO is looking forward to further partnering with NACo, in our efforts to spread crucial health information to the people who have the ability to effect change.

The National HIV Strategy Report ends with a three-step process to thwart HIV/AIDS through the year 2020. The first step is to reduce HIV-related disparities in communities at high risk for HIV infection. These communities include a disproportional number of African Americans and poor people. The second step is to adopt structural approaches to reduce HIV infections and improve health outcomes in high-risk communities.

The third and final step is to reduce stigma and eliminate discrimination associated with HIV status. NOBCO disseminates information about prevention and testing in order to make clear that this is a cause impacting all communities and affects many diverse groups of people. CN

For more information, visit NOBCO's Facebook page — National Organization of Black County Officials, Inc. — and the association's new website at www.nobco.org, or follow NOBCO on Twitter at @NOBCOINC and Instagram at "NOBCO1982."

CN JOB MARKET

Executive Director,
Women and Girls Initiative
County of Los Angeles
Salary: $11,600.17 - $17,557.75 Monthly

The Chief Executive Office announces an opportunity for a strong leader with a track record of promoting gender equity in government, nonprofits and/or business to help launch and lead a new Los Angeles County five-year initiative on Women and Girls (WGI). The Executive Director reports to the CEO, manages a staff of three and works in close collaboration to guide the WGI with a "Governing Council" (GC) of high-level volunteers with proven leadership in gender equity work. Please go to: *http://bit.ly/2iRue8W* to create an online profile and submit your application, cover letter, resume, record of accomplishments, degree verification, salary verification, and three professional references. For confidential inquiries, please contact: Arsen Beremesh Department of Human Resources Talent Acquisition Division (213) 974-2454 *aberemesh@hr.lacounty.gov*

Chief Information Officer
(Assistant Auditor-Controller)
County of Los Angeles
Salary: $12,470.14 - $18,874.56 Monthly

Position/Program Information: The Department of Auditor-Controller announces an opportunity for a dynamic Chief Information Officer to direct the Department's Information Technology (IT) operations and Countywide payroll operations. This individual manages enterprise accounting and payroll applications. This is an unclassified position. Interested individuals must apply as directed in the brochure. Please go to: *http://bit.ly/2iQqRgi* in order to create a profile online and submit the following: · Application · Cover Letter · Resume · Current Salary THE COUNTY OF LOS ANGELES IS AN ACTIVE EQUAL OPPORTUNITY EMPLOYER

Focus will shift to critical county governance issues

From FUTURES page 1

ing fiscal, economic, political and policy issues that shape the future of county government. The Counties Futures Lab, grounded in analytics, data and knowledge-sharing, will focus on critical county governance and management issues to position county leaders for success.

The Counties Futures Lab will combine NACo's ground-breaking data analysis with the insights of leading national experts to examine and forecast the trends, innovations and promises of county government.

From the same team that maintains the interactive County Explorer tool and produces NACo's annual County Economies report, will come forums in partnership with corporate, academic and philanthropic thought-leaders. Through these events, the Counties Futures Lab will lead the discussion of how we can best serve our residents' needs, highlighting the brilliant ideas we've implemented in our counties.

County governments are a national network responsible for 3.6 million employees and public-sector investments totaling nearly $560 billion each year. As such, we are key players in providing the fundamental building blocks for healthy, safe and vibrant communities. The NACo Counties Futures Lab recognizes our immense responsibilities and seeks to empower county officials with new tools and insights to serve our diverse communities across the country.

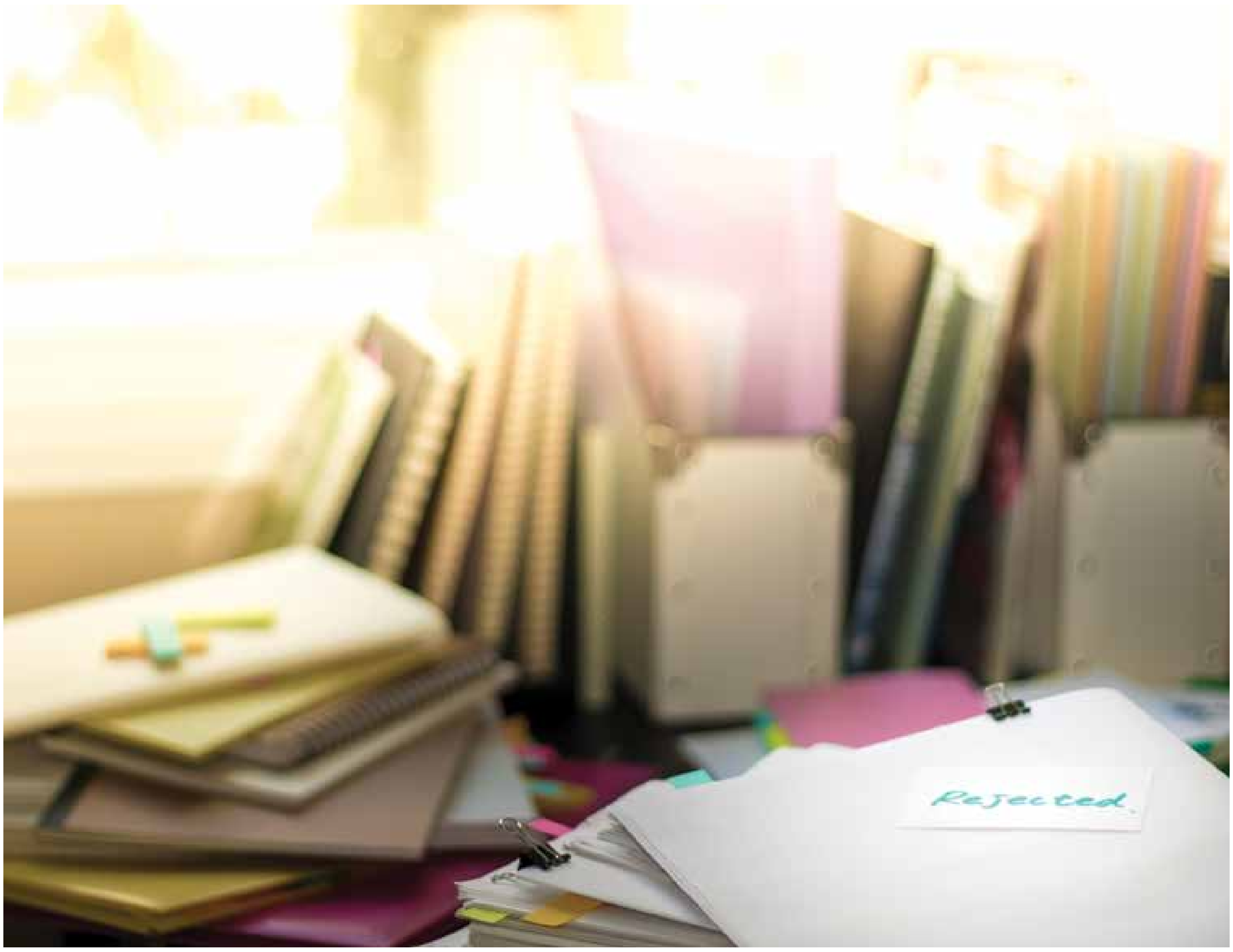
The NACo Counties Futures Lab will spotlight innovation today that positions us to continue to thrive in the future. CN

COUNTIES FUTURES LAB NACo

Stay tuned for upcoming Counties Futures Lab events and publications. Go to www.naco.org/lab

the HR DOCTOR
with Philpot & Winkeler

We've Always Done It This Way



Was one of your New Year's resolutions to get more organized and be more efficient? How's that going so far?

According to AllBusiness.com, the average desk has "36 hours' worth of work" on it and we "waste up to 3 hours a week just looking for stuff." (And the statistics about germs on desks are frightening too.)

We hope we can clean our desks at least a few times a year, but when was the last time you brushed the dust off a work process? Perhaps this month, rather than just focusing on the paper on top of your desk, it would be a great opportunity to also pick one process to evaluate and make more efficient.

How do we all end up with inefficient processes? Well, as technology changes and evolves, systems are in a constant state of flux and upgrade. We are always seeking better ways to increase efficiency and automate processes — to be smarter, faster and less costly. But over time, small adjustments can lead to many complicated steps in any process.

To be most efficient, before we change, implement or integrate any system, we should take a moment to evaluate the process behind the system. That's where big efficiencies can be found.

We all know that it isn't uncommon to ask employees why a process is done a certain way and have them respond: "It was set up when we implemented this computer system" or "I don't know, but we have always done it that way."

To find opportunities for efficiency, start with process mapping. It is a great tool to identify the strengths and weaknesses of any processes. Process mapping will help answer the questions "Is the process functioning the way it was designed?"

Some organizations have committees or teams to address efficiency and provide assistance in this area. But even if you don't, here are some things you can do with a whiteboard and a marker. Use the marker to answer and diagram the following:

- Identify the steps of the process as it is today and clarify the purpose that it serves.
- What and/or who starts the process?
- Who is involved in the process?
- What are the decision points of the process? Places where the action is different based on a yes or no answer.
- Does the process go back and forth multiple times between the same parties involved?
- Are there process steps that happen simultaneously and are completed by different participants?
- What is the result of the process? Where does the process end?
- Who are the customers, internal and external, of the result and how are they notified of the result?
- Identify the problems, duplication, communication gaps and inefficiencies.
- Take a picture of the whiteboard on your phone.

> Once you have decided what you really want, define the steps of how to get there. **What small changes can you make?**

So now you have a visualization of how the process works (warning — it might be really complex and a little scary). But having a picture of the process allows you to take a step back and see all the steps involved. That's when you can create a more efficient, revised process.

Now, after seeing the way a process currently works, take the time to envision the process you want to have. Is this the process "customers" will truly appreciate? The process that keeps everyone in the communication loop? The process that saves time?

Once you have decided what you really want, define the steps of how to get there. What small changes can you make? What larger changes are worth making? Who should help you design the new process? What internal and external customers need to be educated and aware of the change?

These techniques help us see complexity in a visual way so we can imagine logical shortcuts and improvements. Try it now, early in the New Year and let us know if you see improvements in time, accuracy, reduced costs and customer satisfaction. CN