

The Alabama Municipal JOURNAL

May/June 2019

Volume 76, Number 6

Legislative Leadership

Addressing Alabama's
Infrastructure Crisis



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The Alabama Municipal JOURNAL

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On the Cover:

ALM Deputy Director Greg Cochran worked closely with Gov. Kay Ivey, Rep. Bill Poole and Sen. Clyde Chambliss (pictured) as well as the Alabama Department of Transportation and the Association of County Commissions of Alabama to craft a gas tax agreement that local government would find acceptable – and which ultimately aided in the success of Gov. Ivey's Rebuild Alabama initiative during the 2019 Special Session. Photo by Hal Yeager, Governor's Office.

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Rebuild Alabama

Advocacy Matters

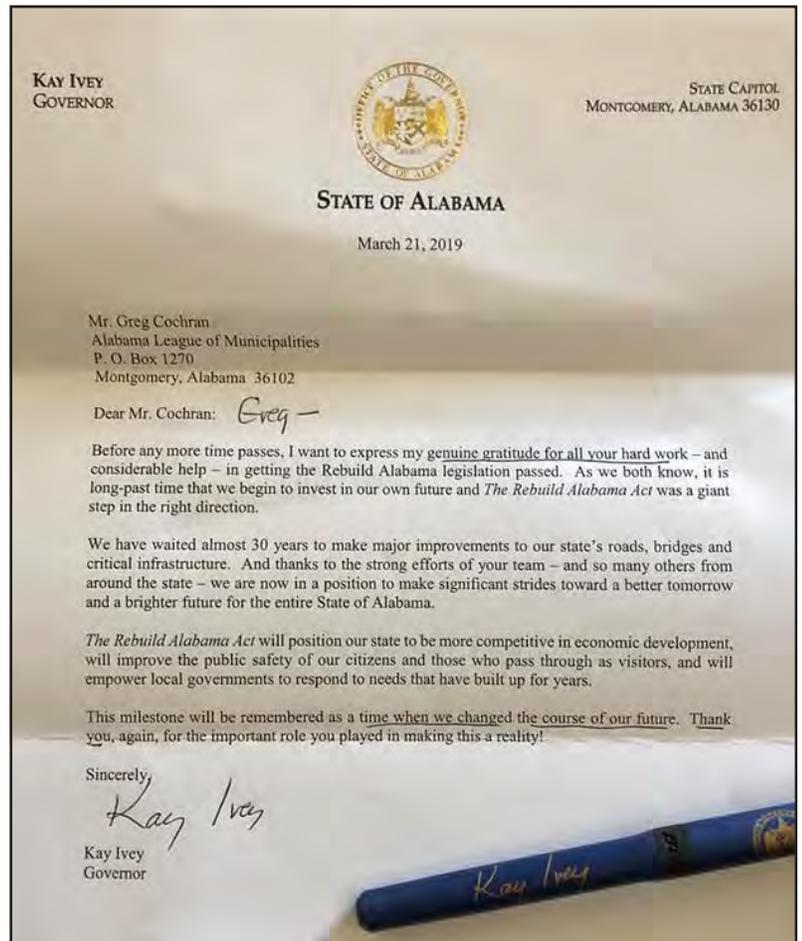
By Carrie Banks • Communications Director • ALM

Established on May 15, 1935 as a full-time, voluntary association of Alabama's cities and towns, the Alabama League of Municipalities has continuously served as the primary legislative advocate for Alabama's municipalities, representing its members at the Alabama Legislature, in Congress and with numerous administrative agencies.

We are a unique organization in that we do not have a Political Action Committee (PAC) and, therefore, do not provide campaign contributions to any candidate. Our ability to maintain significant political relevance is tied directly to our advocacy efforts and the relationships we have cultivated over many years with state and local leaders, the Alabama Legislature, state agency directors as well as countless stakeholder groups. Our goals and philosophies may not always align; however, we strive to *always* have a seat at the table on behalf of our membership.

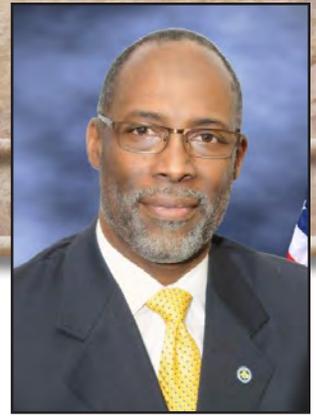
This year's legislative calendar is a prime example of the League's enduring reputation—and why our advocacy efforts *matter*. Knowing that addressing Alabama's beleaguered and long neglected infrastructure would be front and center, we began 2019 already prepped for an active and intense legislative session. ALM's advocacy team had been meeting with stakeholder groups and participating in infrastructure task force meetings for several months prior to Gov. Ivey announcing her Rebuild Alabama initiative on February 27th to address the state's significant infrastructure deficiencies by raising the gas tax, which had not been increased since 1992. Understanding that, regardless of the critical need, a tax increase would be an extremely controversial heavy lift, Gov. Ivey called ALM's chief lobbyist, Deputy Director Greg Cochran, into a closed door meeting with her staff, the Association of County Commissions of Alabama and the bill's sponsor and lead champion Rep. Bill Poole of Tuscaloosa to work out an agreement between local governments. That meeting turned into multiple closed-door meetings over several days along with phone calls between stakeholders that went well into the night. Had the League not been part of the initial negotiations – had we not been at the table – this historic and desperately needed increase to Alabama's infrastructure funding would not have become a reality. Gov. Ivey signed the Rebuild Alabama Act into law on March 12th following a Special Session that garnered significant bipartisan legislative support. The funding increase, which will be phased in over several years, will support improvement and expansion of roads and bridges throughout the state as well as our port facilities in Mobile.

This issue of the *Journal* provides a closer look at the process leading up to the Rebuild Alabama Act (p. 9) as well as an in-depth interview with Rep. Poole (p. 11). Our sincere thanks to Gov. Ivey for her leadership and dedication to the people and future of Alabama and to Rep. Poole and Sen. Clyde Chambliss (Prattville) for sponsoring this critical legislation and having the courage to navigate the many sensitive layers that inevitably accompany a contentious issue. We also appreciate Gov. Ivey's staff, especially her Director of Photography, Hal Yeager, for this issue's cover photo taken in the governor's office. Finally, we thank *you*, our membership, for your guidance, your support and your willingness to be part of the process at every turn. From op-eds to local resolutions supporting Rebuild Alabama to participation at press events and personal phone calls to legislators, *your* efforts made a difference and your encouragement kept us focused. **Don't let up!** The Regular Session is still going strong and we're currently defending against many bills that would legislate unfunded mandates within your communities. Onward! ■



The President's Report

Council President Jesse Matthews, Bessemer



ALM's Legislative Success: Advocacy, Leadership and Engagement

As I prepare to become your Immediate Past President, I'm still processing the impressive legislative victory to improve Alabama's infrastructure we had within the first five days of the 2019 Session – as well as the dynamics that led to that point, several that directly tie into the formal strategic plan adopted by your Executive Committee this past November.

Goal I of our strategic plan states: *Effectively advocate for municipal resources and regulatory authority needed to provide quality of life services to their constituents.* It specifically identifies improving the League's relevance through increased interaction with legislators and education of legislators regarding municipal government and the League's role as well as collaborating with stakeholders – associations, universities, the media, the counties – to build strong bonds and identify solutions to problem situations.

I can tell you unequivocally that since the beginning of 2019, your League staff has checked off every element listed above – and then some! In fact, I'm not exaggerating when I use the term *historic* to describe the process that ultimately

led to the passage of the controversial gas tax legislation during the Special Session called by Gov. Ivey on March 5th, the opening day of the Regular Session. Not only was this a top priority for Gov. Ivey and legislative leaders, it was a priority for the League and our municipalities. And we treated it as such, including lengthy and intense closed door meetings by ALM's Deputy Director and chief lobbyist Greg Cochran with Gov. Ivey, her staff and the county association along with bill sponsors Rep. Bill Poole of Tuscaloosa and Sen. Clyde Chambliss of Prattville. I can assure you that if the League had not been at the table from the beginning – had an agreement not been crafted through local government engagement – this bill would not have become law.

As it stands, the legislation, which received overwhelming bipartisan support and was signed into law by Gov. Ivey on March 12th, raises the state's gasoline and diesel fuel taxes by 10 cents over three years: six cents this year after Labor Day, two cents in 2020 and two more cents

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League President Jesse Matthews, Council President, Bessemer, speaks on behalf of ALM at Gov. Kay Ivey's March 1st press conference on the Capitol steps in Montgomery regarding her Rebuild Alabama initiative to increase the state's woefully outdated gas tax.

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Municipal Overview

By Ken Smith, Executive Director



Member Engagement and Shared Services

As every local official knows, sharing services between and among municipalities and other levels of government contributes to the success of all. Whether that cooperation is to develop infrastructure for economic development, to provide coverage for public safety, to ensure safe water and sewage or for any of an unlimited number of reasons, government officials at all levels must find ways to work together.

For city and town officials in Alabama, intergovernmental cooperation is ingrained in every aspect of what you do to provide services in the most effective manner. Mirroring our membership, the Alabama League of Municipalities was founded in 1935 on the same notion – that mayors and councilmembers who work together are better able to serve their residents. For the past 84 years, the League has taken pride in being a “shared service” among and for our over 450 municipal members, providing you with expertise and a variety of valuable services that you cannot get elsewhere, or for which you would have to pay a premium.

This concept of sharing resources grows out of a League approach that emphasizes member engagement. The League was founded by municipalities and is managed by our member municipalities. Member engagement is crucial to the League’s continued success.

Member Engagement Relies on Involvement

Member engagement means different things to different people. It can be defined in terms of website visits, likes or follows on social media, email opens or any other benchmark you select to quantify the relationship between an organization and its members or customers. But these are only part of the equation. What’s still missing for an association like the League is member *involvement*. In order to properly serve our membership, members must participate in League activities, governance and training. Sharing services, knowledge and focus is the hallmark of our success. Member engagement works and works well when our members become involved and stay involved.

Part of our emphasis on member engagement stems from a belief that there is not only strength in numbers, but in finding a unified municipal voice. This is done through the hard work performed by the five League standing policy committees as well as work done by our Committee on State and Federal Legislation.

These committees are composed of members from across the state and from municipalities of all population ranges. Members volunteer to serve on these committees. The committees meet annually to hear from state and federal experts about issues that fall within their area of interest. Committee members then debate and determine what positions the League should take on those and other related issues. The document they develop is then approved by the voting delegates at the League Convention each May. These statements reflect the hard work of each committee, which is made up of a diverse group of municipal officials and is confirmed by the approval of the broad League membership who selected their own voting delegate. It would be hard to find a more objective way to find our unified voice.

Establishing our members’ shared goals, though, is just the first step of member involvement in the policy process. The next, and most significant step is supporting and working together to achieve those goals. You are our best lobbyists and your voice and actions matter. Stay informed. Read League publications. Commit to make contacts and to discuss your stance on issues with policy makers. They may not know the impact of legislation or regulatory actions unless you tell them. Your involvement makes a difference.

Another way to become involved in League activities is through participation in League training and networking opportunities. Our Certified Municipal Officials program offers numerous ways for members to grow in their roles by learning from experts and each other. League staff and officers strive to make these events more convenient and beneficial to you. Your participation also helps us improve our understanding of our members’ needs.

The recent strategic plan the Executive Committee adopted was a direct result of member input. We brought in

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Rebuild Alabama: Municipal Perspective

Addressing Alabama's Infrastructure Crisis

By Greg Cochran • Deputy Director • ALM



Photo by Hal Yeager, Governor's Office

addition to revenue collected from the existing motor fuel taxes to address current deficiencies.

Several years ago, Speaker of the Alabama House of Representatives, Mac McCutcheon, called me to discuss raising the state motor fuel excise tax rate to address our immediate and future needs for state and local infrastructure. Speaker McCutcheon had served as Chair of the Joint Legislative Commission overseeing transportation infrastructure needs for Alabama, so he had in-depth knowledge of the challenges we were facing. He discussed the previously enacted Alabama Transportation Rehabilitation and Improvement Program (ATRIP) and the Rural Assistance Match Program (RAMP) to finance infrastructure with future federal funding allocations. As needed and beneficial as those programs were to local governments to address immediate projects, the catch was they were borrowing money against future funds. Speaker McCutcheon felt we needed to invest new dollars into our state and local infrastructure and the best way to accomplish this goal would be to raise the motor fuel excise tax levies. Around the same time, the Alabama Department of Transportation (ALDOT) determined the state needed \$360 million *in*

A Critical Need

Infrastructure is the fundamental basis for Alabama's economic development and quality of life services. Without the stability of infrastructure, cities and towns can't recruit and retain industry, retail shopping centers and hospitals. If we expect business and industry beyond our borders to invest in Alabama, we must be willing to prove our commitment to invest in ourselves. Quality infrastructure equates to jobs, which enhance our communities and expand quality of life services for citizens.

Speaker McCutcheon and Senate President Pro Tem Del Marsh created an Infrastructure Task Force to study the conditions of road and bridge structures across Alabama as well as the challenges and opportunities for addressing our critical maintenance needs. This task force was charged with securing the data to support the findings and consisted of stakeholders interested in the future of Alabama's infrastructure. The University of Alabama, roadbuilders, county and municipal leaders, business representatives and legislators met more than 36 times over two years to consider the data and discuss the findings from the study. The meetings were often intense, but everyone agreed that doing nothing was not an option. Finding an acceptable option, however, proved to be quite a journey.

Existing Motor Fuel Excise Taxes

The existing motor fuel taxes are generating \$456.5 million for ALDOT, \$155 million for counties and \$34.5 million for municipalities annually. Current formulas allocate 72 percent of funding to ALDOT, 23 percent to counties and 5 percent to municipalities. However, that doesn't tell the complete story. The motor fuel monies distributed to local governments are absent any diesel revenues – all of those are allocated to ALDOT. Also, when local funding is allocated, the county receives those funds and then shares 10 percent of their allocation with the municipalities in their county. The City of Birmingham – the most heavily populated city in Alabama – only receives approximately \$76,000 annually from the existing revenue. This is based on the distribution between more than 30 municipalities in Jefferson County.

Challenges to Enacting New Revenue Proposals

One key challenge identified early in the process was how to address the distribution of new motor fuel funds. The last time the Legislature adopted an increase in motor fuel taxes was 1992 and the 18 cents per gallon tax enacted at that time are

allocated based on a formula developed in the 1960s. Data from the University of Alabama showed municipal infrastructure inventory increased significantly from 1960 to 2016, as did the number of people using municipal infrastructure. Therefore, the League of Municipalities advocated that any new infrastructure funding proposal should reflect those findings with an increase of funds to municipal governments.

Another significant challenge before the Legislature in 2017 and 2018 was that many of those current members had signed “no new tax” pledges when they ran in 2014. This became a difficult hurdle to overcome because legislators didn’t want to renege on their commitment to constituents. However, the 2018 elections provided an opportunity for House and Senate leadership to engage with candidates and share the critical need for additional infrastructure funding before candidates signed pledges of “no new taxes”. Thus, the 2018 elections brought in a large group of new House and Senate members who were knowledgeable of the infrastructure challenges faced by ALDOT and local governments.

The focus then returned to necessary funding levels, indexing criteria and distribution formulas. Infrastructure Task Force meetings continued well into the eve of the 2019 Regular Session. Governor Ivey announced during her March 5th State of the State Address she intended for the Legislature to focus on this issue:

Despite the heavy challenges that lie ahead, we in Alabama must plan for success. Part of planning for that success is ensuring that we have a robust economy and ample public safety. We can help tackle both of these issues with a reasonable increase in the investment we make in our state’s infrastructure system. Almost three decades have gone by, and Alabama has not made one change to our infrastructure funding. While our neighboring states are increasing their revenue for their transportation budgets, Alabama has not. We are dead last.

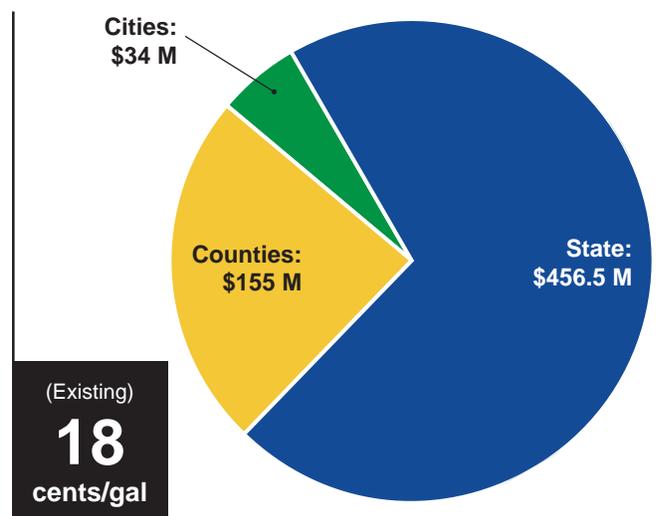
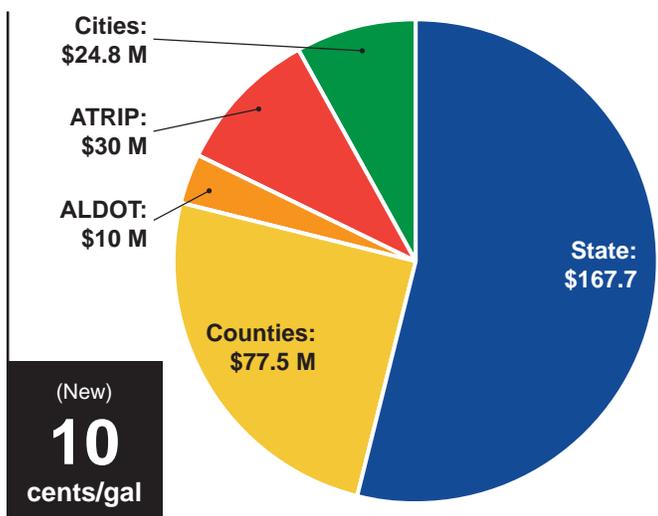
Certainly, motorists are experiencing firsthand the poor conditions of Alabama’s infrastructure. Each year in Alabama, 69 billion miles are driven on our roadways. We have urban roads in poor condition. Our drivers are experiencing major congestion on our freeways. County governments currently operate on a 56-year resurfacing schedule when, in fact, we should be operating on a 15-year rate. In Alabama, half of our more than 16,000 bridges are older than their 50-year life span. Bridges should be replaced every 50 years. Yet, county governments are on schedule to replace their bridges every 186 years! Folks, that’s almost as long as Alabama has been a state.

From 2015 to 2017, Alabama saw nearly 3,000 traffic fatalities. One-third of those were due to deficiencies in our roadways. Each year, \$436 billion dollars in goods are shipped to and from businesses using our state’s roadways. The Port of Mobile, Alabama’s only deep-water port, moves approximately 64 million tons of cargo each year. Deepening and widening the Port will increase Alabama’s economic capability. This will enhance our status as a primary industrial and agricultural hub in the Southeast.

Driving on rough roads costs the average Alabamian \$507 dollars annually in additional vehicle maintenance – a total of \$2 billion dollars statewide each year! That is why we are proposing a 10-cent increase in Alabama’s fuel tax. This increase would be implemented over the next three years. And I want to be crystal clear – this money will be scrutinized and watched over – every single penny. There will be strong accountability measures to make certain these monies are spent solely on transportation infrastructure. Period.

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State Motor Fuel Tax Distribution Formulas



Rep. Bill Poole: A Profile of Vision and Courage

By Kayla Bass • Public Affairs Associate • ALM



Our infrastructure is deteriorating. It is the absolute spine for every Alabamian in the state. The cost of doing nothing is not nothing. The cost of doing nothing is significant. It will cost us lives; it will cost us jobs; it will cost us opportunities.

~ Rep. Bill Poole testifying to the House Transportation, Utilities and Infrastructure Committee on March 7, 2019

As a product of rural Marengo County, an attorney and an Alabama legislator, Representative Bill Poole has a unique understanding of the struggles facing Alabamians, specifically rural. He recognizes the importance of working together throughout every facet of the state, urban and rural, to address critical quality of life issues such as broadband, healthcare, education and – most recently – infrastructure. He was the House sponsor and lead champion for Gov. Ivey’s successful Rebuild Alabama initiative that was signed into law on March 12th.

Growing up, Poole watched his father, a small-town solo attorney, represent his clients with passion, care and respect. “Watching how hard he worked to help others during a time of need, struggle, or a time of crisis – and how seriously he took that – really had an enormous impact on me,” Poole said.

Following his father’s example, Poole graduated from the University of Alabama and the University of Alabama School of Law and has served in various capacities from city attorney to a House Ways and Means Committee staff assistant in the United States House of Representatives. He has been a general practice attorney in Tuscaloosa since 2004 and was first elected to the Alabama House of Representatives on November 2, 2010. He represents District 63, which includes the University of Alabama, portions of both the Tuscaloosa City and Tuscaloosa County school districts, as well as a large portion of the City of Tuscaloosa. In 2010, he was elected as Chairman of the Tuscaloosa County Legislation Committee and, in 2013, appointed as Chairman of the Ways and Means Education Committee.

Representative Poole and his wife, Niccole, are the parents of Sally, William and Whittman Poole.

You’ve served in various capacities from city attorney to a staff assistant to the House Ways and Means Committee in the United States House of Representatives – how did these jobs prepare you for your role as a State Representative?

I have a unique background having worked on Capitol Hill with my primary interactions being with senior staff from member offices rather than the typical Capitol Hill experience, which is constituent interactions. In doing so, I worked a lot of policy issues; I worked with a lot of members and their senior staff, lobbyists and other special interest groups – so it gave me a perspective on the process and how that works. Studying the law and now practicing in the legal field gives me some insights in terms of how to interpret, construct and draft statutes and laws. That combination has helped me be an effective legislator.

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Legislative Success

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in 2021. Currently, the taxes stand at 18 cents for gasoline and 19 cents for diesel. A \$200 fee will be assessed for electric vehicles and a \$100 fee will be charged for “plug-in” hybrids. A portion of those fees will go to a newly-created “Electric Transportation Infrastructure Grant Program” that supports building a network of electric charging stations around the state.

Overall, the plan is expected to raise about \$320 million annually in additional revenue to construct roads and bridges. That money will be split between the state (66.66 percent), counties (25 percent), and cities (8.33 percent). In addition, \$11.7 million will be allocated annually to fund bond repayments for the Port of Mobile to widen and deepen the Mobile Bay shipping channel, ultimately affecting the entire state.

Companion legislation adopted during the Special Session charges a special joint legislative panel with increased oversight of the Department of Transportation’s use of the gas tax funds.

Specifics regarding this legislation and the process, as well as a list of legislators you should make a point to thank, appear within this issue of the *Journal*. Suffice it to say, this effort was successful

because we were focused and engaged and because we worked closely and diligently with Gov. Ivey, our legislators and a long list of stakeholders. Our League staff are the heroes and I thank them for the many hours they put forth to educate us as well as others on this initiative – and for never losing sight of the finish line. Well done! ■



ALM President Jesse Matthews with Sen. Richard Shelby (left) and Sen. Doug Jones (right) during the NLC Congressional City Conference in Washington, D.C. this past March.

An advertisement for the North Alabama Train Depots Trail. The background shows a historic white building with a sign that reads "BRIDGEPORT, ALABAMA". Overlaid on the right is a large sign that says "North Alabama TRAIN DEPOTS TRAIL". Below the sign, text reads: "OUR NEWEST TRAIL PROMOTING THE HERITAGE OF NORTH ALABAMA. FEATURED IN A FREE BROCHURE SPOTLIGHTING DEPOTS, MUSEUMS & EVENTS. CALL OR CLICK TODAY TO GET YOUR FREE GUIDE." At the bottom, contact information is provided: "800.648.5381 • www.NorthAlabama.org" and "Alabama Mountain Lakes Tourist Association Supporting North Alabama's \$2.6 billion tourism industry for more than 50 years." There are also social media icons for Facebook, Twitter, Pinterest, YouTube, and Instagram, and logos for "ALABAMA ROAD TRIPS", "NORTH ALABAMA BARBECUE TRAIL", and "ALABAMA CRAFT BEER TRAIL". A note at the bottom right says "Free Travel Apps in your App store!"

Leading the charge in the Legislature on this issue is Representative Bill Poole. He, along with Senator Clyde Chambliss, will guide this legislation over the coming weeks. I thank both of them for their leadership. Additionally, I have listened to leaders make good points about money being diverted from the Alabama Department of Transportation to supplement our court system and law enforcement agency every year. I believe we should begin to unwind this outdated approach. And, in fact, the budgets I am presenting will cut this annual transfer in half without hurting the court system or our hardworking state law enforcement officers. A renewed investment in infrastructure will lead to safer roads, economic prosperity and an enhanced quality of life.

Ladies and Gentlemen, I am willing to call you, the members of the Alabama Legislature, into a special session, if necessary, to focus solely on passing this critical legislation. It's time to make our crumbling infrastructure system a problem of the past. This is a challenge that is felt by every Alabamian, clearly making it a bipartisan issue. As governor, I say enough is enough.

Now is the time to Rebuild Alabama.

At the close of the first day of the Regular Session on March 5th, Gov. Ivey called a Special Session on Infrastructure Funding beginning March 6th to address her Rebuild Alabama initiative. Three areas still needed resolution: funding levels, distribution formula and an indexing provision to ensure revenue for future needs.

Nearly a month prior to the Special Session, on February 10th, I began participating in closed-door meetings with Governor Ivey, Governor Ivey's Chief of Staff Jo Bonner, representatives from county commissions, ALDOT Director John Cooper and Representative Bill Poole, Chair of the House Committee on Ways & Means General Fund, to discuss a distribution formula for new funds. We first had to determine how to allocate the funds in a fair and equitable way that would continue to allow enough new revenue to address State infrastructure issues. We then debated how to distribute the remaining funds to local governments. Also affecting the negotiations was the understanding that any new tax rate had to be one that the majority of the House and Senate could accept and adopt. These conversations began early and continued over several days – including late night phone calls – until we were at a point that none of us were satisfied with our allotment, although we all conceded there were definite improvements from the existing formula. Some political pundits would contend that a good piece of legislation is one where no one is happy. That's exactly where we found ourselves.

Negotiations Forge New Distribution Formula

We came away from those intense discussions with a distribution agreement allocating 67 percent of new funding to ALDOT, 25 percent to counties and 8 percent to municipalities. On the surface, this doesn't seem like much of an increase for our municipalities; however, many of our communities will see *more* from this new 10-cent allocation than

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ALM stood with Gov. Kay Ivey during her March 1st Rebuild Alabama press conference in Montgomery.

ALM Increases Media Presence



In keeping with the League's recently adopted strategic plan, ALM has made a concerted effort to increase its media presence leading up to and during the 2019 legislative session beginning with Deputy Director Greg Cochran (right) joining Don Dailey (left) on the January 4, 2019, episode of APT's *Capitol Journal* to discuss infrastructure and a motor fuel tax increase as well as on-line sales tax collection and unfunded mandates. Controlling the narrative and educating both ALM members and the public are imperative for successful advocacy campaigns.

"The issues facing our state today – funding of prisons, funding of infrastructure, funding of healthcare, funding of the state's worker's comp system – each of these issues is bigger than one level of government can completely fix and sustain on its own. It is going to take the community and all levels of government working together to address these issues," Cochran said. Daily Mountain Eagle, Jennifer Cohron

Greg Cochran, deputy director of the Alabama League of Municipalities, said the League and county commissions reached an agreement on the distribution of the new revenue, which allocates more to cities than they receive from the current 18-cent gas tax. "We worked with the county commissions and worked on a local funding formula that would make a more fair allocation to both cities and counties under the parameters that we had to work under that would allow a bill to pass the Legislature," Cochran said. al.com, Mike Cason

Cochran said that the first priority on their legislative agenda is passage of the motor fuel tax. "We met endless hours with the governor's office and the Alabama Department of Transportation (ALDOT). "We have come into agreement." Alabama Political Reporter, Brandon Moseley

“Cities are the economic engines of our state. That’s where the majority of people – over 60 percent – live, work and play,” said Alabama League of Municipalities Deputy Director Greg Cochran. “Having this money going into our cities really helps them create an environment that’s attractive to large industry to want to invest their resources into, and that creates the jobs and the wealth within for the citizenry to bring about a healthy city and a healthy state. I think that’s one of the reasons you look across our state with our unemployment numbers being down, our job rates being up and the income being up is all because of the health of our cities right now. And we think the time is right to use this opportunity of good economic times to reinvest in the infrastructure that we’ve really sort of ignored any major investment in over two generations now.” **Birmingham Business Journal, Angel Coker**

The League of Municipalities wants any new revenues to get distributed under a new formula, in which the state would get 50 percent of the money. Cities and counties would split the other half. The League argues that the current formula, established in the late 1960s, does not account for population shifts into cities. “We feel there needs to be negotiations reflecting where citizens are living, working and playing,” Cochran said. **Montgomery Advertiser, Brian Lyman**

“This could mean as much as \$26 million annually into our municipal portfolios to be used on road and bridge projects throughout our state enhancing the lives of citizens and families that live, work and play in those communities,” Greg Cochran, with the Alabama League of Municipalities said. **WBRC, Joshua Gauntt**

“It’s enormous,” said Greg Cochran, deputy director of the Alabama League of Municipalities, about the potential impact of the gas tax. About 66 percent of new revenue will go to the state. But a different distribution formula means municipalities get more of the new money than they do with the current 18-cent tax. Each town and city will get a base amount \$14,109, then additional money based on population. “Some communities don’t receive \$14,000 now,” Cochran said. “(The tax increase) will give small communities some money to pool for local projects.” **Alabama Daily News, Mary Sell**

Greg Cochran with the League of Municipalities said Tuesday there was an agreement between the governor, counties and cities to increase the state gas tax ... “We’re looking forward to talking with counties and the governor on adequate funding for cities,” Cochran said. **WSFA, Lydia Nusbaum**



ALM Salutes Alabama's Legislators for Supporting Gov. Ivey's Rebuild Alabama Plan

The Senate passed the measure 28-6 and the House 84-20.

Senate

District 1 - Tim Melson, R
District 2 - Tom Butler, R
District 3 - Arthur Orr, R
District 4 - Garlan Gudge, R
District 5 - Greg Reed, R
District 7 - Sam Givhan, R
District 8 - Steve Livingston, R
District 9 - Clay Scofield, R
District 10 - Andrew Jones, R
District 12 - Del Marsh, R
District 13 - Randy Price, R
District 14 - Cam Ward, R
District 16 - J. T. Waggoner, R
District 18 - Rodger Smitherman, D
District 20 - Linda Coleman-Madison, D
District 21 - Gerald Allen, R
District 22 - Greg Albritton, R
District 23 - Malika Sanders-Fortier, D
District 24 - Bobby Singleton, D
District 26 - David Burkette, D
District 27 - Tom Whatley, R
District 28 - Billy Beasley, D
District 29 - Donnie Chesteen, R
District 30 - Clyde Chambliss, Jr., R
District 31 - Jimmy Holley, R
District 32 - Chris Elliott, R
District 34 - Jack Williams, R
District 35 - David Sessions, R

House

District 1 - Phillip Pettus, R
District 2 - Lynn Greer, R
District 5 - Danny Crawford, R
District 6 - Andy Whitt, R
District 7 - Proncey Robertson, R
District 8 - Terri Collins, R
District 10 - Mike Ball, R
District 11 - Randall Shedd, R
District 13 - Connie Cooner Rowe, R
District 14 - Tim Wadsworth, R
District 16 - Kyle South, R
District 17 - Tracy Estes, R
District 19 - Laura Hall, D
District 20 - Howard Sanderford, R
District 21 - Rex Reynolds, R
District 24 - Nathaniel Ledbetter, R
District 25 - Mac McCutcheon, R
District 26 - Kerry Rich, R
District 27 - Wes Kitchens, R
District 28 - Gil Isbell, R
District 29 - Becky Nordgren, R
District 30 - B. Craig Lipscomb, R
District 32 - Barbara Boyd, D
District 35 - Steve Hurst, R
District 36 - Randy Wood, R
District 38 - Debbie Hamby Wood, R
District 39 - Ginny Shaver, R
District 40 - K.L. Brown, R
District 41 - Corley Ellis, R
District 42 - James Martin, R
District 44 - Danny Garrett, R
District 45 - Dickie Drake, R
District 46 - David Faulkner, R
District 50 - Jim Hill, R
District 53 - Anthony Daniels, D
District 54 - Neil Rafferty, D
District 55 - Rod Scott, D
District 56 - Louise Alexander, D
District 57 - Merika Coleman, D
District 58 - Rolanda Hollis, D
District 60 - Juandalynn Givan, D
District 61 - Rodney Sullivan, R
District 62 - Rich Wingo, R
District 63 - Bill Poole, R
District 64 - Harry Shiver, R
District 65 - Brett Easterbrook, R
District 66 - Alan Baker, R
District 67 - Prince Chestnut, D
District 68 - Thomas Jackson, D
District 69 - Kelvin Lawrence, D
District 70 - Christopher J. England, D
District 71 - Artis J. McCampbell, D
District 72 - Ralph Anthony Howard, D
District 74 - Dimitri Polizos, R
District 75 - Reed Ingram, R

House (continued)

District 76 - Thad McClammy, D
District 77 - TaShina Morris, D
District 78 - Kirk Hatcher, D
District 79 - Joe Lovvorn, R
District 80 - Chris Blackshear, R
District 81 - Ed Oliver, R
District 82 - Pebblin Warren, D
District 83 - Jeremy Gray, D
District 84 - Berry Forte, D
District 85 - Dexter Grimsley, D

District 86 - Paul Lee, R
District 87 - Jeff Sorrells, R
District 89 - Wes Allen, R
District 90 - Chris Sells, R
District 91 - Rhett Marques, R
District 92 - Mike Jones, Jr., R
District 93 - Steve Clouse, R
District 94 - Joe Faust, R
District 95 - Steve McMillan, R
District 96 - Matt Simpson, R

District 97 - Adline C. Clarke, D
District 98 - Napoleon Bracy, Jr., D
District 99 - Sam Jones, D
District 100 - Victor Gaston, R
District 101 - Chris Pringle, R
District 102 - Shane Stringer, R
District 103 - Barbara Drummond, D
District 104 - Margie Wilcox, R
District 105 - Chip Brown, R

On Feb. 27th, Gov. Ivey held a press conference by a 50+ year-old bridge in Maplesville to announce her Rebuild Alabama plan, which she ultimately signed into law on March 12th after a Special Session garnered impressive bipartisan support.

Photo courtesy of the Governor's Office



Thank You!



Rep. Bill Poole speaks during Gov. Ivey's bill signing ceremony for the Rebuild Alabama Act on March 12, 2019. Photo courtesy of the Governor's Office.

Why did you run for the Alabama Legislature?

I wasn't looking to run at the time, but I had just started my own solo law practice and I was really getting out in the community to network and build my client base relative to my practice. In doing so, I got to know a lot of people and got involved in a lot of organizations. At that same time, the Representative who held the seat vacated it and I had a few people encourage me to run. Ultimately, I ended up winning the primary, then general, and I have served ever since.

Your father was a city attorney for Demopolis and you were city attorney for Brookwood. Can you speak to your municipal experience and the importance of local government?

Local government is critical. It is the level of government closest to the people. In my experience, it gave me a good understanding

of municipal laws, regulations, how local policy issues impact private citizens and businesses, and how to work through some of those issues.

You've only been in the legislature since 2011 – sponsoring, championing and passing the Rebuild Alabama legislation is quite the accomplishment and a heavy lift for someone who hasn't been a career politician. What motivated you to sponsor the infrastructure funding bills and what do these new laws mean for Alabama's future?

I had worked on this issue for a long time and fundamentally believed that we really had fallen behind in our infrastructure funding. We are struggling to maintain what we have, much less expand where we have economic, population or other needs – so consequently, it was clear to me that we had to do something. This (Rebuild Alabama) was the most viable option and I felt like we had a chance to tell the story – and I am pleased that we were able to be successful.

From the time you got involved with studying Alabama's gas tax, gathering data, etc. describe what that process was like and what your greatest concern was moving forward.

I started the process around two and half years ago when I began to look at our states GDP numbers in comparison with other Southeast states and saw that we were lagging. I started thinking that certainly there is no one cause to that effect, but what are some of the issues – and I felt that transportation and infrastructure, amongst other issues, was an issue. I began to research the issue, look around the country at what other states were doing, travel to a number of conferences, gather data, etc., and begin to compare and understand that our funding levels were some of the lowest in the country – certainly the Southeast. We were falling further and further behind and were missing opportunities relative to some federal funding. I ultimately believed we just had to address the issue.

Explain why this legislation took so many years and was such a heavy lift, particularly when our sister states have already addressed infrastructure/gas tax. Why did it require buy-in from so many stakeholder groups?

It is a very complex issue that has significant ramifications in every corner of the state – with every individual citizen and every business or other component of our citizenry. Trying to strike the right balance relative to addressing as many needs as possible in every area of the state and on every level was critical. It is not easy to do – it's been since 1992 that we have updated our infrastructure funding – and I think that speaks to the difficulty and the complexity of the issue. Without having support from different areas of the state and other levels, I don't think the effort would have been successful.

As a son of rural Marengo County, an attorney and an Alabama legislator, you have a unique understanding of the struggles facing rural Alabamians, including healthcare, broadband access, education and infrastructure. What is your vision for rural Alabama and how are you working with state and local leaders to strengthen and support quality of life in rural Alabama?

Having grown up in rural Alabama, I certainly have an understanding and perspective of the issues and challenges. There are four issues you have to focus on as it relates to any community: quality education options, quality transportation/infrastructure, quality healthcare options and a competitive tax structure. It is important that we work in every level of the state, whether urban or rural, to make sure we meet those four criteria. But, it is certainly critical in rural Alabama to make sure we are competitive in those four areas.

If resources were not a challenge, what would you like to see implemented within our state?

One of the things that concerns me is that we have large area of the state that still lacks broadband internet access. In this day and age, with the economy moving the way it is and with global connectivity, we still have large communities and areas in the state that lack broadband internet access. We need to ensure that we are addressing those issues to close those gaps. We have taken some initial steps, but we certainly need to increase the urgency and have clear purpose in those efforts.

How do you define leadership?

There are two critical components: vision and courage. Whatever the issue is, no matter how big, small or challenging, you have to be able to define the issue and then be able to create a vision relative to the solution in terms of “how do we solve the problem and get to a better place.” And you have to have the courage to lead. It’s fine to have a vision, but if you don’t have the courage to lead towards that vision then the vision is really meaningless. Sometimes that courage involves consequences or struggles or controversy; sometimes it doesn’t. But having that courage to face those issues is critical.

Who has been your greatest inspiration? Why?

My father. Growing up in a small town and watching my father who was a small-town, solo attorney and seeing his passion, care and respect for the citizens he represented – helping them in a time of need, or struggle or a time of crisis and how seriously he took that – how hard he worked to help others – really had an enormous impact on me.

What would you say to the next generation about public service?

Get involved *now*. Your local community or state and our country *need* your involvement.

What legacy do you hope to leave for future generations?

Like everybody else, I would hope that I leave conditions better than I inherited them, but also to make sure that while I do so that I do it with integrity, honesty, vision and courage.

Tell me something about yourself I wouldn’t read in your bio.

I love to go on long, extended multi-day hikes in the mountains that involve a fly-fishing component. My dream is to hike the Pacific Crest Trail. ■



*Hiking with family.
Photo courtesy of Rep. Poole.*

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they currently receive from the existing 18 cents. We were also successful in negotiating additional local government funding from ALDOT through two new programs:

1. \$10 million annual grant program for local projects of public use with no local money match and
2. \$30-\$50 million annual ATRIP program for local projects of public use with a 30 percent local money match.

These funds can be used for repairing roads and bridges. In addition, counties and neighboring cities can pool these resources for larger projects.

Rebuild Alabama Act

The Alabama Legislature adopted three infrastructure bills during the 2019 Special Session: empowering the Joint Legislative Commission with additional accountability and transparency powers; establishing the new 10-cent motor fuel excise tax, implemented over three years; and funding for the Port of Mobile channel expansion:

- House Bill 1 empowers the Joint Legislative Commission with additional oversight authority and building in accountability and transparency with ALDOT projects.
- House Bill 2 establishes the new motor fuel excise tax. An additional 6 cents in 2019; 2 cents in 2020; and 2 cents in 2021. It also establishes the agreed upon distribution formula and ALDOT local government programs.
- House Bill 3 provides the funding authority for the Port of Mobile channel expansion. This project will ensure our port remains competitive and allows our Alabama companies continued access for importing raw materials and exportation of finished products.

Bottom line: our cities and towns will realize increased funding and have access to additional ALDOT funds to address local infrastructure needs in their communities.

Having spent so much time on this issue of critical importance to both our members and the State, I know firsthand the many hours, tremendous effort and compromises that had to be made to ensure new infrastructure funding could be viable. I sincerely thank Governor Kay Ivey, Senate Pro Tem Del Marsh, Speaker of the House Mac McCutcheon, Representative Bill Poole and Senator Clyde Chambliss for their leadership and for tackling an unpopular, long-neglected issue without flinching. It was not an easy task, but when one that was imperative – which is reflected in the fact

that this legislation passed both chambers of the Legislature in *five* legislative days – the least amount of time a bill can travel through the legislative process – with more than 80 percent favorable votes as well as the support of the business community, ALFA, county commissions and municipal governments. This was nothing short of historical – and the leadership that made it happen is admirable.

ALM’s Vice President Mayor Ronnie Marks of Athens joins me in thanking our state leadership for their efforts on behalf of Alabama: “Governor Ivey and her Administrative Team, working with key leaders of both the House of Representatives and Senate, are to be commended for taking on the tough issue of developing a revenue stream dedicated directly to rebuilding our roads and bridges across the State of Alabama. From North to South and from East to West, our roads are probably the worst in our history. It is not easy to take on controversial issues and it speaks highly when the Governor’s office works with House and Senate memberships toward a resolution to address critical needs like statewide infrastructure.”

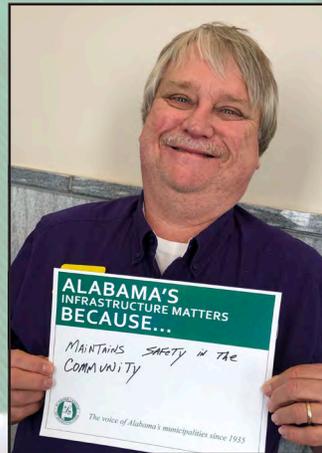
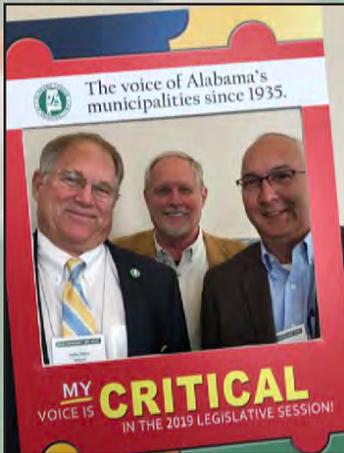
Messaging and Outreach Matter

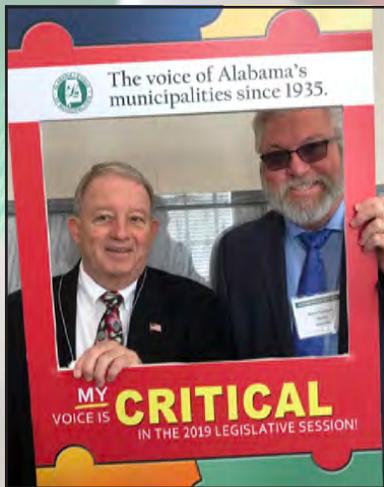
I must also acknowledge two professionals who worked tirelessly behind the scenes to keep our narrative front and center: Carrie Banks, ALM Communications Director, and Kayla Bass, ALM Public Affairs Associate. They developed and implemented an outstanding campaign identifying infrastructure funding as a critical need in our advocacy programs. We had numerous in-person interviews with statewide and local television media markets and more articles than I can count identified the League as the source for information on the needs, expectations and outcomes for infrastructure funding. We also increased our social media presence with constant updates on advocacy endeavors by both our staff and our members. These strategic engagements kept the municipal perspective in the forefront and resonated with our legislators.

Finally, I humbly thank *you*, our members, for your support. Contacting your legislators, adopting resolutions and writing op-ed media pieces made an impact. Your outreach provided Alabama’s legislators with the encouragement needed to justify their support of this critical legislation. The impressive success of this campaign – I hope – marks the beginning of how we continue to collaborate with other levels of government, special interest stakeholders and business leaders as we address and embrace challenges and opportunities to accomplish great things for Alabama. ■

Excellent Turnout for 2019 Advocacy Day!

The League's Annual Advocacy Day/Municipal Legislative Advocacy CMO held March 19th in Montgomery provided a unique opportunity for 100+ municipal leaders to hear from the state's legislative leadership and then visit with their legislative delegations at the State House. ALM thanks Senate Pro-Tem Del Marsh, Senate Minority Leader Bobby Singleton, Speaker of the House Mac McCutcheon, House Majority Leader Nathaniel Ledbetter, Rep. Kelvin Lawrence, Lt. Gov. Will Ainsworth and Gov. Ivey's Chief of Staff Jo Bonner for carving time out of the first full day of the Regular Session to speak with our delegates following the successful Special Session that passed the much needed gas tax for infrastructure improvements. In addition, attendees heard from Alex Flachsbart who discussed Alabama's Opportunity Zones and what that means for economic development possibilities throughout the state.





Congratulations Sen. Richard Shelby

Alabama's Longest Serving U.S. Senator



ALM Executive Director Ken Smith, Sen. Richard Shelby, ALM President Jesse Matthews, Council President, Bessemer and ALM Deputy Director Greg Cochran during the NLC Congressional City Conference in Washington, D.C. March 12, 2019.

On March 3, 2019, Sen. Richard Shelby became Alabama's longest serving U.S. senator when he surpassed former U.S. Sen. John Sparkman's tenure at 32 years and 60 days. In addition, Sen. Shelby is one of the most influential senators in Washington, serving as Chair of the Senate Appropriations Committee. He is a senior member on the Banking, Housing and Urban Affairs Committee and the Committee on Rules and Administration. He also serves on the Committee on Environment and Public Works.

A fifth generation Alabamian born in 1934, Shelby graduated from the University of Alabama in 1957 with a degree in political science and later from the University of Alabama School of Law in 1963. He served eight years as a state senator and four terms in the U.S. House of Representatives. He was first elected to the Senate in 1986 and has served there since Jan. 3, 1987. ■



Alexis Rawls Joins League Staff

The League welcomes Alexis Rawls as its newest staff member!

Born and raised in Prattville, Alexis was educated at East Memorial Christian Academy and Jefferson State Community College. She joined the League in late February and currently assists office administration as a receptionist.

In her spare time, Alexis enjoys spending time with family and friends, the beach and her cat, Cindy. She is a member of Heritage Baptist Church where she serves the youth and is an active member of the praise team.

NLC Congressional City Conference • Washington D.C. • March 10-13, 2019

More than 100 Alabama delegates attended this year's NLC Congressional City Conference. In addition to workshops and meetings, they heard key legislative updates from Greg Cochran, ALM's Deputy Director, as well as updates from NLC, the White House and Senators Richard Shelby and Doug Jones. District Dinners were held with five of Alabama's seven districts.



SO, YOU'VE BEEN ELECTED. NOW WHAT?

The Certified Municipal Official (CMO) program can help you begin to understand the responsibilities and requirements of an elected official. The CMO program offers education in the form of conventions, leadership institutes and webinars.

The Certified Municipal Official Program is voluntary and open to all elected municipal officials. The League conducts one-day continuing education sessions at least twice a year at four regional sites. These sessions are for elected municipal officials – mayors and councilmembers – who voluntarily wish to receive formal training in municipal government. Credit hours may also be earned by attending other League or National League of Cities conferences or through service on League committees and boards. Any official who earns 40 credit hours in the program will be awarded the designation of Certified Municipal Official (CMO). For more information, visit us at:

www.alalm.org/CMOProgram.aspx



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ADECA grant programs help Alabama's municipalities develop outdoor recreation opportunities

by Jim Plott



Editor's note: The Alabama League of Municipalities launched Live Locally Alabama in January 2018 – a grassroots campaign to encourage civic engagement, instill community pride and highlight the crucial role municipal government plays in the daily lives of Alabama's citizens. As part of this campaign, we will include a Live Locally Alabama feature in each issue of the Journal highlighting important community topics and quality of life issues that will help municipal officials and employees improve their cities and towns for the people they serve. For additional information on this campaign, visit livelocallyalabama.org.

Parks and playgrounds offer Alabamians the opportunity to enjoy the outdoors, promote physical fitness, encourage family activities and add to the overall quality of life in communities.

For years, the Alabama Department of Economic and Community Affairs has played a role in creating many of those recreational venues. Drawing upon two federal programs, ADECA's Recreation and Conservation Unit has provided grants to numerous Alabama municipalities, counties, non-profits and state agencies to establish or maintain recreational outlets.

The Land and Water Conservation Fund (LWCF), dating back to 1965, and the more recent Recreational Trails Program have been responsible for creating hundreds of trails and parks throughout Alabama. In 2018, eleven communities and state agencies were awarded \$2.7 million in Recreational Trail funds. Also, during that year, 10 Alabama communities and parks boards received a total of nearly \$1.55 million in LWCF grants.



Alabama has some unique parks like Orr Park in Montevallo. ADECA has assisted the city in completing a trail.

“As a former mayor I am aware that parks and playgrounds say so much about a community, its people and the quality of life,” ADECA Director Kenneth Boswell said. “ADECA is proud to have its signature on a large number of those projects that make our state great and create so much enjoyment.”

Primarily funded by oil and gas-lease revenues on federal lands, the LWCF, a program of the National Park Service, requires grants recipients to provide a monetary or in-kind match equal to the amount of the LWCF grant. Recreational Trails is a program of the U.S. Department of Transportation's Federal Highway administration and is designed to construct or rehabilitate trails intended for pedestrians, motorized and non-motorized vehicles, horses or a combination of those purposes.

The city of Eufaula is one Alabama municipality to take advantage of both programs. In the past 10 years, the city has received \$200,000 in grants for projects ranging from converting a former railroad track into a nearly 3.2-mile-long asphalt trail to renovating a popular playground. A \$100,000 Recreational Trails grant in 2012 helped the city undertake the Yoholo Micco Trail using an abandoned train track as its foundation. While the trail is a popular attraction for walkers, joggers and other outdoor enthusiasts, it has more to offer than pavement. Much of the trail is situated on a bluff that offers a stunning view of Lake Eufaula, and it strings together several points of interest including the city's historic downtown and mercantile district, an historic cemetery, a waterfall, a bridge over the lake and a multitude of locations for bird watchers.

Ann Sparks, director of the city's Main Street program, said the trail is popular with locals. Last year 32,000 people utilized the trail. “It affects quality of life all day long,” Sparks said.

In more recent years the city received two LWCF grants to renovate its main park, Old Creek Town Park. One of those grants helped renovate the Playground of Dreams, a multi-featured play area.

“That playground was originally built by residents, but it had become in such disrepair that we had to close it down,” said Gloria Helms, Eufaula special projects coordinator. “We were so glad when we were able to open it again. It’s a huge draw for the children, and a significant asset to the city.”

Up the road, even Lakepoint State Park has utilized ADECA trail programs to get in on the act. The state Department of Conservation and Natural Resources, which manages the park, received a \$300,000 Recreational Trails grant in 2017 to create further attractions for its visitors. To appeal to the older population which frequents the park, the department is building a nature trail for low-powered, reduced noise vehicles like golf carts.

In some cases, parks almost beg to be built. That was the case in the town of Section when landowners donated



An ADECA recreation grant helped restore Eufaula’s Playground of Dreams. Photo courtesy of The Eufaula Tribune

a 13.5-acre site overlooking the Tennessee River with the stipulation that it be open to the public. The site, now known as Weatherton Park, almost automatically makes any list of Alabama’s top scenic vistas.

“It has kind of become what Section, Alabama is known for,” said Mayor Rick Hanback. “You would be surprised at the number of vehicles with automobile tags from different states that you see there daily. Most people come to see the sunsets.”

To enhance the site, the city has applied for and received two RTP grants totaling nearly \$200,000. The first grant enabled the town to build a walking trail. The second grant, awarded in 2018, is helping the town build restroom facilities and additional parking.

“These grants have really helped us do some needed projects,” Hanback said. “We don’t want to overdo it by adding a lot of things there, but we do want to keep it as safe as possible which is why we requested the parking area.”

Applications for both programs vary but are advertised on the ADECA website, adeca.alabama.gov. Grants are generally awarded in the fall or early winter.

“It should go without saying that these two programs have had a tremendous impact on improving recreation in Alabama,” Boswell said. “Whether it is a community park in a small town or a large state park they all bring enjoyment and knowing that puts a smile on my face.” ■



Volunteers play an important role in trail partnerships like helping to build this mountain bike trail at Chewacla Park in Auburn. ADECA, the Alabama State Parks, Central Alabama Mountain Pedalers and the Auburn-Opelika Tourism all assisted in the trail.

The Legal Viewpoint

By Rob Johnston, Assistant General Counsel



CBD Oil Has Come to Town!

Unless you've been in hiding since late 2018, chances are you've seen or heard about CBD oil. CBD (cannabidiol) is a naturally occurring cannabinoid extract, which comes from either marijuana or hemp plants. The CBD oil derived from hemp, does not result in the "high" that is caused by higher amounts of the chemical tetrahydrocannabinol (THC) found in marijuana. THC is the substance commonly tested for under drug testing policies.

The popularity of CBD oil products has skyrocketed across the United States. While the U.S. Food & Drug Administration has only approved Epidiolex, which contains CBD for the treatment of seizures, there is a growing interest in CBD oil products by those looking for help with a variety of health issues such as anxiety, depression, insomnia and post-traumatic stress disorder. Consumers are also looking to CBD oil products for relief from pain and inflammation.

On December 20, 2018, the Agricultural Improvement Act of 2018, commonly known as the 2018 Farm Bill, became federal law. Under the new law, hemp, defined as cannabis containing not more than 0.3% of THC, was removed from the list of federally controlled substances. As a result of that removal, CBD oil derived from hemp can now be legally produced, sold and possessed in the United States. While the farm bill allows states to restrict or regulate the production of industrial hemp, at this time Alabama has not done so. Therefore, according to the Alabama Attorney General's office, so long as the THC concentration is 0.3% or less, CBD oil derived from hemp is legal in Alabama.

From the moment CBD oil became legal, news of CBD products coming to Alabama has become a daily occurrence. CVS confirmed that it has started selling CBD creams, sprays and lotions in its Alabama stores. Coffee shops in Birmingham are serving CBD oil-infused lattes. The Alabama Department of Agriculture approved applications from 180 farmers who want to grow hemp, with the first crop being planted this past April and harvested by late summer. These stories are likely to be just the tip of the iceberg for what Alabama's municipalities will encounter from this trendy product.

How Does this Affect Municipalities?

What does all this mean for your municipality? Many issues are raised by the legalization of CBD oil derived from

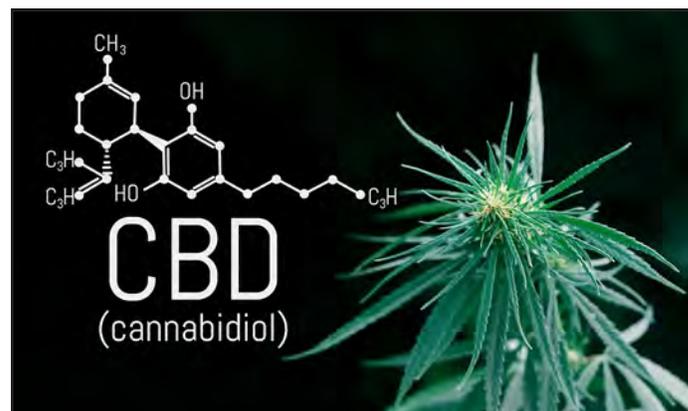
industrial hemp, and unfortunately, there are very limited answers at this time. The League is receiving inquiries as to whether municipalities can restrict the flow of CBD oil products by doing things such as denying business licenses or passing ordinances banning them. While it might be tempting to say "not in my municipality", for better or worse, or whether you agree or disagree, CBD oil products derived from industrial hemp are legal.

You may recall that several years ago there was a law passed regarding adult businesses. Many municipalities wanted to restrict licensing them in their jurisdictions. However, if the adult business complied with the state law, they were considered a legal business and could not be denied a local business license. Unless and until we have further guidance from the Attorney General or the Legislature, the same is true with hemp derived CBD oil products.

Now that CBD oil made from hemp is legal in Alabama, CBD oil products can be sold and possessed in your municipality. As such, the League is of the opinion that a municipality cannot simply prohibit the sale of hemp derived CBD oil or deny business licenses for the sale of CBD oil products. On the positive side though, legalization of CBD oil from hemp now gives municipalities authority to include CBD oil product sales when issuing business licenses. Municipalities can also collect sales tax on CBD oil products in most instances.

THC Concentration and Drug Testing

Certainly, a municipality can check to make sure that the CBD oil products being sold comply with the 0.3% THC



concentration limit; However, we would caution about using any type of “quick strip” test that is merely testing for the presence of THC. At this time, we are not aware of state-approved testing methods for THC levels in CBD products. These will likely come once state regulations are created.

CBD oil products are relatively new and do not have many clearly-stated regulations. Also, there is a high volume of CBD oil producers where there is a broad range in the quality level. This creates the possibility that some products may contain inaccurate amounts of THC from what is stated on the product packaging and may exceed the legal federal limit. Many states will be playing catch up in figuring out the best methods for regulating CBD oil products.

While some states require facility monitoring, laboratory testing and labeling laws for cannabis products, Alabama has not yet implemented regulations on this newly-legal product. Unless vendors in Alabama use independent lab tests for every batch, it will be difficult for

consumers to truly know the THC level they consume from CBD oil products.

CBD Oil Products and the FDA

While CBD oil derived from hemp is now legal, the federal regulatory authority of the Federal Drug Administration (FDA) still applies. The FDA issued a statement in response to the farm bill noting that Congress explicitly preserves the FDA’s authority to regulate products containing cannabis or cannabis-derived compounds under federal law. The FDA has posted answers to questions on its webpage, “The FDA and Marijuana: Questions and Answers,” to help the public understand how the FDA’s requirements apply to these products and said it intends to update its webpage to address questions regarding the Farm Bill and regulation of these products generally. That information can be accessed at www.fda.gov/NewsEvents/PublicHealthFocus/ucm421168.htm#sec7606.

This topic will continue to develop in the months ahead. The League Legal Department will continue to provide information as it becomes available. ■

F.A.Q.

Your Frequently Asked (Legal) Questions Answered
by Assistant General Counsel Teneé Frazier

Public Funds: Can municipal officials and employees receive per diem for travel and related expenses?

No. Unlike state officers and employees who are specifically authorized to be reimbursed on a per diem basis under Section 36-7-20, Code of Alabama 1975, municipal officials or employees can only be reimbursed for actual travel expenses incurred. See Section 36-7-1, Code of Alabama 1975. Itemized statements must be presented to the municipal treasurer, and the council will approve or disallow the expenditures at a regular meeting held within a period of 30 days after presentment. See Section 36-7-2, Code of Alabama 1975. Advances for expenses are permitted only if they are allowed by a resolution adopted by the council. See Section 36-7-3, Code of Alabama 1975. Provided however, even when expenses are advanced, an itemized statement of actual expenses must be presented by the officer or employee immediately upon return to the municipality. Section 36-7-4, Code of Alabama 1975.

With regard to municipal officials, it is recommended that municipalities adopt the practice of reimbursement or paying the actual expenses incurred in the performance of official duties upon affidavit of the official who incurred the expenses. This method generates a record for the disbursing officer and evidences the fact that the payments are not made in such a manner that they might be regarded as unauthorized salary increases for municipal officials. AGO 81-187. The municipal governing body may authorize flat expense allowances for city officials for expenses incurred by them in the performance of their official duties provided that the amount of such allowances bears a reasonable and substantial relationship to the actual expenses incurred by the officers. However, this expense allowance could not include reimbursement for expenses incurred while traveling or remaining beyond the limits of the municipality. Such expenses should be handled in accordance with Sections 36-7-1 and 36-7-2 of the Code. AGO 80-377. Although, there is no specific statutory grant of power to pay for the training expenses, the Attorney General’s Office has previously determined that public funds could be used to pay for the training of public employees. AGO 2014-057. However, the training must be related to the duties of the employee and serve a public purpose. Likewise, the general rule appears to be that public funds can be used to pay for a municipal official’s training expenses so long as they are reasonable and necessary for the performance of his official duties and serve a public purpose. AGO 2004-169. This determination must ultimately be made by the municipal governing body. ■

OUTDATED SOFTWARE CAN EXPOSE CITIES TO CYBERATTACKS

</*_MICHAEL CHIHLAS*_SENIOR CONSULTANT
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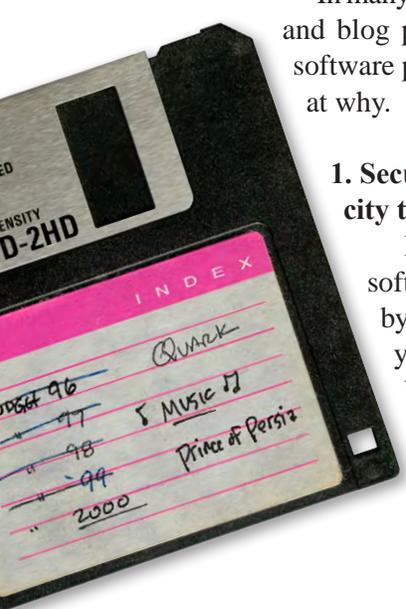
Over the past few months, various news items continue to emerge about municipalities opening themselves up to data incidents and cyberattacks from outdated software. For example, 200 Vermont municipalities using New England Municipal Resource Center (NEMRC) software had the personal information of city employees and citizens exposed by a security vulnerability from unpatched software.

Cyware reported, “Started in 1984, NEMRC used a Microsoft program called Visual FoxPro which was discontinued in 2007. In fact, Microsoft stopped providing support to Visual FoxPro in 2015.” That means Microsoft stopped providing security patches since 2015.

Bleeping Computer recently reported that “55 percent of all programs installed on personal computers running Windows are outdated according to an Avast report, exposing their users to security risks because of unpatched vulnerabilities.” In addition, the Avast report points out that “in more than 94 percent of cases users who have installed Adobe Shockwave, VLC Media Player, and Skype on their computers haven’t updated them to the latest versions.”

In many of our training workshops, articles, and blog posts, we point out that outdated software puts cities at risk. Let’s look closer at why.

1. Security vulnerabilities expose your city to cyberattacks.



First, the obvious. Outdated software is often no longer supported by the vendor that made it. That means you no longer receive patches for bugs and security vulnerabilities. Without vendor-approved patches, you are exposing your city to significant security risks that hackers exploit.

When you don’t patch old software or try to cobble something together, it’s simply not good enough to counter the sophistication of hackers. Outdated software increases your risk of ransomware, malware, viruses, data breaches and data exposure.

Another security vulnerability that crops up is trusting that a third-party provider somehow successfully manages the security of the outdated software. In the case of the New England software above, the Vermont municipalities trusted the third-party provider. However, outdated software is outdated software, even if someone attempts to “support” it. The situation in Vermont shows that you need to proactively ask if third parties are effectively securing and patching the software. **Any software that cannot be patched and updated is a high risk.**

2. Clinging onto old software leads to excessive costs.

If the software vendor doesn’t support the software anymore, someone else must make a best effort attempt to keep the system going. That someone will have limited capability to support the system and resolve issues. They will not be able to patch and update the system. This, again, is high risk.

That someone is usually an overworked IT staff member, a high hourly billable IT resource or a company that’s charging high rates to maintain something so old. Old software, like a car, will also break often, requiring even more repair time and money.

There comes a point when the high risk and unpredictable maintenance costs have far surpassed the costs of an upgrade to modern software, and an upgrade will staunch your financial bleeding.

3. An inability to use modern functionality.

Consider your phone as an example. Are you using a Blackberry from 2004? An iPhone from 2009? A Droid

from 2010? Why not? Your phone wouldn't be able to handle modern applications like GPS, music streaming or watching videos. The same is true for your city's outdated software. Software evolves very rapidly, and it increases the expectations of what users can do with it. If your software can't perform basic, expected functionality, then it starts to affect how you do business and you will fall behind in productivity compared to other cities and businesses.

4. An increased risk of business disruptions.

Your citizens depend on you. Your elected officials depend on you. Your city staff depend on reliable tools and technologies. Yet, old software freezes, breaks and fails. It's not reliable. To "save" money, you're literally putting up with something that risks disrupting your city's services and affects the way you serve your citizens. Modern software is more reliable, secure and faster.

5. An inability to integrate with modern technology.

Outdated software also usually has trouble integrating with modern technology. Examples include:

- An inability to integrate with a newer operating system such as Windows 10, causing you to stay on another

unsupported software platform (like Windows XP) or silo your software from the rest of your technology.

- An inability to store data in the cloud, meaning you will not be able to access that data from anytime, anywhere.
- An inability to integrate with mobile devices. Unlike many of your applications (such as email and documents), you won't be able to access your software on your phone.

Newer software often has built-in integration with modern technologies and will seamlessly work across multiple devices. If you're hitting walls with technology, such as not even being able to run it properly on your city's computers, then you need to look at an upgrade.

It's not saving you money!

Old software is one of the most misleading "cost savers" at cities because it's not really saving you money. Quite the opposite. In addition to bleeding money, it also heavily risks your city operations and slows you down unnecessarily – similar to using that 2004 Blackberry phone in 2019. Upgrading your software will give you fast, reliable and secure applications to help your city do its best work. ■

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Oct. 29 - Authority to Expend Municipal Funds

Nov. 26 - Annexation & De-annexation of Municipal Property

Visit www.alalm.org for more information

an independent consultant who surveyed our membership to determine the League's future direction. You are already seeing the implementation of changes flowing from that plan. The League will continue to adjust as needed to meet member needs and expectations.

Shared Services

The goal of shared services is also woven into the various programs the League has carefully authorized for our members. In the 1940s, the League developed a program for the collection of delinquent insurance license fees; in the '70s, we developed a program to provide workers compensation insurance; in the '80s, we developed a program to provide property and casualty liability insurance. In early 2000, we created a bond pooling program.

Most recently, we have created a debt set-off program, the Municipal Intercept Service, which works with the Alabama Department of Revenue to off-set delinquent debts that are owed from individual State tax refunds. This is a process that has been in force for many years for several State agencies but until 2014, was not possible for municipalities or counties. We structured MIS so that it is available *at no cost* to our members. At the time this article was written, MIS has returned nearly \$5,000,000 to League members, and has become a model for other state municipal Leagues.

Some League affiliate services are available from other entities. Some, like MIS, can only be provided by the affiliate

program. But in each case, these entities were created to meet a specific membership need, hoping that by focusing on municipal issues directly, the needs of League members are better represented than they are by private groups.

The League is proud of the work it has done to help our members address their needs and of our partnership with these affiliated programs. I encourage you to explore these options as you continue to do all you can to serve your constituents.

The League's greatest asset, in my estimation, is our individual staff members and the expertise they can offer you. With a phone call or email, you can find answers to your most vexing questions. While you may feel that your situation is unique, we find that in most instances our staff has previously researched and resolved many similar issues. I encourage you to tap into our wealth of knowledge next time you are confronted with a challenge.

Stay in Touch

I urge you to stay in touch with the League. We're here to serve you. There are many opportunities for engagement with the League as your statewide municipal association. Our purpose is to help you do your job at the local level as effectively as possible. Take advantage of the services we provide and join us as we all strive to strengthen the municipalities that make Alabama great. ■



Congratulations to MIS for surpassing the \$4 MILLION mark!

**\$ 4,754,129.97 has been recovered on behalf of
our member entities as of April 15, 2019!**

MIS is NOT a debt collection agency or service. It is a unique way to attempt to recover money owed to your municipality by "intercepting" an individual's Alabama State tax refund. Debt collection agencies can NOT offer you this service. **MIS is Alabama's only state tax refund municipal debt recovery program.** MIS is a legislatively sanctioned conduit with the Alabama Department of Revenue (ADOR) that enables ADOR to recover delinquent debts owed by individuals to your municipality by collecting this debt from the individual's Alabama state tax refund.

Go to www.alintercept.org to find out how MIS can work for you!

Playground Safety Tips

Todd McCarley • Loss Control Representative • AMIC/MWCF

Municipal playgrounds are popular family destinations within many cities and towns; therefore, safeguarding and maintaining the equipment is vital. Below are several key steps that should be taken to ensure your citizens have a great experience each time they visit your municipal playground.

1. Have proper surface material around playground equipment. Avoid asphalt, concrete, grass and soil. Acceptable surfaces include shredded rubber, mulch or fine sand.
2. Surfacing should be at least 9 inches deep and extended a minimum of 6 feet in all directions around stationary equipment.
3. Surfacing may need to extend further than 6 feet depending on the height of the equipment.
4. Check equipment frequently for sharp points, corners and edges that can develop as a result of wear and tear on the equipment.

Instruct parents and guardians to:

- Always supervise children when using playground equipment.
- Remove hoods and drawstrings from the child's clothing.
- Ensure that children play on age appropriate equipment.



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