

The Iowa County



April 2015

Local Energy

Reimbursement Resolutions



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ISAC's Mission:

To promote effective and responsible county government for the people of Iowa.

ISAC's Vision:

To be the principal, authoritative source of representation, information and services for and about county government in Iowa.

Iowa's 21st-century Trillion-dollar Opportunity in Local Energy

By: **Andy Johnson**

Winneshiek Energy District



"When I was young, we didn't have electricity, or" ... most Iowan's could finish that sentence with a flourish of their own memories, or those of their parents or grandparents. I grew up hearing the stories from a neighbor woman in her 80s (though I admit her ginger cookies and ongoing habit of shooting raccoons from the porch with her .22 rifle captured more of my attention as a kid). Between 1935 and 1953 the grid expanded from 12% to over 90% of rural households – largely through Rural Electrification Administration-supported local ownership and management.

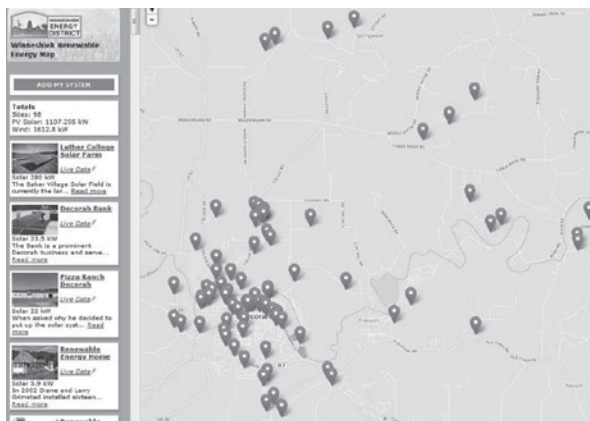
Rural Iowa economies are more energy-dependent than most. In addition to the "big three" energy sources used by city dwellers (electricity, natural gas, and gasoline), most Iowa counties are heavily dependent on three more, which are both more expensive and unpredictable: LP gas (propane), diesel fuel, and nitrogen fertilizer. (Since natural gas is both feedstock and the principal energy source in fertilizer production, more natural gas is likely applied to cornfields via nitrogen fertilizers than is used to heat all buildings in most Iowa counties, annually.)

Yet the energy world is currently undergoing the most rapid, dramatic transformation since the early 20th century, and opportunities for local economies and local ownership are unprecedented. We estimate that in Winneshiek County alone roughly \$100 million is spent on energy, and the bulk of those funds leave the county. Winneshiek Energy District – the local non-profit I work with – is dedicated to changing that picture, in partnership with local institutions and communities.

Iowans are good at local, and the Energy District is modeled after a vital, local movement from the first half of the 20th century – the Soil and Water Conservation Districts. The Districts provided local leadership to address the perfect storm of the Dust Bowl (natural resource crisis) and the Great Depression (economic crisis), leveraging major state and federal resources in the process. Energy Districts can also leverage major state and federal resources to address the looming perfect storm that energy economics and climate change pose for agriculture, health, and infrastructure.

Just as quality technical assistance and conservation planning with landowners is the core of Soil and Water Districts (and their state-federal partners), quality energy planning is an important core of the Energy District. We're building models of technical assistance that go beyond the traditional "energy auditing" to reach far more energy users, include all energy sources/uses, analyze efficiency AND renewable opportunities, and help customers bring projects to fruition. This is a long-term endeavor, but in our first few years we've reached well over 600 households and businesses, with over \$3 million in savings from efficiency practices alone.

Those impacts are just the beginning, and our most recent initiative is in farm energy planning. We've begun a three-year partnership with USDA to strengthen the processes and tools, and to demonstrate the opportunities in agricultural energy planning and transformation. Agriculture is the largest energy user in most Iowa counties, and cost-effective efficiency improvements in facilities and field operations are almost universal options. Renewable opportunities are equally universal and much larger, not only in wind and biofuels but also in solar, methane, and even nitrogen. These opportunities can meet not only on-farm energy needs, but potentially power our communities and counties as well.



Speaking of solar, our message to Iowa's counties and communities is simple: the time is now. Local solar is powerfully cost-effective, job-creating, wealth-creating, and (literally, here in Winneshiek) main street. We have seen so much demand that it is taking a half-dozen local contractors to keep up the pace, and roughly 150 unique projects are completed and owned by local farms, businesses and homeowners. These projects are projected to produce at least \$5 million worth of (locally owned) power during the warranted lifespan of the equipment, and have harnessed over \$3 million in renewable energy incentives. This is just the beginning, as we get better at local energy.

Local governments can play an important role in encouraging and enabling the mainstreaming of locally-owned solar energy. They can also own it outright, with positive, long-term impacts for budgets and taxpayers. Two issues are critical. First, federal

(and possibly state) tax incentives are scheduled to diminish or expire at the end of 2016. Second, local governments can only take advantage of these incentives through a third party power purchase agreement (3PPA). The details of 3PPAs are beyond the scope of this article, but we will be happy to discuss them with interested parties, and will also follow up with a more focused article on the subject in a future magazine. 3PPAs, state incentives, and related renewable energy issues are also under active scrutiny of legislators and the Iowa Utility Board, and it behooves local governments to learn and to be involved now.

Another area of special opportunity for Iowa's rural areas and county institutions is propane transitioning. Propane-dependent households are disproportionately rural, lower-income, ineligible for the bulk of utility rebate programs, and pay roughly twice as much per unit of energy as their town/city counterparts on natural gas. Locally-led energy planning and resource leveraging can combine efficiency and renewable opportunities in propane-dependent households to dramatically lower energy costs, improve indoor safety and air quality, and strengthen families and communities. The Energy District's partnership with Green Iowa Americorps and Winneshiek County is an example of local, impactful and replicable work helping these homeowners.

Iowans are good at local; from strong local governments to "universal local" infrastructure such as Soil and Water Conservation Districts and County Conservation Boards. A similar infrastructure of local energy districts could provide critical leadership and partnership in facilitating our energy transition for the good of local citizens, institutions, and economies. With technical energy planning at the core of energy districts, just a small percentage of Iowa's existing rate-payer funded energy efficiency programs (currently over \$175 million in annual expenditures) could provide a foundation for a district in every Iowa county.

Additional homegrown resources that could play pivotal roles in partnering and supporting county-level energy districts include the Iowa Energy Center at Iowa State University, the Center for Energy and Environmental Education at the University of Northern Iowa, and the Iowa Flood Center and the Center for Global and Environmental Research at the University of Iowa, among many others. No state in the country can boast such a history of leadership in energy efficiency and renewable energy, or wealth of existing technical and financial resources. A universal, locally-led infrastructure such as energy districts is the last missing link enabling counties and communities to take control of their energy future.

The energy world is changing faster right now than at any time in human history. Economics make renewable energy inevitable, but local ownership of that renewable energy future is not. Our goal at the Winneshiek Energy District includes 100% net (on balance) local energy production/ownership by mid-century. True, goals are goals and numbers can tell many stories, but reaching even half that goal would be far and away the largest opportunity for local investment and wealth retention/creation we've ever seen.

In Winneshiek County most of the roughly \$100 million spent annually on energy flows out of the county via power and gas lines as well as LP, diesel, and ammonia trucks. As a state, Iowa spends about \$16 billion each year on energy. Most of that money leaves the state. Though we have made a good start with wind and biofuels, we have barely begun to tap the true local energy-wealth opportunity. Factoring in a 10:1 ratio of investment needed per dollar of energy created/saved, and a better than 2:1 local economic multiplier for these investments, it is not difficult to reach the trillion dollar opportunity mentioned in the title over the coming two or three generations.

How many of us may be telling our grandkids "I remember when we had to buy our energy...!"

about the cover

The cover photo, entitled *Sunset in Grove Township*, was taken by ISAC President Melvyn Houser. When submitting the photo he mentioned to me that many times the most beautiful results of sunsets occur to the east. So, the next time you see a sunset make sure to turn around and notice the beauty all around you.

Maybe Melvyn's suggestion doesn't just apply to dusk - happy spring!

feature - bonding

Starting a new project? Adopt a Reimbursement Resolution!

By: *Cristina Kuhn and Brian Damman*

Dorsey & Whitney LLP

Are you planning a new construction or capital project? You may already be working with engineers and/or architects, and may even be sketching out a budget and how you are going to pay for the project. Your “to-do” list is getting long; however, add one more item to that list, a reimbursement resolution.

If a governmental issuer such as a city, county, utility, rural water district or school district (the “Issuer”) is planning a project which may or will be paid in whole or in part with proceeds from tax-exempt bonds, notes or other obligations (the “Bonds”), it is important to adopt a reimbursement resolution early in the process in order to allow the Issuer to reimburse eligible project expenditures that it paid prior to the closing of the Bonds from other funds of the Issuer, such as the general fund.

It is not uncommon for an Issuer to start paying certain project costs, such as architect fees, survey and soil testing costs and initial site work costs prior to the receipt of Bond proceeds. The reimbursement of project expenditures paid prior to the issuance of the Bonds from those Bond proceeds is subject to certain reimbursement rules. The failure to adopt a reimbursement resolution and to comply with the reimbursement rules could preclude the reimbursement of those project expenditures from the Bonds.

Reimbursement Rules for Governmental Issuers

In order for an Issuer to reimburse itself for expenditures paid for a project, such as costs to acquire, construct, or improve land, buildings, and equipment, the following general rules govern whether these expenditures are eligible for reimbursement:

1. Notice of Official Intent: An Issuer must declare its intent to reimburse the expenditure with proceeds of a future Bond issue. The declaration must be in the form of one of the following: (1) a resolution, (2) legislative authorization, or (3) a statement by an appropriate representative of the Issuer. The official intent must:

- Identify the project for which the expenditure is paid (e.g. street improvement project, equipment acquisition, building renovation) or the fund (by name and functional purpose) from which the expenditure will be paid. The project described in the official intent must be “reasonably related” in function to the actual project.
- List the maximum principal amount of the Bonds expected to be issued.

The notice of official intent is most often accomplished by a resolution of the governing body of the Issuer, either with a specific “reimbursement resolution” or by the “set hearing” resolution that sets the date for the public hearing on the issuance of the Bonds and also contains the foregoing requirements of the notice of official intent. For purposes of this article, the notice of official intent is referred to hereinafter as the “Reimbursement Resolution.”

2. 60-Day Cutoff: Expenditures paid within 60 days prior to the Issuer’s Reimbursement Resolution or thereafter are generally reimbursable (subject to paragraph (3) below). Any expenditures paid before this 60-day cutoff may not be reimbursed from proceeds of the Bonds, except as otherwise discussed below under “Exceptions.”

3. Eighteen-month/three-year Reimbursement Allocation Time Period: With some exceptions, the expenditures must be reimbursed within 18 months of the later of: (1) the date of the expenditure; or (2) the date the project (or portion thereof) is placed in service or abandoned, but in no event more than three years after the date of the expenditure. If the Issuer is a “small issuer” under the federal tax code, the 18-month cutoff is extended to three years and the three-year maximum reimbursement period is disregarded. Additionally, certain long-term projects may be eligible for a five-year maximum reimbursement period.

EXCEPTIONS

While the general rule is that expenditures paid prior to the 60-day cutoff are not eligible to be reimbursed by Bond proceeds, the following are exceptions to this general rule:

Preliminary Expenditures: An Issuer may reimburse preliminary expenditures, including architectural, engineering, surveying, soil testing, reimbursement bond issuance, and similar costs paid prior to the 60-day cutoff. These preliminary expenditures do not include costs incident to commencing the project, such as land acquisition and site preparation (i.e., moving dirt). Preliminary expenditures reimbursed by Bond proceeds may not exceed 20% of the issue price of the Bonds.

Example: If the Issuer pays invoices for the architect for the project (\$100,000) and for site preparation, including dirt work/grading and installation of footings (\$150,000) for a new building project for which Bonds will be issued in the amount of \$9 million without a premium or

feature - bonding

discount, and such invoices are paid 100 days prior to the adoption of a Reimbursement Resolution, the payments for the architect are preliminary expenditures under the rules and can be reimbursed by Bond proceeds so long as all reimbursed preliminary expenditures do not exceed \$1.8 million (20% of the Bond issue price). However, the \$150,000 for the dirt work/grading and installation of footings are not preliminary expenditures and cannot be reimbursed under this exception.

De Minimis Expenditures: An Issuer may reimburse de minimis expenditures, including (1) Bond Issuance costs and (2) an amount not more than the lesser of 5% of the issue price of the Bonds or \$100,000.

Example: Given the same facts as above, \$100,000 of the \$150,000 dirt work/grading and installation of footings expenditures would qualify under the de minimis expenditures exception; however, no other de minimis expenditures could be reimbursed by the Bonds (except costs of Bond Issuance).

SUMMARY

The Issuer should adopt a Reimbursement Resolution as early in the budget and construction process as possible to maximize and protect its ability to reimburse itself for project costs paid

prior to the issuance of the Bonds. The Issuer must have a reasonable expectation to issue the Bonds, and the declaration of its intent in the Reimbursement Resolution must be reasonable, but the Reimbursement Resolution does not bind the Issuer to close and issue the Bonds. The failure to adopt a Reimbursement Resolution for expected projects can jeopardize the Issuer's ability to reimburse expenditures paid prior to the closing of the Bonds.

Don't "leave money on the table" and adopt a Reimbursement Resolution as soon as possible to maximize options to reimburse project costs paid prior to the issuance of Bonds.

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legal briefs

ISAC Litigation Policy and ISAC HIPAA Program

By: **Kristi Harshbarger**

ISAC Legal Counsel



In February, I gave an overview of what ISAC Legal Staff can do for you. Continuing in this vein, there are a couple of ISAC programs in which ISAC Legal Staff are heavily involved: 1) ISAC's Litigation Committee/Policy; and 2) ISAC's HIPAA Program. For those of you that are still new to county government or for those of you that are more seasoned county employees or officials, I would encourage you to familiarize (or remind) yourself of these opportunities provided by ISAC.

ISAC's Litigation Policy

ISAC's Board of Directors has a policy to handle situations where ISAC might be able to provide assistance to counties that find themselves in litigation that has implications to counties statewide.

This policy was implemented in July 1995 and is as follows: All requests for ISAC to be involved in legal actions shall be made in writing to the Litigation Committee of the ISAC Board of Directors, in care of the ISAC Executive Director. The written request shall state:

- The status of the case, e.g. what has been filed to date?
- What are the issues involved in the case?
- How would resolution of those issues impact other counties? How many counties would be affected?
- What would ISAC's role be? (Coordination of joint defense, filing of amicus curiae brief, intervention, collection of funds to support defense of one county, other).
- Other relevant information.

In reviewing the requests, the Litigation Committee shall consider the following factors:

- Does the issue involved in the case impact counties statewide?
- What type of involvement has been requested?
- Has the case proceeded far enough to affect other counties: (e.g., if the case is only at the district court level, will it be appealed?)
- Would the case generate sufficient interest statewide so that counties would be willing to finance the costs of ISAC's involvement?
- Are there competing county interests at stake? By becoming involved in support of one county, would ISAC be working against the interests of another county or counties?
- How would ISAC involvement be financed? Would contributions from other counties be solicited, and if so, how would the costs be shared among participating counties?

- Is any formal action required by counties choosing to participate? For example, in a joint defense effort, do any resolutions need to be adopted to appoint counsel and provide for payment of attorney fees?

After considering these and any other relevant questions and applying them to the facts of the case, the Litigation Committee shall make a report and recommendation to the ISAC Board of Directors. The Board of Directors shall review the report and take final action on the request for involvement, and shall notify the affected counties of its decision.

If ISAC needs to collect contributions to finance its involvement, the funds shall be held in ISAC's Multi-County Services account. Once action is finished, any remaining funds shall be returned to the counties according to the formula by which the funds were collected.

ISAC's Litigation Committee's current members are: Darin Raymond, Chair; Lonny Pulkrabek; Matt Cosgrove; RJ Moore; Danny Waid; and Deb McWhirter. I serve as the staff liaison for the Litigation Committee and any questions or inquiries may be directed to me at kharshbarger@iowacounties.org or 515.369.7014.

ISAC HIPAA Program

Last year, ISAC started a new program to assist counties and MHDS regions with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the amendments to HIPAA made in 2009 through the Health Information Technology for Economic and Clinical Health Act ("HITECH ACT").

A little bit of history about how the ISAC HIPAA Program got started. Because of changes to the HIPAA regulations that went into effect in 2013 and new HIPAA-related challenges that resulted from having county community services functions rolled into the MHDS regions, ISAC decided to provide its members a new sample HIPAA policies and procedures manual. The sample manual can be found on ISAC's website.

But the sample manual is just that – a sample – something for counties and MHDS regions to use as a starting point in maintaining HIPAA compliance. To assist in helping counties and MHDS regions understand, tailor and utilize the policies, ISAC worked with Alissa Smith, the outside attorney retained

Continues on page 11.

Thank You for Investing in Iowa's Roads and Bridges

By: Lucas Beenken

ISAC Public Policy Specialist



On February 25, Governor Branstad signed SF 257, which among other provisions provided a 10 cent increase in the per gallon fuel tax. The signing of the bill followed weeks of negotiations and efforts to reach bipartisan support, and years of advocacy by stakeholders including ISAC. In fact, road funding has been a top priority for ISAC for the last five sessions, and 10 of the last 15. This is for good reason, as counties are responsible for the maintenance and repair of over 78% of the public road miles and over 75% of the public bridges in Iowa. This increase in the gas tax will provide much needed revenue as counties continue to work on maintaining a deteriorating road and bridge system. With limits on the amount of property taxes that could be transferred for use on secondary roads, and the last gas tax increase coming in 1989, all levels of government were falling behind as the cost of maintenance and repair continues to rise.

While the effort to get a bill to the Governor's desk took many years, it was the last couple weeks that created the most excitement. Companion bills were drafted in both the House and Senate once it appeared the necessary votes were nearly in place. On both sides the legislation started in the Transportation Committees, which saw the first of several bipartisan votes. Each step of the way, the bills saw both support and opposition from each of the two parties. The closest vote came in the House Ways and Means Committee, where the bill passed out 13-12, but only after Speaker of the House Kraig Paulsen switched out two of his members that opposed the tax increase with two that supported it including himself. While this move was met with criticism by some, it sent a clear message that increased infrastructure funding was a priority, and an increase in the gas tax could become a reality. After clearing the Transportation and Ways and Means Committees on each side, the bills were ready for floor debate. The final hurdles were rejecting amendments that could upend the votes that were in place to have the necessary bipartisan support.

In the end, all but the technical amendments (to fix drafting errors and omissions) were rejected and the two chambers voted on the same bill. The Senate led by passing SF 257 by a margin of 28-21, with one absent. This included 16 Democrats and 12 Republicans in favor. The House followed shortly after and passed the bill 53-46, with one absent. Those in support included 30 Republicans and 23 Democrats. Governor Branstad signed the bill the next morning.

With the enrollment of the bill, the 10 cent per gallon increase in the fuel tax went into effect on March 1. This increase is expected to generate an additional \$195-200 million annually. Counties should expect to see increases in revenue this construction season. The bill also contained fee increases for permits for oversize and overweight loads, including single-trip, annual, and all-systems permits which will generate an additional \$15-20 million annually. In addition to the gas tax and permit fee increases, the bill also contained language relating to bonding. Counties will be prohibited from using the new revenue to service any debt where the term of the debt is greater than the useful life of the asset. Furthermore, the legislative intent is prescribed to be that the additional revenue credited to the secondary road and farm-to-market funds shall be used exclusively for critical road and bridge projects that significantly extend the life of the assets. While these provisions were put in the bill as reassurance, they should not significantly impact the work county secondary roads' departments will undertake.

With so much time and effort over many years being put into this endeavor by ISAC and our members, we have a unique opportunity to show legislators and our constituents that this was a wise investment in our infrastructure. Please take every opportunity you have to showcase the projects being undertaken and the progress your county is able to make with the increased funding. With such a tough and divisive political issue, it is important to let your legislators know you appreciate their support in helping you continue to invest in the roads and bridges the public has entrusted you to take care of. For your citizens, it is important that they see their tax dollars being spent efficiently and effectively. And finally, you are all deserving of a big "Thank You" from your government relations team here at ISAC for all of your efforts, including conversations with legislators, public meetings, letters to the editor, and other outreach to make this a reality. We couldn't have done it without your grassroots action, and we appreciate all that you've done.

Security and Compliance Update

By: **Andrea Jansen**

ISAC Program Support
Coordinator



In addition to our ISAC HIPAA Program and the many services it offers, the IT department is involved with many processes to both enhance and expand our privacy and security standards. Security, compliance, personal information (PI) and personally identifiable information (PII) is always on our radar, and we are continuously working with many resources to assure we are offering the best services. Here are the highlights of some of the projects on which we are currently working:

Service Organization Control (SOC) Audit Process

In January of this year we started the process of completing the SOC Audit Process to build the integrity and credibility of the Electronic Transactions Clearinghouse and the Community Services Network.

According to the American Institute on CPA's, a SOC report "Provides information to service organizations on building trust and confidence in their systems." We began this process by issuing an RFP, and several firms responded. A team at ISAC reviewed the various proposals and decided to go with McGladrey LLP due to the extensive amount of experience that they have completing SOC examinations.

The next step in this process is to complete a readiness assessment so that we are as prepared as possible for a full audit. This process involves reviewing policies, practices, documentation standards, and interviewing key figures to help us identify any overarching themes or controls that are needed.

The next step will be to go through with the actual audit(s) with the overall intent of certifying that our systems have the proper controls in place with a SOC logo/stamp of approval. This will not only make our software more credible but also more marketable.

Iowa County Information Technology (ICIT) Assessment

ICIT is comprised of representatives of several counties to help provide and foster encouragement, communication, education, assistance, technical knowledge and cooperation to county employees responsible for the implementation, use and/or maintenance of technology within their organization or department.

One of the ways that they fulfill this mission is through the Paying IT Forward Project. This project can involve several components including the assessment of:

- Infrastructure: including cabling, servers, capacity and performance.
- Security: including vulnerability assessment, password strength and policies, firewall configuration, patch management and physical controls.
- Financial: including budget, expenditures and contracts.
- GIS: available data, sharing and publishing capacity, applications, infrastructure, etc.

This initiative won a 2013 ISAC Excellence in Action Award and a 2014 NACo Achievement Award which seek to recognize innovative county government employees, programs, and projects. Please head over to their website to see what a great organization it is - <http://iowacountiesit.org/projects/paying-it-forward/>!

ISAC will be going through the assessment process this Spring to identify infrastructure and security needs so this is yet another resource we are using to enhance our operations.

Disaster Recovery Plan

A project that was recently finalized was our Disaster Recovery Plan. This plan lists out step-by-step how to both protect and recover business IT infrastructure if there ever was a disaster. The objective of the plan is not to avoid a disaster but rather to minimize the impact if a disaster were to happen. The Centers for Medicare and Medicaid Services (CMS) regulates a lot of the rules and requirements for the plan in regards to HIPAA, PI, and PII so we started from a template from their website. This gave us a really great starting point, and then as a team we went through and began hashing out what would need to happen to get back on track in the event of a disaster.

Due to the fact that we are a relatively small team, it is fairly easy to define who is responsible for what in the event of an emergency, but it did help us greatly with putting our ideas in writing and solidifying the practices that we already have. We then had both our Security and Privacy Officers review and it was sent to the Electronic Transactions Clearinghouse (ETC) Compliance Subcommittee.

The next step in this process is explained further in the next section.

Tabletop Testing

Tabletop testing is a way to test a disaster recovery or contingency plan in a narrative manner. It is important to note that this is discussion-based only and does not actually involve deploying equipment or other resources.

Similar to the Disaster Recovery Plan, CMS provides templates and guidance on how to create these documents. During our upcoming ICIT audit, we are going to have the group facilitate our first ever Tabletop Testing session. This session will be held annually to assure that we are consistently working on and understanding our disaster recovery policies and practices.

Medical Coding

We are also in the process of complying with various medical coding requirements. The International Classification of Diseases (ICD) is a standard diagnosis tool for classifying diseases. CMS has mandated that this is required for all HIPAA-covered entities and the ICD-10 transition date is set for October 1, 2015. To prepare for this we are currently researching how to obtain the coding sets and implementing these updated codes in the next major release of the Community Services Network (CSN) and ETC.

Another coding set we are working on implementing is the fifth version of the Diagnostic and Statistical Manual of Mental

Disorders (DSM5). This standard way of classifying mental disorders is used in both clinical and community settings. This material is copyrighted by the American Psychiatric Association, and we currently have an application into this organization to use the codes within our applications. Again, we will be implementing these updated codes in the next major release of the CSN and ETC.

ADA

The Department of Justice has proposed a new rule that would mandate all state and local governments to follow the American with Disabilities Act (ADA) by requiring that their websites accommodate people with disabilities. Here are a couple of examples of solutions to these barriers: voice recognition software compatibility, screen reader to convert the visual information on a website into speech, captions on videos and photos, font size/color contrast of the site's page can be modified, assistive technology functionality, image/photograph with corresponding text describing the image, and more. Currently, we are running our public portal website through a service that points out high level ADA checks so we can begin to address these issues if they do pertain to our website.

If you have any questions on the above Security and Compliance projects, please contact ISAC's Technology Manager, Jeanine Scott at jscott@iowacounties.org.

legal briefs

Continued from page 8.

to prepare the sample manual, to provide several trainings in 2014 related to understanding and using the sample policies. From here, ISAC determined it wanted to provide an option to continue to assist counties and MHDS regions with HIPAA questions and concerns because HIPAA compliance is an ongoing project. Even the most perfectly customized and legally compliant policies must be reviewed regularly and updated to reflect changes in the law or county/region operations changes. In addition, implementation of the policies into county or region practices requires education and will result in questions as new situations arise. Thus, ISAC again partnered with Alissa Smith in order to offer a new ISAC HIPAA Program to its members.

You can find out more information about the current, first year of ISAC's HIPAA Program on our website and there is still ample opportunity to benefit from joining the program this year. Also, the second year of ISAC's HIPAA Program will begin July 1, 2015. Current program participants have been sent a survey so that we can collect suggestions of how to improve the program for next year. But if you aren't a current program participant, we want to hear from you too! Please contact myself or Robin Harlow and let us know what's holding you back from participating in the ISAC HIPAA Program and if you have any ideas or suggestions on how we can make the second year of the program even more beneficial for you.

What a Ride it's Been

By: Jackie Olson Leech

ISAC CM&MHDS Specialist



If there is one word that would summarize my past 10 years of employment at ISAC, it would be gratitude. I've been reflecting on my employment at ISAC since recently accepting a counseling position at Iowa State Vocational Rehabilitation (IVRS), serving persons with disabilities in Marion County and southern Warren County. By the time you read this article, I will have already left Case Management and Mental Health Disability Services (CM&MHDS) to continue my career at IVRS. As a result of my employment at ISAC: I know where all 99 counties are located; I very seldom need a map to drive throughout Iowa; I know all the major highways; and many of the secondary roads and the shortcuts to get to the counties that I served. Most of all, I have a deeper understanding and admiration of county employees, the work that they do, and the passion they have for their counties and the people they serve.

I don't know why my clearest memories of working at ISAC deal with Iowa weather, but they do. Shortly after I began working at ISAC, I was training with Dan Vonnahme, and we were on the road in southwest Iowa. While meeting with the Case Management team in Montgomery County in the top floor of the courthouse, big flakes of snow began to fall. As our meeting continued, the snow fell harder, and the flakes got bigger, and Dan kept talking more and more. When we finally got out of there, at least five inches of snow had fallen, and we still had to drive to Clarinda. Dan was a great driver, and we made it safely to Clarinda with another four or so inches of snow. We didn't make reservations at the Super 8, and there were no rooms available due to the weather, so we had to stay at the "other" hotel. Although there were two rooms available, the heat wasn't turned on in the rooms to save energy, so my room was cold all evening.

Another "snow" memory I have is from last winter when Cindy Chappelle and I were working in Cedar Rapids. Snow was predicted in Des Moines later that day, so we left about 3:00 pm, and had clear roads until Newton. It then took us two hours to drive from Newton to Des Moines on I-80, with semis not being able to get up the hills due to the ice. We felt fortunate, as it took some folks in Des Moines three to four hours to get across town that afternoon.

Finally, who remembers when we moved our ISAC office from downtown Des Moines to a temporary location in West Des Moines anticipating the Raccoon River going over the levy onto our parking lot and into our office years ago? The only good thing about that move was I got my office organized, because I had to sort and box up everything.

While working at CM&MHDS, I would like to know how many client files I've reviewed at case management offices and now through CSN. I also wonder how many miles I've driven to and from agencies, and how many nights I've stayed in motels in the communities I've served. While I won't miss completing file reviews, I will miss the people, and the field of case management that I have been in since 1995 when I began working as a case manager at Muscatine County Community Services.

I've enjoyed driving along our beautiful countryside and staying in the county seats. I have been so fortunate to work with such a great group of people at ISAC, and the county case managers and supervisors that I've had the privilege to work with and know. Maybe I will see you again, as my husband and I continue our pursuit to golf all 99 counties before we die (or become too old to swing a club). Thanks so much for a great ride!

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Lincoln the Lawyer #2: Playing Both Sides

Between 1985 and 2000, University of Illinois researchers performed an inestimable service for Lincoln studies. They push-trudged through mountains of court records in Illinois and elsewhere for evidence of Lincoln's lawyering. The monumental task culminated in *The Law Practice of Abraham Lincoln: Complete Documentary Edition*, which includes 5,173 cases and 496 nonlitigation activities involving Lincoln. The collection of legal documents and ancillary materials is available on CD-ROM for \$500, in case you'd like to buy a set for yourself or a friend (subtle hint). It enables historians like Mark Steiner and Brian Dirck to write excellent books (*An Honest Calling* and *Lincoln the Lawyer*, respectively) that I can use to produce relatively facile articles on the subject of Lincoln's legal career.

Lincoln practiced from 1836 to 1860, so that works out to an average of about 207 cases a year. It's no surprise, then, that much of Lincoln's work involved small-time civil matters. In fact, of the roughly 4,000 cases where Lincoln was attorney of record, 3,145 were some sort of debt litigation. Debt collection was not a field that he purposely specialized in, but it was the field where there was the most available work. Economic development needs risk-takers and it needs credit, especially in crucibles like young Illinois. Lincoln knew how all this worked from personal experiences before his law career. A store he started with William Berry went bust and the partners were unable to pay several debts. Their creditors won judgments against them, which became the more onerous for Lincoln when Berry died. One lender had the sheriff attach Lincoln's horse, saddle and surveying equipment. A sympathetic friend bought the equipment at auction and returned it to the much-relieved surveyor, but Lincoln was still in hock for nearly \$1,200. Determined to make good on what he called his "national debt," Lincoln chipped away for a dozen or so years before he satisfied all his creditors.

So Lincoln could sympathize with entrepreneurs trying to catch a break, but as a lawyer he was all business. He worked for both sides in debt cases. When he represented creditors, he almost always won. When he represented debtors, he almost always lost. In over a thousand of his cases the defendant didn't show up in court to contest the charge. In Lincoln's cases that went to trial, the defendant won less than 8% of the time. Lincoln had a reputation for trying to get parties to settle out of court, and this was probably responsible for most of the 786 cases that the court dismissed.

By: **Grant Veeder**

Black Hawk County Auditor
and ISAC Historian



He adapted to both sides of any issue easily, sometimes with amusing results. There was the case of the missing pigs.

David Adkin brought a slander action against two men for calling him a "damned infamous pig thief." Lincoln defended the men, and satisfactorily demonstrated that Adkin had really stolen several pigs, so the statement was not slander. Later, Lincoln was somehow appointed to defend Adkin when he was charged with the theft in criminal court. This time, he convinced the jury that Adkin did *not* steal the pigs, and Adkin was acquitted.

He represented both plaintiffs and defendants in medical malpractice suits. On the one hand, he took a patient's appeal to the Illinois Supreme Court but couldn't get the original verdict overturned. On the other hand, he was successful in defending two doctors who were accused in *Fleming v. Crothers* of negligently setting an elderly man's broken leg. During the proceedings, Lincoln told Mr. Fleming he ought to "get down on [your] knees and thank your Heavenly Father, and also these two Doctors that you have any legs to stand on at all." Hopefully Fleming's leg had healed well enough that he could get down on his knees and back up again.

Of course we shouldn't assume any inconsistency in representing a doctor in one case and a patient in another. Maybe he was on the side of true justice both times. But Lincoln wasn't above trying to have his cake and eat it, too. It recalls the time that the impecunious Thomas Margrave successfully sued the scoundrel who debauched his daughter. In addition to traditional damages (including "loss of services"), the jury required the seducer, a prosperous fellow named William Grable, to pay "vindictive" damages based on the relative wealth of the two parties. Grable appealed to the Illinois Supreme Court, saying that evidence about their comparative wealth was inadmissible. Lincoln represented Margrave in the appeal, and convinced the court that because of Grable's affluence he wouldn't be sufficiently chastened by a small award, and that Margrave's poverty was significant in that the loss of a daughter's work would be more sorely felt by a poor man. The damages stood. Three years later Lincoln appeared before the same court representing a rich man who had assaulted a poor man. He said evidence about the parties' wealth was improper. In upholding the lower court's award of vindictive damages, the Supreme Court cited Lincoln's arguments in *Grable v. Margrave*. Oops.

Continues on page 16.

ISAC brief

Board Meeting Summary - February 13, 2015

ISAC President Melvyn Houser called the meeting to order and led the Board in the Pledge of Allegiance. Board members Wayne Clinton and AJ Mumm were sworn in by President Houser.

The ISAC Board of Directors minutes from the January 16, 2015 meeting and the ISAC Executive Committee minutes from the February 4, 2015 meeting were reviewed and approved unanimously.

Brad Holtan gave the financial highlights for the seven months ending Saturday, January 31, 2015. He presented visuals for total conference attendees by county and the cash, savings and investment balances for ISAC and its programs. The financial report was accepted unanimously.

Kristi Harshbarger gave an update on legal matters. Staff is involved in compiling a legal knowledge database for external and internal use. She requested that documents and ideas be sent to her.

Bill Peterson reviewed ISAC's policies related to board expenses. The ISAC Executive Committee recommended the following retroactive change in ISAC's expense policy related to service on the NACo Board which was approved unanimously by the Board.

2. ISAC shall reimburse or pay the expenses for the ISAC representative to the NACo Board when he/she is attending NACo board meetings and NACo conferences. NACo Past Presidents or individuals appointed to serve on the NACo Board of Directors by the NACo President shall be reimbursed for expenses at the NACo Fall Board Meeting and the NACo Board Meeting in conjunction with the WIR Annual Conference at the same rate as an ISAC Board Member attending the NACo Annual or NACo Legislative Conference.

Robin Harlow gave a demo of research and data tools that he recommended pursuing a grant to purchase. The tools will enhance the association's ability to manipulate data and possibly extend this opportunity to the membership and general public as well. The Board unanimously authorized pursuing a grant for the purchase of research and data software.

Rachel Bennett reported that the final two legislative priorities videos, records requests and multi-residential property, have been re-filmed because the points that we were trying to make

were not captured during the original filming. Other changes to the videos were also made based on Board feedback.

Bill presented the proposed ISAC budget for FY 2016 that was recommended by the ISAC Executive Committee. He reviewed significant income and expenditure adjustments and the summary of required actions:

- County dues increase by \$300 per county.
- Fall and spring conference registration fees increase by \$10.
- Eliminate vacant research position saving \$91,000.
- Approval of new IT – Network Administrator position.
- Approve Executive Director salary increase of 3% and 1% increase in retirement contribution.
- Authorize a 3% increase in staff salary line item.

The Board discussed the recommended actions at length and unanimously approved and recommended the FY 2016 ISAC budget to the full membership.

Kelsey Sebern reviewed the 2015 ISAC Spring School of Instruction board scenario.

Rachel gave an update on County Day at the Capitol. She also reviewed the schedule of activities and meetings being held in conjunction with the 2015 NACo Legislative Conference.

Robin gave an overview of the Smart Connections Conference being held on April 30 at the Stoney Creek Hotel and Conference Center in Johnston.

Cara Marker-Morgan introduced Tom Oswald and BJ Covington, Iowa Homeland Security and Emergency Management, who asked for ISAC's support and partnership in receiving grant funding from the US Department of Housing and Urban Development. After ample discussion, the Board unanimously approved broadly supporting the project at this point of application. Any more specific support would need to be funneled through the specific affiliates.

Jamie Cashman and Lucas Beenken reported on the status of ISAC's legislative priorities, legislative impacts on counties, and what county officials and the Board can do to help.

Kristi presented a draft guidelines document to the Board that was developed in conjunction with the state court administrators

Continues on page 16.

2015 NACo Legislative Conference

By: Melvyn Houser

ISAC NACo Representative,
ISAC President,
Pottawattamie County Supervisor



“One of the penalties for refusing to participate in politics is that you end up being governed by your inferiors.” - Plato

The 2015 NACo Legislative Conference was last month in Washington, D.C. Of course, it snowed, but the Government was not shut down, because it snowed on Saturday. I don't think it would break their budget if they would invest in a few plows for the city trucks. But, we hardy Iowans were able to make it to dinner that night. Very few cabs were running and the group found itself waiting for some time in the cold. Who would have thought a County Treasurer would take charge of the situation? Doug Bishop from Jasper County spied a Super Shuttle van across the driveway, talked to the driver and waved us over. All ten or eleven of us piled in and were soon on our way. Rachel Bennett, Kristi Harshbarger, and Bill Peterson had left earlier and walked the mile to the restaurant. I guess they are hardier than the rest of us! The restaurant, Ardeo + Bardeo, sources much of its food from local farmers, many of them in Virginia. The menu even listed the farms from which much of the food came. The evening was delightful. How could it not be, with all the good food and good company. Then we toasted and thanked all farmers who provide such a bounty.

At our Ag and Rural Affairs Committee meeting the following day I showed the menu to some Virginia county supervisors. They knew of some of the growers, and I asked that they personally thank them on my behalf. One of our speakers was talking about the World Trade Organization and how the United States is using political pressure to increase our exports. Another issue was COOL, Country Of Origin Labeling. I think it should be County Origin Of Labeling. The WTO has ruled against our COOL law which would require labeling on imports from Canada and Mexico. Again, I'm seeing how large and complex our food system is, and wouldn't it be easier to just get our food from a farmer who is close by.

Saturday's Tech Summit addressed “big data” and Cyber Security as it usually does, but there were two sessions of note. Jen Pahlka, Founder and Executive Director for Code for America talked about their fellowship program. Students and citizens are coming together with their local governments and creating new ways to use technology to deliver more effective, efficient, and fair government. You don't have to be an elected official to solve a problem. Here are some points that she made: Digital (IT) is how we govern - it is not a separate department, design for people's needs, make it easy for people to participate, focus on what government can do, make data easy to find and use, use data to make and improve decisions, and choose the right technology for the job.

Another panel talked about sustainability and waste management. George Gitschel, CEO of Ecohub is developing a process that would sort all waste and recycle or repurpose the material. There is a demand for plastics, paper, metal, etc. No more sorting into various recycle bins. All this would be done by a for profit business. Mother Nature wastes nothing. Everything she produces is organic and rots and composts to be used again. Hopefully this new technology can mimic that process to some degree.

The general session was highlighted by the presence of Vice President Joe Biden, a former county official in Delaware. From what I gather, Joe's speeches can get pretty entertaining when he goes off script and ad libs. This time, however, he read directly from the prompter. It was a bit bland. Among several other speakers was Jason Grumet, author of the book, “City of Rivals” and Director of the Bipartisan Policy Center. He says the even though Washington is polarized and partisan, it still can be productive. Diversity used to work. Congressmen from both parties should take junkets together. There they will have time to work together to find common ground and come up with solutions. Also, we need to bring back earmarks. Some of those deals that were made when earmarks were allowed have given us some very good results. He says that transparency is too stifling to allow good work to get done and that too many rules make things unworkable. Maybe he is right. Look at all the good things we have today because deals and compromises were made. Now, nothing seems to get accomplished.

So, at the board meeting we were presented with a draft of the election guidelines from the NACo Election Committee. They had added more rules on campaigning for NACo's 2nd Vice Presidency. To some, it looked like a solution in search of a problem. After much discussion a motion was made to postpone it indefinitely. That led into much more discussion on whether it should be postponed or tabled. All of the parliamentarians in the room then took turns giving their opinions on Robert's Rules. It was then, I believe, that Grant Veeder turned to me and pointed out that there was nothing to postpone or table since there was no motion made in the first place to amend, postpone, or table. Where would we be without Auditors to keep things straight. Anyway, the issue was mercifully put to rest. All of the policy issues brought forth by the various Steering Committees were approved unanimously except for one. It was basically asking Congress to restore the draft. A motion was made to postpone indefinitely. Motion passed. Maryann

Continues on page 16.

NACo news

Continued from page 15.

Borgeson from Douglas County Nebraska was seated next to me and I asked why we didn't just vote it down rather than postponing. She said nobody wanted to hurt anyone's feelings. County folks are so nice.

NACo Executive Director Chase reported on moving NACo forward through advocacy, leadership, solutions, civic education, and excellence. NACo is now becoming the "go to guys" in Washington for data and information. One no longer needs to go through departmental red tape to get numbers. They just ask NACo. While visiting with Iowa Congressman Rod Blum we showed his Chief of Staff the County Explorer, a product of NACo's research department. He seemed very excited about the tool and said that every staffer on The Hill would find it very useful.

Our visit to Senator Joni Ernst's office was nice but cramped. Freshmen don't get the big offices like Senator Grassley's. After hugs all around we went into her small office and presented her with NACo's priorities. During the chat, I noticed on the wall photographs of her Guard unit. Taped to the back of her monitor were pictures of the Iowa and U.S. Capitols. I asked why she didn't have a picture of her old courthouse. She politely turned me around so that I could see the huge print of the Montgomery County Courthouse. I really didn't think she could have forgotten her roots that readily.

By and large, it was a good conference. I learned a lot and hopefully taught someone something in turn.

Lincoln letters

Continued from page 13.

The same thing happened to him in railroad casework, a new and quickly growing area of litigation. Investors would subscribe to buy railroad stock, expecting the railroads to build next to their land and raise their property values. Occasionally the railroads modified their routes, and some subscribers who were left out in the cold defaulted on their payments. This created work for lawyers. Lincoln was co-counsel before the state Supreme Court in *Sprague v. Illinois River Railroad*, where he held that a change in course of the railroad released a subscriber from his obligation. The court disagreed, saying a corporation shouldn't be prevented from making changes in its

charter by "various collateral considerations" of shareholders. The chief justice wrote that "we have nowhere met with a more satisfactory exposition of the...respective rights of corporations and individual stockholders" than that found in *Barret v. Alton & Sangamon Railroad*. You remember the Barret case, don't you Abe? You're the genius who won it and set the precedent.

But it was arguing about railroads that made Lincoln a much-sought-after lawyer in Illinois in the 1850s. In the next installment we'll look at more railroad cases.

ISAC brief

Continued from page 14.

and ISAC affiliates. Amendments to the document were discussed, including: spelling errors; the addition of AED devices; a change in the title to include public buildings; and language to include the option of having the appointee of the chair responsible. The Board unanimously approved support of the guidelines as amended.

President Houser reported that the scholarship selection process has been completed and winners have been chosen. Scholarships will be awarded during the Spring School General Business Meeting on March 12.

President Houser reviewed the 2015 ISAC committee appointments.

Bill reported that three county officials have submitted their names to be selected to attend the 2015 County Leadership Institute. The Board discussed the three candidates at length and unanimously nominated Scott Belt, Pottawattamie County Supervisor to attend.

Board members shared issues, concerns, ideas, achievements, etc. with other board members prior to President Houser adjourning the meeting.

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2015 calendar

April 2015

- 14 CM&MHDS Administrators Meeting
(Polk County River Place, Des Moines)
- 30 Smart Connections Conference
(Stoney Creek Conference Center, Johnston)

May 2015

- 1 ISAC Board of Directors Meeting
(ISAC Office)
- 7 CM&MHDS Advanced Case Management
(Courtyard by Marriott, Ankeny)
- 20-22 NACo WIR Conference
(Kauai, Hawaii)

June 2015

- 4 CM&MHDS Supervisors Training
(Polk County River Place, Des Moines)
- 10-12 ICIT Midyear Conference
(West Des Moines Marriott)
- 24-26 Recorder's Summer School
(Decorah)
- 25 ISAC Board of Directors Meeting
(ISAC Office)

July 2015

- 10-13 NACo Annual Conference
(Charlotte, NC)
- 14 CM&MHDS Administrators Meeting
(Polk County River Place, Des Moines)
- 30-31 Supervisors Executive Board Retreat
(Clay County)

August 2015

- 27-28 ISAC Legislative Policy Committee Retreat
(Hilton Garden Inn, Johnston)

September 2015

- 2 ISAC Scholarship Golf Fundraiser
(Toad Valley Golf Course, Pleasant Hill)
- 16-18 ISAC Board of Directors Retreat
(Pottawattamie County)
- 23-24 CM&MHDS Annual Conference
(Sheraton, West Des Moines)

October 2015

- 13 CM&MHDS Administrators Meeting
(Polk County River Place, Des Moines)
- 15-16 ISAC Board of Directors Meeting
(ISAC Office)

November 2015

- 5 CM&MHDS Advanced Case Management
(Stoney Creek, Johnston)
- 18-20 ISAC Fall School of Instruction
(Cedar Rapids Convention Complex)

December 2015

- 8-10 ICEA Annual Conference
(Ames)
- 16 ISAC Board of Directors Meeting
(ISAC Office)

If you have any questions about the meetings listed above or would like to add an affiliate meeting to the ISAC calendar, please contact Kelsey Sebern at ksebern@iowacounties.org.

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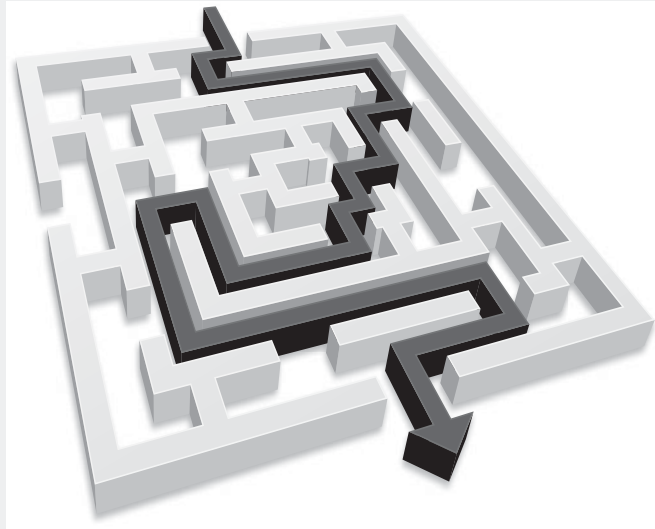
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