January 20, 2017

Chairman Jason Chaffetz
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Chaffetz,

On behalf of the National Association of Counties (NACo) and the 3,069 counties we represent, we thank you for your efforts to study and minimize the effects of unfunded mandates on state, local and tribal governments and private entities. As an integral part of the federal-state-local intergovernmental process, counties are directly impacted by federal unfunded mandates and look forward to working with you on this effort.

Counties are highly diverse across our nation and vary significantly in size, population, natural resources, political systems and cultural, economic and structural circumstances. Yet, as an arm of the state, counties are mandated through federal and state law to fulfill many responsibilities at the local level. Additionally, county governments directly affect the economic vitality and quality of life in their communities. This role encompasses a range of services, from maintaining 45 percent of America's roads to supporting nearly 1,000 hospitals to keeping communities safe through law enforcement. These services require massive resources including more than $106 billion annually in building infrastructure and maintaining and operating public works, more than $53 billion annually in construction of public facilities and nearly $70 billion annually for community health and hospitals.

County governments exist to deliver public services at the local level, with accountability to our constituents and communities as well as to state and federal authorities. In fulfilling this mission, counties are not only subject to state and federal regulations, but also help to implement them at the local level. Therefore, as both regulated entities and regulators, it is critical that counties be fully engaged as intergovernmental partners through the entire federal regulatory process—from initial development through implementation.

While responsibilities are shared among all levels of government, the primary oversight for these programs occurs at the local level. In recent years, under both federal and state rules, county responsibilities have expanded, without additional funding to meet these new requirements, creating unfunded mandates for our counties. This leaves counties in a precarious position. On one hand, we are obligated under law to implement these new requirements; on the other hand, counties are limited by the states in our ability to adequately raise revenue. This dynamic often forces counties to prioritize spending set in a manner that is often at odds with community needs.

Counties are further challenged because states are limiting counties' revenue authority to fund these essential services. The main general revenue source for most counties is property and sales taxes. However, while counties in 45 states collect property taxes, under state law, we only can keep about a quarter (23.7 percent) of the taxes collected. **Additionally, 42 states limit the authority of counties to raise or change property taxes.** This limits a county's ability to effectively raise additional revenue to pay for unfunded mandates. Attached is a 2016 NACo report, "Doing More with Less: State Revenue Limitations and Mandates on County Finances," which further explains county fiscal restraints.

In addition to implementing state and federal programs, local governments are also expected by their constituency to provide local services, like law enforcement and after school programs. **When the cost of unfunded mandates outweighs available funds, counties often have to make difficult budget choices on these services—for example, do we cut hours at local libraries, delay road and bridge maintenance projects or even cut back on police or fire services?** Ultimately, when counties are faced with these difficult choices, it is our residents and local communities that are negatively impacted.

To aid your efforts of studying unfunded mandates, we have listed below several examples of existing and proposed federal regulations that create unfunded mandates on our counties. Additionally, attached to this letter is a more comprehensive list of unfunded mandates that impact local governments.

Medicaid: Uncompensated Care for Counties

Nationally, counties invest $83 billion annually in community health for more than 300 million residents nationwide. Through 961 county-supported hospitals, 883 county-owned and supported long-term care facilities and 1,943 county public health departments, counties deliver health services to millions of Americans, including many Medicaid beneficiaries. Additionally, through 750 county behavioral health authorities and community providers, county governments plan and operate community-based services for persons with mental illnesses and substance abuse conditions which represent 75 percent of the U.S. population.

The majority of states require counties to provide some level of health care for low-income, uninsured, or underinsured residents—but this care is often not reimbursed. In 26 states, counties contribute to the non-federal share of Medicaid. In fact, local governments, including counties, may contribute up to 60 percent of the non-federal share of Medicaid costs in each state. For example, in

2015, Montgomery County, New York, noted that federal and state mandates consume 86 percent of the total tax levy for the county, a majority of that figure consists of the county's local share of Medicaid, which consumes 44 percent of the county's property tax collection. After paying for the federal and state mandates, the county was left with only slightly less than $4 million for all other services and functions of county government.

Providing Costly Health Services for Individuals in Jail

At a cost of $176 billion annually, criminal justice and health systems are a huge budget item for counties. As owners and operators of 87 percent of the nation's jails, we are required to provide adequate health care for individuals entering the criminal justice system, even for those individuals who are awaiting trial and presumed innocent. Under federal law, once a person is booked into jail, they become ineligible for Medicaid coverage, and the jail assumes all medical and/or mental health care service costs for that individual until they leave the jail. This is a significant expense for counties since it is estimated that 68 percent of inmates have a history of substance abuse, 64 percent of inmates struggle with mental illness and 40 percent have a chronic health condition. Ultimately, these extra expenses are borne by county tax-payers.

For example, in 2014, in State of Washington, King County Public Health paid $29 million in health care services for incarcerated people in the custody of the King County jail, which accounted for 20 percent of total jail costs for the county. According to the 2011 Indiana State Healthcare Spending Report, the average national healthcare cost for inmates is $3,025 per month. However, the cost could be significantly higher depending on the health of the individual in jail.

"Waters of the U.S.": Costly Maintenance and Permitting Requirements

While NACo has numerous examples of the impact of environmental mandates on counties, the most significant examples come from the current Clean Water Act's (CWA) definition on "waters of the U.S." (WOTUS) or Clean Air Act (CAA) regulations.

Under CWA, many of the basic functions of county government, including ownership and maintenance of roads and roadside ditches, bridges, stormwater systems and flood control channels, are regulated under federal water programs. Ditches, in particular, are pervasive across the nation and, until recently, were never considered to be jurisdictional under WOTUS. However, in the last decade, certain Army Corps of Engineers (Corps) districts have inconsistently found public safety ditches jurisdictional. Once a ditch falls under federal jurisdiction, the CWA Section 404 permit is triggered, often leading to extremely cumbersome, time-consuming and expensive processes.

One Midwest county recently studied five road projects that were delayed over a period of two years as the county awaited federal permits. Conservatively, the cost to the county for the delays was $500,000. Some counties have missed building seasons waiting for federal CWA Section 404 permits.

Further, while the CWA Section 404 permit contains provisions to exempt ditch maintenance activities, these provisions are unevenly applied. For example, a county in Florida applied for 18 specific maintenance exemptions on the county's network of drainage ditches and canals. Due to the complicated federal permitting process, the county had to hire a consultant to compile the data and surveying materials that were required for the exemptions. Within three months, the county had spent $600,000 and was still waiting for 16 of the exemptions to be determined. Due to the time-consuming maintenance process, the county was unable to maintain upkeep of the ditches, resulting in extreme flooding in residential areas.

Tighter Air Quality Standards: EPA's Clean Air Act Rules

As both regulated and regulating entities, counties are uniquely positioned to play a key role in the development and implementation of CAA regulations. Counties fulfill both of these roles and are responsible for ensuring that CAA goals are achieved. This is demonstrated under the CAA National Ambient Air Quality Standards (NAAQS) program. NAAQS establishes national air pollution limits for ozone, particulate matter, carbon monoxide, lead, sulfur dioxide and nitrogen dioxide.

New NAAQS rules have a significant impact for counties who are required to implement and enforce new air pollution rules and regulations at the local level, such as implementing rules governing open-air burning or limiting vehicle emissions. Implementing these new rules and regulations can be costly for local governments and may have an unintended impact on local economic development efforts. Many of our counties have watched businesses and industry find alternative locations for their plants outside of NAAQS nonattainment areas to avoid new requirements. This impacts the ability of counties to attract and retain businesses within their borders.

For example, in the last several years, Berks County, Pennsylvania, was placed on a maintenance plan for the 2008 NAAQS for lead, which led to tighter air quality requirements in the county. This, in turn, led to a major coal-fired power plant closing. As a result, 75 employees lost their jobs and the county lost $44,403 in annual tax revenue.

DOL's Overtime Pay Rule: Requiring County Employers to Make Difficult Decisions

In May of 2016, the U.S. Department of Labor (DOL) released a final rule that would increase the salary threshold for "white collar" employees who are eligible for overtime pay from $23,660 to $47,476. Since counties employ over 3.6 million people, the rule could have the unintended effect of placing additional strain on already limited county budgets throughout the country, hindering our ability to provide crucial services to our local communities.

For example, in Sebastian County, Arkansas, which has a population of 127,342, under DOL's new rules, 35 of the county's current 382 full-time employees are eligible for overtime pay. This will result in an additional unexpected financial burden of almost $228,000 in the first year alone, which may reduce incentive compensation opportunities and require county employers to make difficult employee decisions.

After the DOL rule was finalized, Mineral County, a small rural county of 4,478 in western Nevada, determined that at least ten percent of their workforce would be impacted by the new rule. This would be significant for a county of this size and it led the county to make several difficult decisions on cutting non-essential but popular community programs. For example, the county assessed whether to close the county's sole library, which was a key source for Internet access to the residents, or severely limit access to its library resources. These examples highlight the challenges our counties faced with the new DOL overtime rule.

Preemption of Local Tax Authorities: Internet Tax Freedom Act

Most counties are limited in their abilities to collect additional revenue to pay for mandated and un-mandated public services and find themselves depending heavily on property and sales taxes. This dependence was put to the test in 1998, after Congress passed the Internet Tax Freedom Act (ITFA) which limited state and county ability to collect Internet sales tax and has resulted in a loss of hundreds of millions of dollars. Since counties own and maintain the roads, bridges and other public infrastructure used to deliver goods purchased online, it is reasonable that a portion of the Internet sales should be dedicated to supporting this infrastructure.

The scale of lost revenue that local governments are facing is evident in the fact that the seven states (Hawaii, New Mexico, North Dakota, Ohio, South Dakota, Texas and Wisconsin) who are grandfathered under ITFA—and thus allowed to collect Internet tax revenue—are collecting over $500 million a year in taxes. Counties in non-grandfathered states doubtlessly feel the impact of this loss of revenue on their already strained budgets.

For example, in Georgia alone, local governments lost $737 million in revenue in 2013. And in the State of Washington, local governments lost $663.8 million in uncollected sales tax revenue during the same year.

These examples demonstrate the heavy burden that unfunded mandates continue to place on counties. Reforms to the Unfunded Mandates Reform Act of 1995 (UMRA) are needed to

remedy this situation and enable counties to provide needed services to local communities. NACo's suggestions for such reforms are respectfully listed below.

Strengthen the Federal-State-Local Rulemaking Partnership

Over two decades ago, Congress passed UMRA. While UMRA resulted in progress on unfunded mandates, further improvements are needed to strengthen the federal-state-local government partnership.

Over the last few decades, UMRA's Title I has helped to identify and reduce the number of mandates in the legislative process. Specifically, it established a procedural framework to shape how Congress considers proposed legislation that could place unfunded mandates on state and local governments. According to the Congressional Research Service (CRS), since UMRA's enactment, unfunded mandates in proposed legislation were found in only one percent of over ten thousand cost estimates prepared by the Congressional Budget Office (CBO).

However, UMRA's Title II consultation process with federal agencies has not been as effective as Title I. Under UMRA's Title II, each federal agency is required to consult with state and local governments to assess the effects of federal regulatory actions containing intergovernmental mandates. However, UMRA leaves the responsibility up to each agency to develop its own consultation process and provides no uniform standards for agencies to follow. As a result, the requirement has been inconsistent and each agency's internal process is different.

Many of the issues could be prevented if counties were regularly consulted in the rulemaking process. Meaningful consultation early in the process not only reduces the risk of unfunded mandates, but also results in more pragmatic and successful strategic for implementing federal policies. If the federal government works with counties, we can strengthen legislative and regulatory processes and craft rules that relieve the pressure of unfunded mandates on local governments.

For example, while EPA has an internal guidance document that governs the agency's interactions with state and local governments on pending rules, it is inconsistently applied at the agency. Under *"EPA's Action Development Process: Guidance on Executive Order 13132: Federalism,"* it states that states and local governments must be consulted on rules if they impose substantial compliance costs of $25 million or more, preempt state or local laws and/or have substantial direct effects on state and local governments. For rules that trigger this requirement, EPA is required to consult in a "meaningful and timely" manner with a specific set of state and local elected officials or their organizations. In theory, EPA's guidance is a good first step in strengthening the consultation process, however, if the policy is haphazardly applied, the agency loses valuable insight into how proposed rules and regulations impact state and local governments.

The bottom line is that Congress should require federal agencies to engage with state and local governments often, and as early as possible, when considering proposed and pending rules that have a direct impact on state and local governments. Meaningful consultation with counties and local governments early in the rulemaking process would not only reduce the risk of unfunded mandates, but would result in more pragmatic and successful strategies for implementing federal policies.

We thank you for your time and stand ready to work with you to strengthen the regulatory process between federal, state and local governments that we hope will result in successful strategies for implementing federal policies.

Sincerely,

Matthew D. Chase
Executive Director
National Association of Counties

UNFUNDED MANDATES AND OTHER REGULATORY IMPACTS ON COUNTIES

U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA)	
Clean Air Act	Compliance with federal air pollution standards, including, but not limited to, monitoring air quality; retrofitting stationary and mobile sources of pollution and obtaining required permits; ozone and particulate matter (PM) standards for PM 10 and PM 2.5. While tighter standards for PM 10 have been temporary tabled, the reconsideration process for air standards resets every five years.
Particulate Matter Standards	Mentioned briefly above, lowering PM standards is problematic, especially for rural areas, where practices governing regular everyday events such as cars driving down dirt roads and agricultural practices that sustain local economies could be regulated, as could natural events such as wildfires, droughts or wind storms. Because of the high, naturally occurring, dust levels found in arid climates, many western counties have a difficult time meeting the current PM standard. This, in turn, affects their economic base, which will further restrain economic recovery. Based on previous experience, non- attainment areas have difficulty maintaining and attracting businesses to their regions, since these businesses would have to operate under the tighter standards. Most businesses chose to relocate or not even build in a non-attainment area.
Ozone Standards	In Oct. 2015, after months of discussions, the U.S. Environmental Protection Agency (EPA) released its final rule to tighten the National Ambient Air Quality Standards (NAAQS) for Ozone from 75 parts per billion (ppb), last set in 2008, to 70 ppb. Ozone designations can have a significant impact on county governments, both as regulators of Clean Air Act programs, and as regulated entities. Currently, 227 counties, primarily urban and in the East, are regulated under ozone air quality standards. Under the new 70 ppb standard, the number of impacted counties is expected to increase.
Clean Water Act	Compliance with federal regulations and mandates related to: county owned water and wastewater treatment regulations; combined and sanitary sewer overflow consent decrees; "Waters of the U.S." definitional changes (refer below for more specific problems with the navigable "waters of the U.S." regulation program); regulation of point and non-point discharges (including those from forest roads), including standards for improving and maintaining water quality; stormwater regulations; and inconsistent blending and bypass rules.
Pesticides Regulation	The general permit for pesticides became effective the end of October, 2011. NACo has heard mixed reviews from our counties. Some counties, have changed spraying patterns, which may not be as effective as previous practices. The general permit has a heavier paperwork burden for spraying activities. Since county governments serve as primary service providers for their residents, this permit has significant effects on county programs, particularly mosquito abatement and noxious weed control efforts, creating unfunded mandates for both urban and rural counties through the tight reporting requirements. Additionally, the final "Waters of the U.S." rule may trigger expanded regulation for counties.

U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA)

Stormwater Regulations	CWA stormwater regulations, also known as municipal separate storm sewer systems (MS4s), apply to counties with populations of 100 thousand or more and certain counties in or near urban areas. MS4s are required to meet water criteria standards, generally through Best Management Practices (BMPs). However, in recent years MS4 permits are moving away from BMPs to stricter nutrient numerical limits which can make it both infeasible and very expensive to comply with permit requirements.
Blending and Bypass	In a March 2013 court case, *Iowa League of Cities v. EPA,* the U.S. Court of Appeals for the 8th Circuit struck down EPA's prohibitions against the practice of blending wastewater at Publically Owned Treatment Works (POTW) during wet weather events and against the use of mixing zones in permits for compliance with bacteriologic standards. Despite requests by NACo and other local government groups that this practice should not be prohibited nationwide, EPA stated that the use of blending and bypass is only applicable to areas within the 8th Circuit Court's jurisdiction and not applicable to other areas of the country. This court decision should be applied to all regions rather than just to the 8th Circuit Court region.
Drinking Water	Establishes maximum contaminant levels for contaminants in public water systems and specifies treatment techniques to be used. Upcoming regulations that will have a direct impact on local governments that own/operate drinking water facilities include the lead and copper rules and the cyanotoxin advisory requirements.
Resource Conservation and Recovery Act	Local governments who own landfills and underground storage tanks are subject to federal standards regarding location, operating criteria, groundwater monitoring, corrective actions, closure and post-closure care. For Superfund sites, the issues stem from institutional controls such as zoning around sites, setting and enforcing easements and covenants and overseeing building and/or excavation near sites.
Brownfields Redevelopment/Dioxin	Brownfields redevelopment has created some of the biggest success stories for local governments. However, the EPA is assessing whether to tighten its dioxin levels to a point that would halt all brownfields development in the nation. While dioxin can be created as a byproduct through manufacturing, it is also naturally occurring. The levels the EPA proposed to lower dioxin are equal to many naturally occurring levels. NACo would urge the EPA the revisit the science used behind the health standards. Otherwise, this could be a huge loss for local governments.
Risk Management Program (RPM)	On Dec. 21, 2016, the EPA finalized a rule which amends their Risk Management Program (RMP) safety regulations for chemical facilities. While geared toward facilities with chemicals, the revised rule also has an impact on municipal owned and maintained water and wastewater plants and local emergency responders.

ARMY CORPS OF ENGINEERS – SPECIFIC PROBLEMS DEALING WITH THE 404 PERMIT PROGRAM (EPA & USACE)	
Compensation Wetland Mitigation	Rule issued in conjunction with EPA. Local governments request added flexibility in meeting wetland mitigation requirements. Specific example includes variance between state and federal requirements. In this case, the state has an expanded set of options to meet the requirement that is not necessarily followed at the federal level. Therefore a local government may satisfy state requirements but not be able to meet federal requirements.
Ditch Drainage Requirements	The excessive amount of requirements necessary to provide information for USACE to review before a project is approved is both costly and time consuming for counties. For example, a county that wished to pursue and complete a drainage project was informed that the following was needed by USACE before work could be started: detailed plans showing existing condition, photos of areas where work will be done, details concerning existing water surface elevation, ordinary high water line, calculations of amount of material to be excavated, and a wetland delineation. Just to do this, the county would need to hire engineers to survey and perform calculations. All of this would significantly add to the cost of the project without necessarily ensuring clean water.
Post construction requirements – 404 Permit Related	The post construction monitoring process adds costs for channel rebuilds and other mitigation measures. For example, one county, after completion of a bridge replacement project, was required by NOAA Fisheries and FHWA to reinitiate formal consultation due to shifting boulders in the stream bed. State fish and wildlife officials supported the county in its objection and in its request to allow the channel to continue to stabilize. An updated BA and additional reporting would cost the county $50,000 in this instance. Should the reconstruction of the stream bed be required by the agencies, almost $1M in additional costs could be incurred.
Waters of the U.S.	Any changes to “Waters of the U.S.” definition within the CWA will have an impact on county owned and maintained ditches such as roadside, flood control, stormwater, etc. Additionally, since there is only one “waters of the U.S.” definition in the CWA, changes would impact more than the Section 404 permit program.

TRANSPORTATION	
Grant Requirements	Requirements do not provide flexibility during implementation phase. For example, a county applies for funding to install electronic dynamic driver feedback speed limit signs. The county would like to purchase the signs using grant funding and then use county resources (e.g. staff) to install them. Requirements however, dictate that all stages of the process must be let out to private contractors, which further implies other requirements, e.g. Davis-Bacon, EEO, etc.
MAP-21	MAP-21 provides for some major reforms in regard to project delivery/environmental streamlining. It also proposes to modify the categorical exclusion process for NEPA review of certain projects. NACo continues to be engaged in rulemakings pertaining to these areas.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

National Marine Fisheries Service	The Biological Assessment (BA) process through NMFS is extremely time consuming and raises costly barriers. For example, one county was working on a joint interchange project with the state to address urban growth. In an attempt to navigate the federal environmental permitting process, the project took two years alone to navigate the BA consultation with NMFS. A standard BA consultation generally takes9-12 months but the NMFS process added more than a year in time and approximately $1M in additional engineering costs with no added value to the project.

MISCELLANEOUS/MULTIPLE AGENCIES

Inmate Healthcare	The Supreme Court required counties to provide health care for jail inmates in Estelle v. Gamble, 429 U.S. 97 (1976), while the federal government refuses to contribute to the provision of Medicaid, Medicare, CHIP or veterans' health benefits or services for otherwise eligible inmates.
Funding assistance-applications	When applying for funding assistance from separate sources/agencies for one project, multiple applications are required. The duplicity and lack of interchangeability of the forms and the agencies is very time consuming for local governments.
Use of ".gov" Domain for County Websites	The U.S. General Services Administration regulates the use of this extension. Arguably, this would make county sites easier to access for constituents. However, the current rules restrict counties from enacting local ordinances/laws to assist in offsetting technological costs associated with website development, operation and maintenance.
Website Accessibility	The Department of Justice is currently considering a rule that would establish requirements to make websites for state and local governments accessible to individuals with disabilities. An advanced notice of the proposed rule was issued in 2010; however the Department has yet to issue the proposed rule. While counties support ensuring individuals with disabilities are able to access public information, the resources and additional funding needed for county websites to meet whatever standard is required by the rule will vary on a county by county basis and must be taken into consideration when determining the implementation period of the rule.
Overtime Pay	In May 2016, the U.S. Department of Labor (DOL) released a final rule to amend regulations under the Fair Labor Standards Act governing the "white collar" exemption from overtime pay for executive, administrative and professional employees. In the final rule, DOL nearly doubles the threshold for employees who are eligible to receive overtime pay, from $23,660 to $47,476. This level would also be adjusted every three years. This may create a significant financial and administrative burden for counties.

MISCELLANEOUS/MULTIPLE AGENCIES	
Assessment of Fair Housing	The U.S. Department of Housing (HUD) released a final rule on updating Affirmatively Furthering Fair Housing practices and a proposed rule on the Assessment of Fair Housing Tool. HUD grantees are supposed to use the Assessment of Fair Housing (AFH) tool to analyze their fair housing goals to more effectively carryout their obligation to affirmatively further fair housing. AFH replaces the current Analysis of Impediments (AI) process which required HUD grantees that receive CDBG, HOME and Emergency Shelter Grants funding to identify local barriers to fair housing choice. The AFH is a much more comprehensive planning process, requiring jurisdictions to look at patterns of segregation and integration; racially and ethnically concentrated areas of poverty, and disparities in access to opportunity, as well as the contributing factors of those issues. The Tool is expansive and will take staff time and likely financial resources to implement. NACo submitted comments expressing concerns about the AFH Tool due to the lack of data provided by HUD for the new planning process and because HUD is not providing any funding to grantees to implement the new planning process and because HUD is not providing any funding to grantees to implement the new planning process. NACo continues to engage the Administration and Congress about county concerns with the AFH rulemaking.

NACo NATIONAL ASSOCIATION of COUNTIES

PENDING EPA REGULATIONS OF INTEREST TO COUNTIES

NAME	STATUS OF RULE	RIN #	BACKGROUND	LOCAL GOVERNMENT IMPACT
Definition of "Waters of U.S." (WOTUS) under the Clean Water Act (CWA)	Final Rule: Aug. 2015 *Rule temporarily delayed by 6th Circuit Court of Appeals	RIN: 2040-AF30	According to the Environmental Protection Agency (EPA), the purpose of this rule is to clarify which bodies of water (and their ditches) fall under federal jurisdiction in the Clean Water Act (CWA). The rule was implemented Aug. 28, 2015.	Local governments oversee a number of ditches (roadside, stormwater, floodwater, etc.) that would be impacted. For more information, please refer to NACo's fact sheet on WOTUS, NACo's comparison chart on the final rule and NACo's 19-page comment letter on the WOTUS rule.
Forest Roads: Determination under CWA	Final Decision: July 5, 2016	RIN: 2040-AF43	Due to a court order, EPA was required to assess whether the agency should regulate stormwater runoff from forest roads. But, on July 5, the agency announced that it would not regulate forest road discharges *at this time*, but may revisit this decision in the future.	Whether or not a forest road was federally regulated is relevant for counties that own and manage 45 percent of the roads and highways in the U.S. To read NACo's comment letter on the forest roads, click here.
Stormwater Regulations Revision to Address Discharges from Developed Sites	Withdrawn: however, provisions will be incorporated into renewed stormwater permits	RIN: 2040-AF13	EPA was working on an updated version of its existing stormwater rule. This rule was halted after the proposal was deemed to be too expensive to implement.	While the proposed rule was halted, the agency has indicated that when a municipal separate storm sewer system (MS4) permit is renewed (every five years), the new permit may include some of the provisions included in the original proposal.
Drinking Water Regulations: Regulation of Lead and Copper	NPRM: June 2017 Final Rule: Dec. 2018	RIN: 2040- AF15	EPA announced it is assessing rule-making options on lead and copper in water to determine if there is a national problem related to elevated lead and copper levels in drinking water.	This rule will impact local governments that own or operate water utilities.
Implementation of Section 1417 of the Safe Drinking Water Act: Prohibition on Use of Lead Pipes, Solder and Flux	NPRM: Dec. 2016 Final Rule: Feb. 2018	RIN: 2040-AF55	This regulation would set lead limitation levels for pipes and fixtures in drinking water systems. Additionally, EPA will codify language exempting fire hydrants from the lead rule.	This rule will impact local governments that own or operate water utilities.

PENDING EPA REGULATIONS OF INTEREST TO COUNTIES

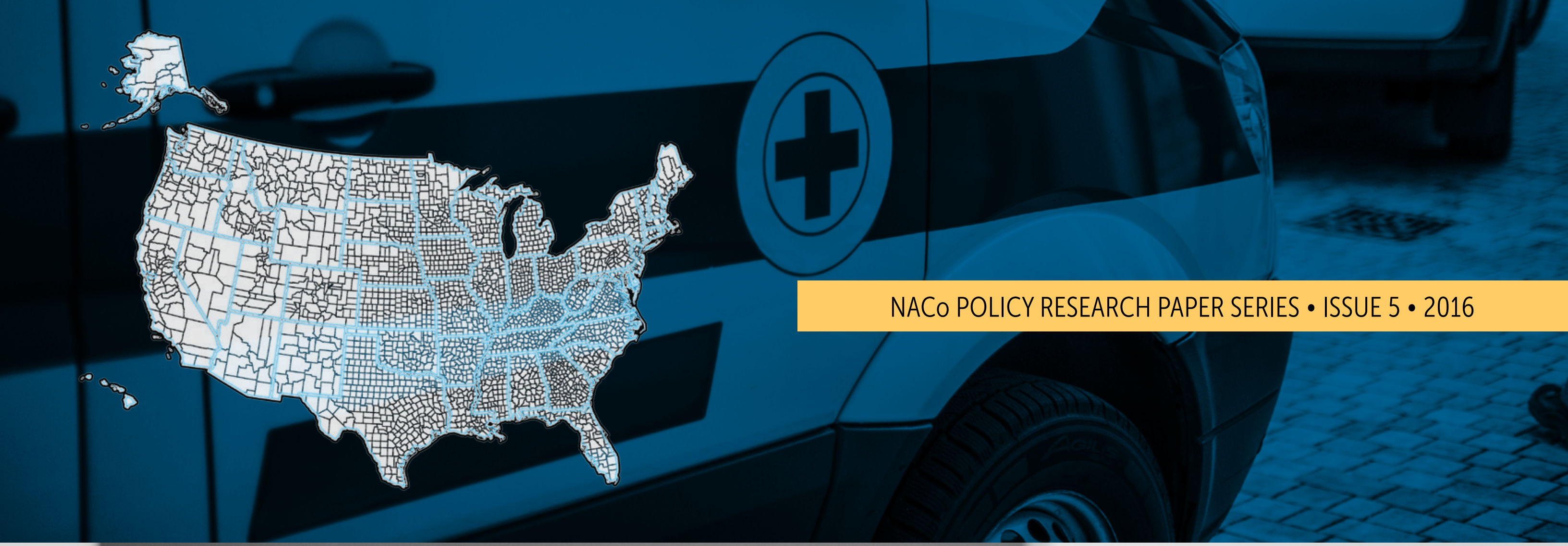
NAME	STATUS OF RULE	RIN #	BACKGROUND	LOCAL GOVERNMENT IMPACT
National Pollutant Discharge Elimination System (NPDES) Permit Requirements for Municipal Sanitary Systems and Peak Flow Treatment Facilities	Pre-proposal	RIN: 2040-AD02	The Agency is considering proposing standard permit conditions for inclusion in permits for publicly owned treatment works (POTWs) and municipal sanitary sewer collection systems for monitoring, reporting and discharge obligations.	This would impact counties that own and operate sanitary sewer overflow (SSO) systems.
Rulemaking to Establish Regulatory Procedures for Eligible Tribes to Assume Authority Over Clean Water Act Programs	NPRM: Jan. 2016	RIN: 2040-AF52	The EPA is considering giving eligible Indian tribes the same authority states have to regulate impaired waters on Indian reservations and to establish total maximum daily loads (TMDLs) standards on water resources.	This may be relevant for counties that have services or infrastructure on or crossing tribal lands.
Bioreactor/Wet Land Regulations	ANPR: Dec. 2016	RIN: 2050-AG86	EPA is considering whether to create new national standards for the operations of “wet” landfills and bioreactor landfills. EPA plans to request information and data on the performance of wet landfills and bioreactors and request comments on whether new national standards are appropriate.	This proposal may be relevant for local governments that operate “wet” and bioreactor landfills. Wet and bioreactor landfills use water to speed up the decomposition of materials. This process creates more methane gas, and it creates more space at existing landfills.
Emissions Guidelines and Compliance Tables for Municipal Solid Waste Landfills	Final Rule: July 2016	RIN: 2060-AS23	EPA is currently undergoing a review of the air emissions guidelines for municipal solid waste landfills. The rule will also include regulatory issues on landfill gas treatment systems related to startup, shutdown and malfunctions.	Counties that own landfills will be required to install controls for collecting and combusting landfill gas. This applies to landfills constructed, reconstructed or modified after November 8, 1987 and before July 17, 2014.
Lead-Based Paint Activities: Bridges and Structures; Training, Accreditation and Certification Rule and Model State Plan Rule	Pre-proposal	RIN: 2070-AC64	On September 2, 1994, EPA proposed a rule to govern work practices for bridges and structures with lead-based paint (LBP). This rule will look at model state laws and LBP impacts for bridges and other structures.	This proposal may impact counties that own bridges that, at one point, were painted with LBP. The rule may govern bridge maintenance activities for bridges with lead-based paint.

PENDING EPA REGULATIONS OF INTEREST TO COUNTIES

NAME	STATUS OF RULE	RIN #	BACKGROUND	LOCAL GOVERNMENT IMPACT
Lead: Renovation, Repair and Painting for Public and Commercial Buildings	NPRM: April 2017	RIN:2070-AJ56	In 2008, the EPA established a final rule to address lead-based paint (LBP) activities in housing and child care facilities. However, EPA was sued for not addressing LBP hazards in public and commercial buildings. In a settlement agreement, EPA agreed to determine whether activities that impact LBP in public buildings must be federally regulated.	This proposal will impact any county that owns a public building with lead-based paint.
Modernization of the Accidental Release Prevention Regulations (Risk Management Program)	Final Rule: Dec. 2016	RIN: 2050-AG82	As a result of a 2013 West Texas chemical explosion, EPA is proposing to tighten safety procedures in and around facilities that use chemicals. Additionally, the proposed rule increases emergency response protocol around these facilities, which include water/wastewater plants.	The proposed rule would potentially impact counties in two ways. First, as owners of water/wastewater facilities, they would be subject to tighter reporting and emergency protocol requirements. Second, each individual facility within a local jurisdiction would be required to run notification, tabletop and field exercises with local emergency personnel on an annual basis. To read NACo's joint letter to the OMB on EPA's risk management rule, click here.
Polychlorinated Biphenyls (PCB): Reassessment of Use Authorizations for PCBs in Small Capacitors in Fluorescent Light Ballasts in Schools and Daycares	Projected NPRM: June 2016	RIN: 2070-AK12	Due to a lawsuit, EPA is considering whether to require all building operators who may still use ballast light fixtures (common in buildings older than 1978 that have not been subject to energy efficiency upgrades) to replace them. These fixtures may be common in schools, hospitals, government centers, etc.	If EPA required an immediate replacement for all PCB fixtures, this would create a substantial unfunded mandate on local governments. NACo, along with other local government and school boards and superintendent groups sent a letter which expressed significant concerns with the pending rule.

PENDING EPA REGULATIONS OF INTEREST TO COUNTIES

NAME	STATUS	RIN #	BACKGROUND	LOCAL GOVERNMENT IMPACT
Implementation of the 2015 National Ambient Air Quality Standards for Ozone	NPRM: Nov. 2016	RIN: 2060-AS82	On Oct. 1, 2015, the EPA released a final rule to tighten air quality standards for ozone from 75 parts per billion (ppb) to 70 ppb. Additionally, as part of the rule, 32 states are required to expand their air monitoring season. Over the next two years, EPA will work with the states to determine final designations – likely using 2014-2016 air quality data – and the final designations will be made by Oct. 2017. The rule will likely be implemented several years after that, barring legal challenges.	New air quality regulations have a direct impact on counties who must implement and enforce new regulations at the local level; counties may also be regulated entities under federal air quality rules. Counties in ozone non-attainment areas often have difficulty attracting and keeping businesses. Additionally, counties are required to update local transportation conformity plans, which can be costly and time-consuming. To read NACo's joint letter on the rule, click here.
Management Standards for Hazardous Waste Pharmaceuticals	Final Rule: Oct. 2016	RIN: 2050-AG39	When discarded, a small portion of pharmaceuticals are regulated as hazardous waste under the Resource Conservation and Recovery Act. Health care (and associated) facilities that have excess hazardous waste pharmaceuticals have reported difficulties complying with the manufacturing-oriented framework of the hazardous waste regulations.	Counties own and operate nursing homes and hospitals that may be impacted by this rule. There could also be potential impacts on local pharmaceutical give-back programs.



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DOING MORE WITH LESS

STATE REVENUE LIMITATIONS & MANDATES ON COUNTY FINANCES

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NATIONAL ASSOCIATION of COUNTIES NACo

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ABOUT NACo

The National Association of Counties (NACo) is the only national organization that represents county governments in the United States. Founded in 1935, NACo provides essential services to the nation's 3,069 counties. NACo advances issues with a unified voice before the federal government, improves the public's understanding of county government, assists counties in finding and sharing innovative solutions through education and research and provides value-added services to save counties and taxpayers money. For more information about NACo, visit **www.NACo.org**.

NATIONAL ASSOCIATION of COUNTIES NACo

EXECUTIVE SUMMARY

Counties provide front line support for the health, safety and prosperity of communities and residents. But they are struggling to deliver essential services around the country. States increasingly limit counties' capacity to raise adequate revenue to fund their activities. At the same time, state and federal governments are imposing more mandates on counties, without providing adequate funding. Counties have adopted additional fiscal solutions, but they are not sufficient to cover the needs of their residents and communities. NACo conducted interviews with state associations of counties and state and county officials in each of the 48 states with county governments between February and July 2016 to better understand county funding sources, state revenue limits, federal and state mandates on counties, new fiscal challenges and county fiscal solutions. Supplemented by additional research of state statutes, tax codes and local government finance literature, this analysis shows that:

1 STATES ARE LIMITING COUNTIES' REVENUE AUTHORITY TO FUND ESSENTIAL SERVICES.

Property taxes and sales taxes are the main general revenue sources for most counties. While counties in 45 states collect property taxes, most often they keep less than a quarter of the property taxes collected in a state (23.7 percent). The bulk of property taxes in a state (49.9 percent) goes to schools. Forty-two (42) states place limitations on county property tax authority and the number of restrictions has expanded extensively since 1990s. Nearly half (45 percent) of current state caps on county property taxing authority have been enacted or modified since 1990. Only 29 states authorize counties to collect sales taxes, but with restrictions. Twenty-six (26) impose a sales tax limit and 19 ask for voter approval.

FORTY-TWO (42) STATES PLACE LIMITATIONS ON COUNTY PROPERTY TAX AUTHORITY

29 STATES AUTHORIZE COUNTIES TO COLLECT SALES TAX

2 COUNTIES ARE STRUGGLING WITH MORE STATE AND FEDERAL MANDATES, NOT FULLY COVERED BY STATE AND FEDERAL AID.

Many county services are mandated by the states or the federal government, from activities in criminal justice and public safety, health and human services, transportation and infrastructure, to administration of elections and property assessments. U.S. Environmental Protection Agency (EPA) regulations comprise the federal mandate burden most likely to be cited by the state associations of counties and other officials interviewed. According to the interviews, nearly three-quarters (73 percent) of states have escalated the number and/or cost of mandates for counties, over the past decade, decreased state funding to counties over the past decade or done a combination of both.

3 COUNTIES ARE ADJUSTING TO NEW FISCAL CHALLENGES ON THE HORIZON.

Several developments are challenging local fiscal conditions across the nation. Marijuana legalization provided a new revenue stream for counties in five of the 25 states that passed this measure before November 2016 elections, but costs associated with potential substance abuse problems and driving under the influence may prevent counties from receiving a net financial benefit from this new source of revenue. In 14 states, plummeting prices for oil and natural gas over the past two years have erased much of the annual severance tax revenue received by counties. The "sharing economy," a technological development best exemplified by AirbnB and Uber, is challenging county revenue structures. According to the interviews with the state association of counties and other officials, counties in nine states are experiencing fiscal losses because of home sharing. The rapid proliferation of "dark store" big-box retailers' property valuation appeals is another issue confronting counties in more than 12 states. This approach argues for use of vacant big box stores as comparables for the assessment of operating retail store locations.

4 COUNTIES ARE PURSUING VARIOUS SOLUTIONS TO ENSURE QUALITY SERVICE DELIVERY DESPITE FISCAL CONSTRAINTS.

Counties throughout the country partner with cities, other counties, nonprofit organizations and the private sector to deliver high-quality services to their residents in a cost efficient manner. For example, Iowa counties are part of more than 23,000 agreements with other local governments for service delivery ranging from ambulance services to public libraries. Further, 37 states grant counties the authority to create and/or manage special-purpose tax districts to fund specific services. In 22 of the 37 states, counties must first obtain voter approval. Finally, some states have passed legislation specifically meant to curb the imposition of unfunded mandates. For example, the Alabama Constitution requires a two-thirds approval of any such mandate by the state legislature; furthermore, the state cannot enforce the mandate until the following fiscal year.

County government roles and responsibilities continuously evolve as local conditions and needs change with shifting economies, aging populations or overburdened infrastructure. Local elected officials understand best the impact of legislation or administrative regulations on the county economy and county government budget. Counties need the state and the federal governments to provide full funding to cover for the compliance costs with the mandates they impose. Likewise, increased county autonomy regarding revenue generation and service provisions would relieve some of the fiscal pressures. The continued partnership with the state and federal governments is essential to counties' ability to effectively and successfully support thriving communities across the country.

INTRODUCTION

County governments directly affect the economic vitality and quality of life in their communities. This role encompasses a range of services, from maintaining 45 percent of America's roads to supporting nearly 1,000 hospitals to keeping communities safe through law enforcement. These services require massive resources including more than $106 billion annually in building infrastructure and maintaining and operating public works, more than $53 billion annually in construction of public facilities and nearly $70 billion annually for community health and hospitals.[1]

The increasing extent of state limitations on counties' capacity to raise revenue is making provision of these services more difficult. State limitations include restricting the types of taxes counties may impose, limitations on the rates of permitted taxes, the total revenue collected and property assessments, along with an obstacle-strewn approval process.

STATE LIMITATIONS INCLUDE RESTRICTING THE TYPES OF TAXES COUNTIES MAY IMPOSE, LIMITATIONS ON THE RATES OF PERMITTED TAXES, THE TOTAL REVENUE COLLECTED AND PROPERTY ASSESSMENTS, ALONG WITH AN OBSTACLE-STREWN APPROVAL PROCESS.

Concurrent with these constraints, state and federal governments require counties to provide a growing scope of services. These mandates are often unfunded either entirely or partially. Revenue sharing by states and other state and federal funding for county services alleviate some of these mandate related costs. But in many instances, these supplementary sources have become more unpredictable and smaller in size. Overall, six years following the start of the Great Recession, fiscal tensions remain across counties, with inflation-adjusted general revenue fully recovered in only 46 percent of counties.[2]

Counties have adopted additional fiscal solutions, but they are not sufficient to cover the needs of their residents and communities. Some states allow counties and other local governments to create special-purpose taxing districts to fund specific services. But counties are also turning to more innovative solutions, such as service sharing and merged service provision with cities or other counties. Further relief requires both the state and federal government to curtail their reliance on unfunded mandates to accomplish policy objectives. Additionally, counties must be empowered to more ably self-govern including in matters related to revenue generation and provided the necessary funding to implement any additional mandates.

This study examines the pressure facing counties, including state limits on their ability to raise revenue and state and federal mandates. This includes a breakdown of county revenue sources. A discussion of the state limitations on property taxation and sales taxes follows. The report also examines the pervasiveness of state and federal mandates, which further complicate the fiscal dilemma. Lastly, several developing fiscal challenges are discussed along with some of the promising ways in which counties seek to overcome fiscal shortfalls.

The reader can access the information for each state through interactive maps and individual state profiles at www.naco.org/StateLimits and County Explorer available at explorer.naco.org

FINDINGS

1 STATE GOVERNMENTS ARE LIMITING COUNTIES' REVENUE AUTHORITY TO FUND ESSENTIAL SERVICES.

Counties rely on two types of revenue to finance operations, services and other responsibilities: (1) revenues raised by the county from local taxes and user fees (referenced as "own funding") and (2) funding from the state and federal governments. Most often, counties derive 76 percent of their annual revenues from own funding and the remaining 24 percent from intergovernmental transfers.[3]

MOST OFTEN, COUNTIES DERIVE 76 PERCENT OF THEIR ANNUAL REVENUES FROM OWN FUNDING AND THE REMAINING 24 PERCENT FROM INTERGOVERNMENTAL TRANSFERS.

COUNTY OWN FUNDING. Counties raise revenues locally either through taxes or user fees. Most often, the revenue raised through property taxes and other types of taxes are not restricted to a particular activity (called "general revenues"). By 2013, general revenues funded 62.5 percent of county expenses, an increase of 1.5 percentage points in the funding share from the prior six years. Of utmost importance are property taxes, which represent 72 percent of county general revenues. [4]

KEY TERMS USED IN THIS STUDY

CHARGES OR FEES FOR SERVICES: Government charges for services provided or for the use of government assets, such as road tolls, park entry fees and parking charges.

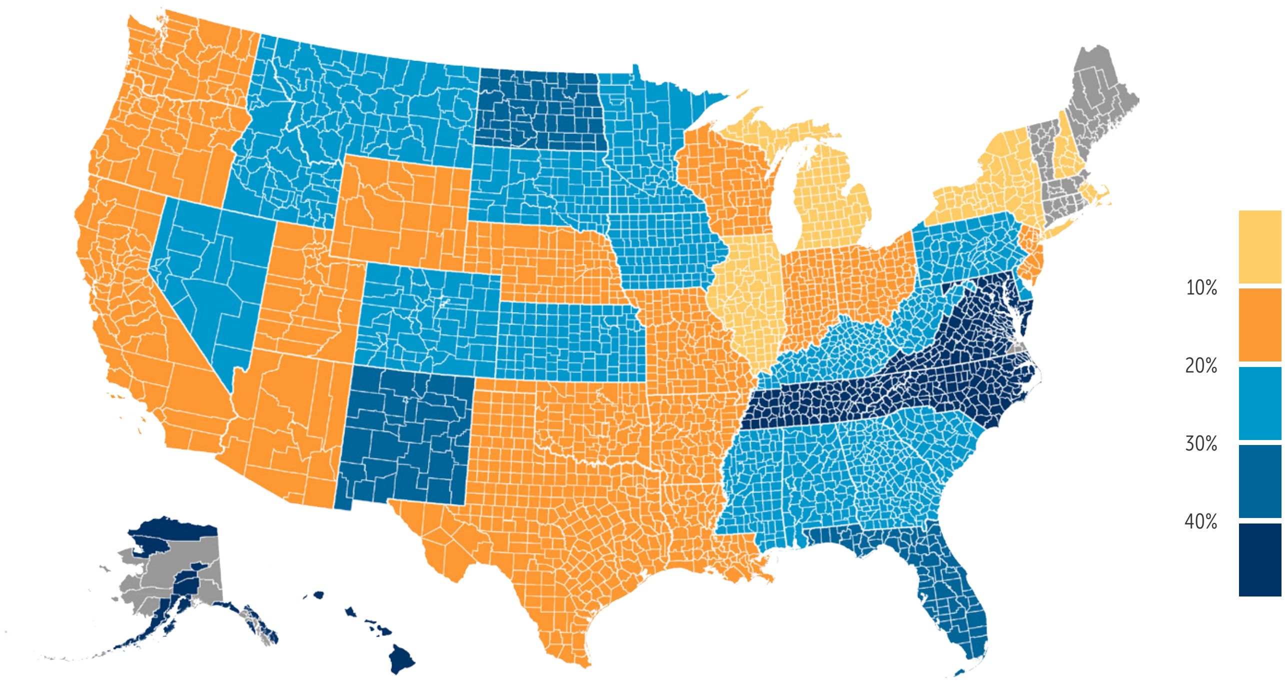
COUNTY GOVERNMENT: An organized entity with governmental character, sufficient discretion in the management of its own affairs to be an independent governmental unit and covering the geographical area of a county or county equivalent. Depending on the state, it can be known also as parish government or borough government. There are 3,069 county governments in the United States, including city-county consolidations, the District of Columbia and independent cities considered county governments under their state constitution or city charter. For ease of use, this study employs interchangeably "county" and "county government."

Counties keep only a small portion of the property taxes they collect. Most often, counties keep only 23.7 percent of the property taxes collected statewide, the bulk of which (49.9 percent) go to schools (See Map 1). Many property owners may presume that the county government retains for its own use all of the property taxes levied on a particular parcel because counties often collect not just taxes levied by the county government, but also property taxes levied by a myriad of governmental entities. These entities with separate levies may include cities, municipalities, schools and special districts. For example, counties in five states (Ill., Mass., Mich., N.H. and N.Y.) retain less than 10 percent of the property taxes collected statewide.[6]

MAP 1.

PROPERTY TAXES COLLECTED STATEWIDE, SHARE RETAINED BY COUNTIES

AS OF NOVEMBER 2016



Note: Conn., R.I., and parts of Mass. have counties or county-equivalents with no county governments (marked in grey on the map). There was no data available for Maine and Vermont.

Source: Figures reflect different fiscal years, as made available by interviewed state associations of counties and state and county officials in the states with county governments.

COUNTIES KEEP ONLY 23.7 PERCENT OF THE PROPERTY TAXES COLLECTED STATEWIDE.

Only 29 states permit counties to implement a local option sales tax. In 19 of these 29 states, voter approval is needed to implement a sales tax, difficult to obtain. For example, five N.C. counties attempted to pass a 2.5 percent sales tax (a rate approved by the state) in their March 2016 elections; all failed to secure a popular vote. In four states (Mo., Texas, Utah and Wis.), any implemented sales tax must decrease property tax levies to prevent an overall tax increase.

Twenty-three (23) states authorize counties to implement a secondary sales tax for specific, statutorily defined purposes. This includes 19 of the 29 states allowing counties to implement a local option sales tax. Another four states (Hawaii, Ind., Md. and Minn.) permit counties to levy a sales tax for specific purposes, despite being precluded from levying a general sales tax. States often require voter approval for introducing these restricted purpose sales taxes or may ask the taxes to be implemented in increments of 0.1 percent, 0.15 percent or 0.25 percent.

KEY TERMS USED IN THIS STUDY

CAPITAL EXPENDITURE: Expenditures related to construction, purchasing or renovations for capital assets.

COUNTY-OWN FUNDING: Revenues raised by counties locally through taxes or user fees. This revenue may be classified as either general or restricted revenue.

COUNTY EXPENSES: Includes expenses for primary government activities (such as judicial and public safety programs) and business-type activities (such as waste disposal and collection services).

GENERAL REVENUES: Unrestricted revenues generated by taxes, unrestricted grants and contributions and in some counties, transfers and special items.

JUSTICE AND PUBLIC SAFETY SERVICES: Includes sheriff, police and related services (impound, task forces, general law enforcement and patrol); emergency management and medical services; 911 communications; fire protection; detention centers and related commissaries, stores and inmate services. Also included in this class are judicial functions: judges; attorneys; prosecutors; justices; court clerks; probate courts; courthouses; warrant services and law libraries.

PASSED-THROUGH FUNDS: Federal government funding used by counties, but received directly from the federal government by other entities, such as the state governments.

RESTRICTED REVENUE: Revenue which must be used to fund specific functions.

TAX REVENUES: Revenue generated by the taxes levied by the county. Most common are property taxes (assessed ad valorem on property within county borders), sales and use taxes (imposed on sales of goods within the county, or on the use of personal property not subject to a sales tax; also includes taxes related to hospitality), other taxes (include specific ownership taxes, severance taxes, transfer taxes, litigation taxes, inheritance taxes, insurance premium taxes and others). Less common county taxes include excise taxes (levied on goods/services for the purpose of controlling their provision (e.g., motor fuel taxes), licenses and permits (taxes which may be imposed by a county on a given class of business type or occupation; includes business license taxes and professional taxes), franchise taxes (imposed on public utilities, or for the use of public rights-of-way) and income taxes (based on income earned within county borders).

Besides taxes, counties also raise use fees or charges for services, such as filing and permit fees and water rates. These revenue sources are restricted frequently to fund expenses related only to that service for which the county charges a fee. Most often, they cover about 18 percent of county expenses, mainly expenses for utilities and water, sewage and solid waste.[7] For instance, Florida allows counties to impose a real estate conveyance fee, which must go towards the creation of housing opportunities for low-income residents.

STATE AND FEDERAL FUNDING. States provide a variety of funding to counties. Many states distribute a share of the state's general tax revenue to counties and other local governments. For example, Ohio and South Carolina accomplish this through a mechanism known as the Local Government Fund (LGF); this partially covers the county costs related to state-mandated programs. Some states transfer part of the state sales tax to counties through revenue sharing. Arizona counties receive approximately 13.5 percent of Ariz.'s state sales tax, an amount exceeding $744 million in fiscal year 2015. State income taxes are sometimes shared as well; Illinois distributes one tenth of the revenue from the state income tax to local governments, including counties. States, such as Wyo. and Ky., also may share severance tax revenue. Oregon counties receive a portion of numerous state taxes, including the cigarette tax, liquor tax receipts, beer and wine taxes and video lottery receipts.

The federal government also provides funds to counties, either directly or passed-through other entities, such as the state (called here, "passed-through funds"). According to the single audits submitted annually by counties that used more than $500,000 in federal dollars in fiscal year 2013, only 14 percent of federal funding used by counties was received directly. Most of this federal passed-through funding is restricted, either matched to certain programs, or received as reimbursement for expenditures made in those programs. Some of the major federal programs from which counties receive money directly include: Payment in Lieu of Taxes (PILT) ($ 452 million in FY2016), Community Development Block Grants (CDBG) ($3 billion in FY2016), Secure Rural Schools (SRS) ($278 million in FY2015) and the State Criminal Alien Assistance Program (SCAAP) ($60 million in FY2015). Counties utilize funding from dozens of federal programs, often passed-through the state or other entities.

IN FISCAL YEAR 2013, ONLY 14 PERCENT OF FEDERAL FUNDING USED BY COUNTIES WAS RECEIVED DIRECTLY.

FORTY-TWO (42) OF THESE STATES PLACE LIMITATIONS ON THE ABILITY OF COUNTIES TO GENERATE REVENUE FROM PROPERTY TAXES

MOST OFTEN, **93 PERCENT OF THE STATE AND FEDERAL FUNDING** USED BY A COUNTY IS RESTRICTED TO SPECIFIC ACTIVITIES

The most used passed through federal funding streams to counties include the Medical Assistance Program ($24.8 billion in FY 2016), Temporary Assistance for Needy Families, Medical Assistance Program ($5.7 billion in FY 2016), Foster Care Title IV-E ($2.1 billion in FY 2016), Highway Planning and Construction ($1.9 billion in FY 2016) and Child Support Enforcement ($1.4 billion in FY 2016).

In 42 states, the majority of federal funding used by counties was indirect. In Calif., La., Minn., N.Y., Ohio, Tenn. and Wis., more than 90 percent of federal funding used by counties was passed-through the state government or other entities.

Counties typically possess little discretion over where to utilize these financial resources. Most often, 93 percent of the state and federal funding used by a county is restricted to specific activities.[8] For instance, the state of Washington provides funds to counties for criminal justice expenses related to prosecutors and judges in Wash. The state of Maryland has directed nearly $2.8 billion to counties over the past decade for public school construction. Because these funds are often in the form of earmarked grants for operational expenses or capital expenditures of specific activities, counties do not have the flexibility to reallocate funds for other local needs.

STATES PLACE NUMEROUS LIMITS ON THE ABILITY OF COUNTIES TO RAISE REVENUE. Most states have limits on property taxes, the main general revenue source for counties. Of the 48 states with county governments, counties in 45 states collect property tax revenue (Maine, N.H. and Vt. are the exceptions). Forty-two (42) of these states place limitations on the ability of counties to generate revenue from property

KEY TERMS USED IN THIS STUDY

ASSESSED VALUE: The property valuation upon which the property tax rate is applied in order to determine the property tax owed for a given property. Valuation for property tax purposes is not necessarily indicative of the property's true market value. Also known as "taxable value."

MILLAGE: Property tax assessed per $1,000 of a property's assessed value.

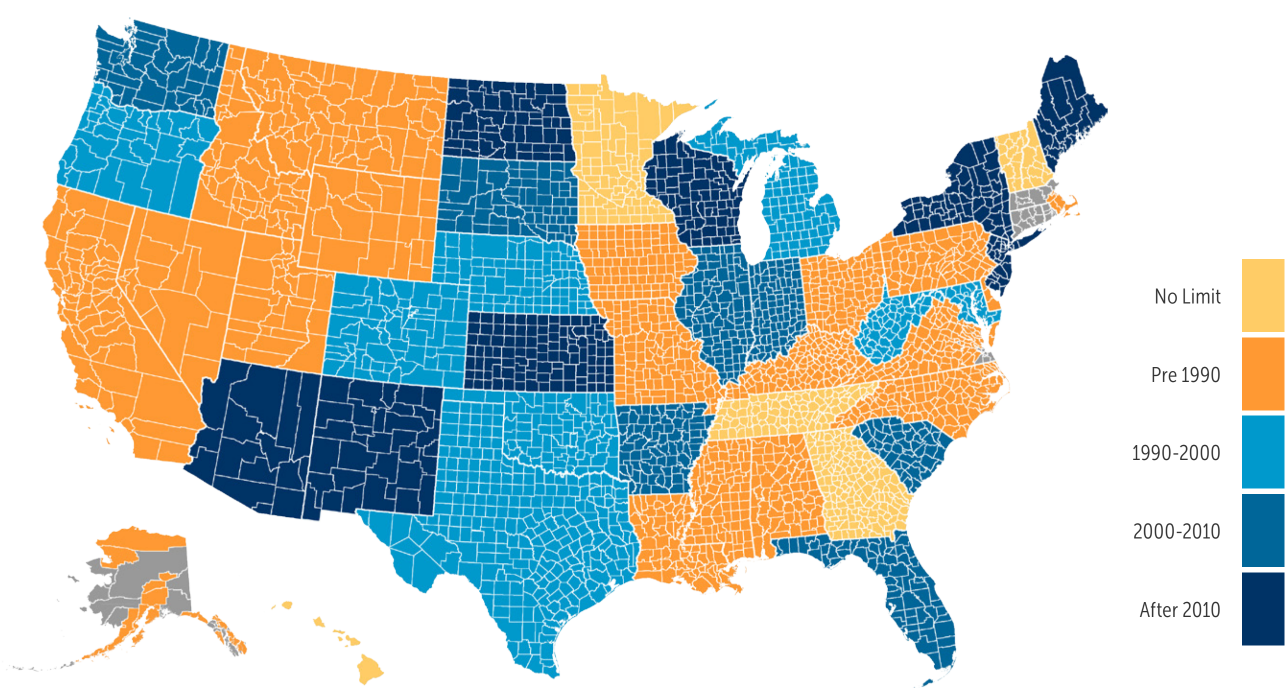
PROPERTY TAX LEVY: The total amount of property taxes assessed on property within a particular jurisdiction in a given year.

PROPERTY TAX RATE: The rate which is multiplied by the assessed value of a piece of property to determine the amount of property tax payable by the owner.

ROLLBACK: A downward adjustment to the property tax rate (millage) applied to assessed values in order to avoid exceeding state limitations on property tax growth. Alternatively, some counties may also roll back their property tax rate in order to achieve the same result.

TAX FREEZE: Maintenance of assessed property taxes at a current level by adjusting the assessed value and/or millage.

MAP 2. STATE PROPERTY TAX LIMITATIONS FOR COUNTIES, TIMELINE
AS OF NOVEMBER 2016



Notes: Year reflects latest change to state-imposed property tax limitations. Conn., R.I., and parts of Mass. have counties or county-equivalents with no county governments (marked in grey on the map).

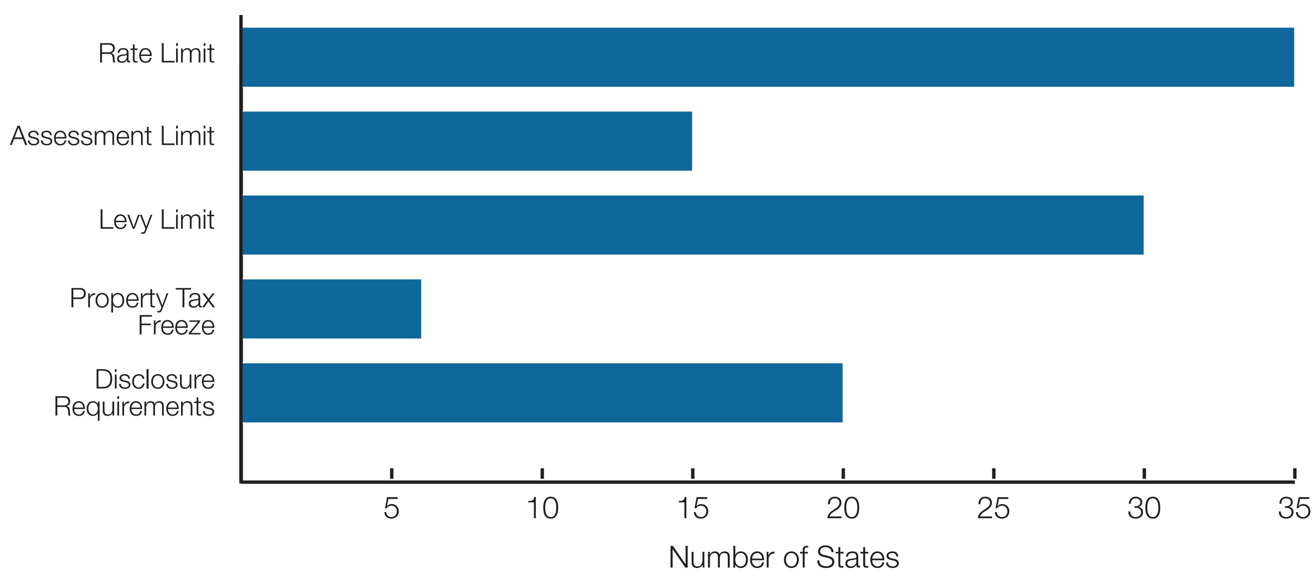
Source: NACo interviews with state associations of counties and state and county officials in each of the 48 states with county governments, research of state statutes, tax codes and local government finance literature.

taxes. This translates to 87 percent of counties facing at least one type of limit on their revenue authority through property taxes. These property tax limitations encompass the following manifestations: (1) rate limits, (2) levy limits, (3) assessment limits and (4) tax freezes and rollbacks.

State property tax limitations have expanded extensively since the 1990s. Nearly half (45 percent) of current state caps on county property taxing authority have been enacted or modified since 1990 (See Map 2). Some state limitations on property tax rates date as far back as the late 1800s for counties in states like Ark., Mo., Texas and Wyo. After the 1940s, states moved away from restricting property tax rates and focused on capping property assessment valuations and tax levies. Thirty-eight (38) of the 50 state limitations enacted since the 1970s concerned county property assessment and levy limits. State restrictions on property assessment and property tax revenue growth were enacted as recently as 2012 in Ariz. and N.Y.

PROPERTY TAX RATE RESTRICTIONS: (See Chart 1) The property tax rate is multiplied by the assessed value of a piece of property to determine the amount of property tax owed. Typically, property tax rates are expressed in millage rates, or 'mills,' or the dollar amount owed per $1,000 on the property's assessed value.

CHART 1. PROPERTY TAX LIMITATIONS: DIVERSE AND WIDESPREAD

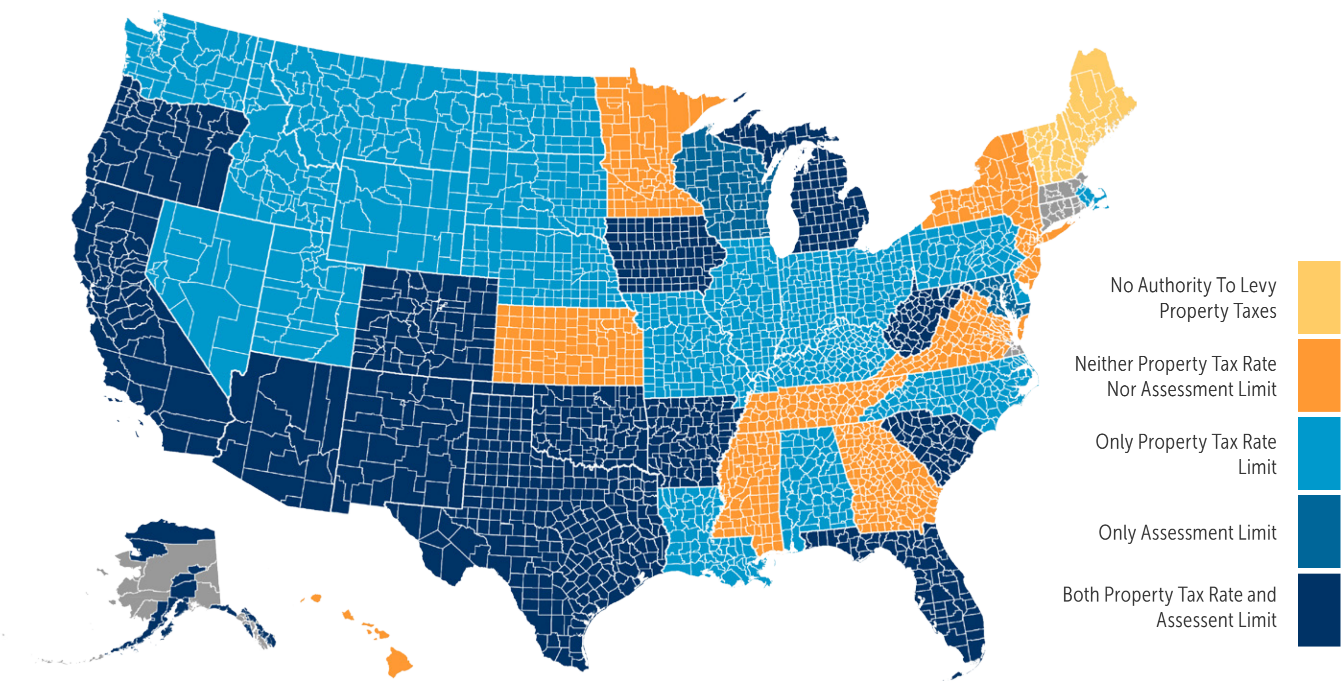


Source: NACo interviews with state associations of counties and state and county officials in each of the 48 states with county governments, research of state statutes, tax codes and local government finance literature.

PROPERTY TAX RATE LIMITS. Most states restrict counties' ability to raise the rate of property taxes (See Map 3). Restrictions on counties' authority to set property tax rates affect counties in 35 states. In seven of these states (Ala., Alaska, Ariz., Ark., Ind., N.H., Ore., Vt., Wyo.), counties cannot exceed these statutory property tax rate limits under any circumstance.[9,10] Seventeen (17) states with statutory tax rate limits allow the caps to be exceeded by voter approval only. In another four states (Iowa, Okla., Pa. and S.C.), counties may exceed property tax rate limits by board resolution. Counties in Calif., Key., N.M., Texas and Utah do not require either board resolution or voter approval to exceed these limits.

Property tax rate limits are varied in nature. Some property tax rate limits are tied to the previous year's tax rate and budgetary needs; others are a strict millage cap on property tax rates. For instance, Wyo. counties cannot impose a property tax rate above 12 mills, which is $1,200 annually for a property assessed at $100,000. Other states limit the aggregate property taxes collected by a given rate.[11] In Alaska, the borough total tax rate cannot produce revenues greater than $1,500 per resident per year, regardless of the millage or the assessed value.[12]

MAP 3. LIMITATIONS ON COUNTY PROPERTY TAX RATES AND PROPERTY ASSESSMENTS
AS OF NOVEMBER 2016



Note: In Del., the state limit on property tax rates affect only Kent County. Conn., R.I., and parts of Mass. have counties or county-equivalents with no county governments (marked in grey on the map).

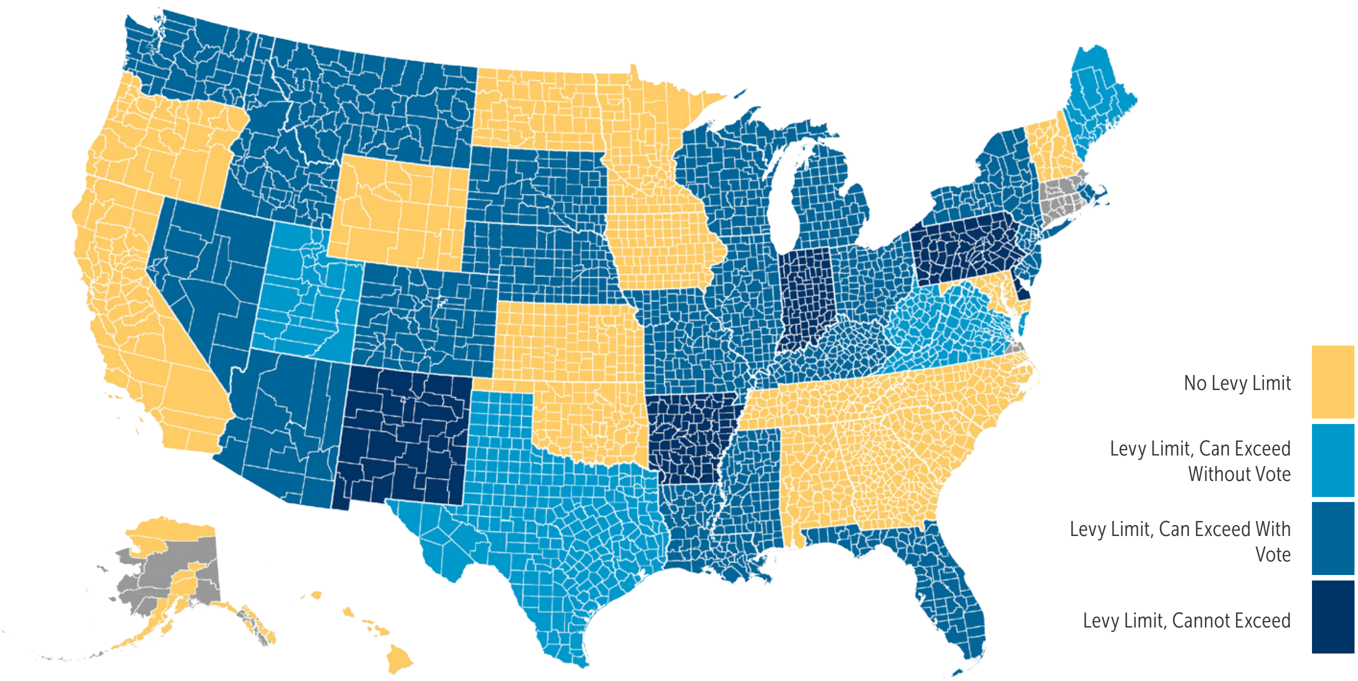
Source: NACo interviews with state associations of counties and state and county officials in each of the 48 states with county governments, research of state statutes, tax codes and local government finance literature.

Property tax rate limits reduce the potential of property taxes to generate sufficient revenues for counties. These limits are particularly troublesome when the demand for county services exceeds significantly the rise in assessed property values, for example, when a county is adding population rapidly.

LEVY LIMITS: Restrictions on counties' authority to set levies affect counties in 30 states (See Map 4).[13] Property tax levy limits restrict the allowable increase in aggregate property tax revenues generated by counties annually. This is the second most common statutory limit on county property taxing authority imposed by states. In five of these states (Ark., Del., Ind., N.M. and Pa.), counties may not exceed this limit for any reason. Counties in 20 states need to get voter approval to exceed the levy limit. In the remaining five states, counties may exceed this limit without voter approval.

Levy limits vary in type. Certain levy limits cap property tax revenues to a fixed percentage annual increase. For example, counties in Ariz. cannot increase property tax revenues more than 2 percent annually; Nebraska counties' levies may not increase more than 5 percent year to year. Other levy limits restrict

MAP 4. PROPERTY TAX LEVY LIMITATIONS
AS OF NOVEMBER 2016



Note: Conn., R.I., and parts of Mass. have counties or county-equivalents with no county governments (marked in grey on the map).
Source: NACo interviews with state associations of counties and state and county officials in each of the 48 states with county governments, research of state statutes, tax codes and local government finance literature.

property tax revenues based on inflation (such as Mich.) or tax base growth. In Mont., property tax revenues may only increase at half the rate of inflation over the past three years (although new construction is excluded from this rate increase limits). Indiana restricts property tax revenue growth to no more than the six-year average growth in personal income.

PROPERTY ASSESSMENT LIMITS. In most states, the upwardly revised assessments must fit within a defined percentage. For instance, assessed values for properties in S.C. may not increase more than 15 percent over a five-year period. In Texas, assessed values of homestead properties may not increase more than 10 percent annually plus increases due to home improvements. Other assessment limits take inflation into account. The taxable value of a Mich. property may not increase more than 5 percent or inflation, whichever is less. Fifteen (15) states in which counties collect property taxes impose limits on property tax assessments increases. (See Map 3).

The property assessment limits hurt counties especially during a real estate comeback after a deep decline. For example, home values declined significantly during the latest downturn at the end of the 2010s. While states often limit upward movement in property assessments, they do not limit losses. As a result, many counties have seen much lower assessment values and declines in property tax revenues. As property values rebound, property tax revenue does not rebound at the same pace due to these limits on property assessments, unless the property is sold and a new baseline assessment value is established.

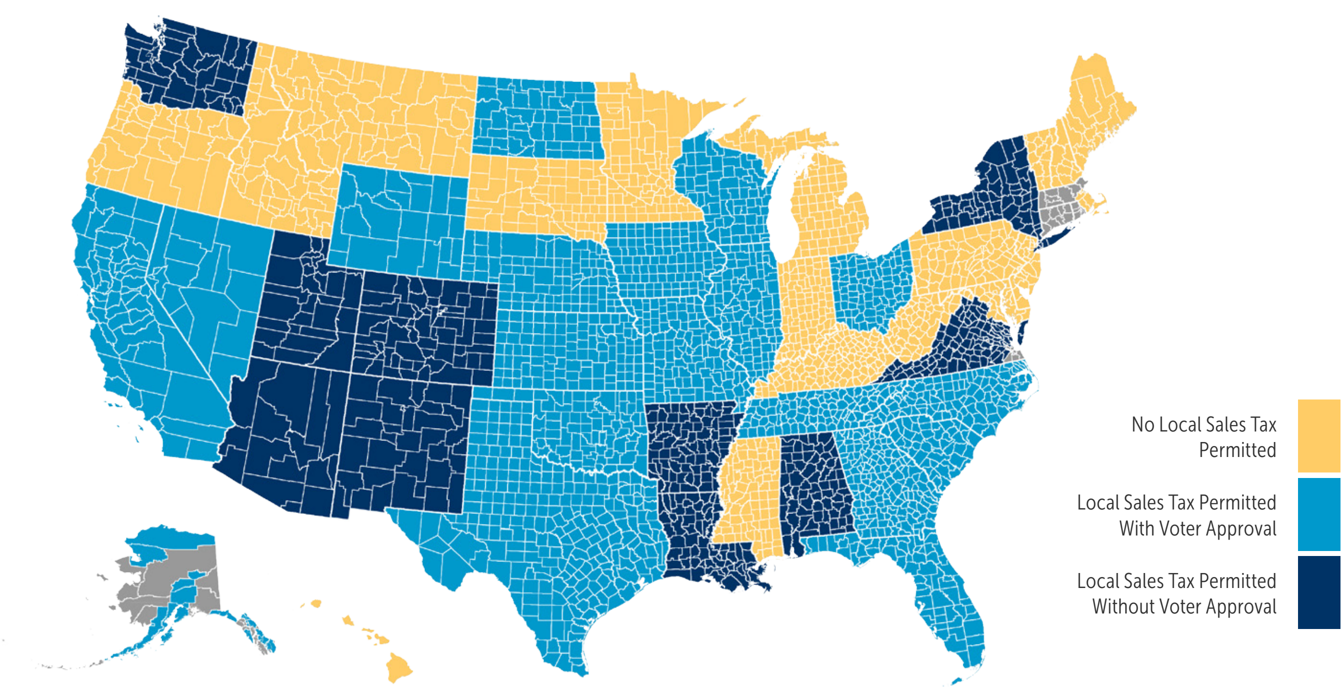
FREEZES AND ROLLBACKS. Six states (Ark., Ga., La., Tenn., Texas and Wash.) also have the option to freeze property taxes, and another 14 have the option to roll back property taxes if they exceed the state limitations. A property tax freeze adjusts either the assessed value of the property or the property tax rate in order to prevent the property tax assessed from increasing; a rollback adjusts the property tax rate (millage) in order to avoid exceeding state limitations on property tax growth. For instance, in Ark., the assessed value of real and personal property cannot increase by more than 10 percent over the previous year. If this does occur, the revenue is rolled back to the allowable limit to ensure that county revenues do not exceed the growth limit.[14]

DISCLOSURE REQUIREMENTS. In addition to property tax limits, 20 states have disclosure requirements, meaning counties must publicize or announce property tax increases. Often, they require notices published in the local newspaper. Minnesota requires that the county also hold a "truth-in-taxation" public hearing on tax increases and expenditure changes from the prior year.[15]

KEY TERMS USED IN THIS STUDY

LOCAL OPTION SALES TAX: A tax collected by a local government on the sale of any taxable goods within its jurisdiction, if the local government is granted the authority by the state. Besides state authority, often the local government needs a local law or voter approval to implement the local option sales tax.

MAP 5. COUNTY SALES TAX AUTHORITY
AS OF NOVEMBER 2016



Note: Conn., R.I., and parts of Mass. have counties or county-equivalents with no county governments (marked in grey on the map).

Source: NACo interviews with state associations of counties and state and county officials in each of the 48 states with county governments, research of state statutes, tax codes and local government finance literature.

SALES TAX LIMITS. Twenty-six (26) states set a local-options sales tax limit. Most often, the local-option sales tax limit is around 1.5 percent. Only three states, Ala., Alaska and Mo., do not restrict county local-option sales tax rates. Counties and boroughs in Alaska and Mo. must receive voter approval before the local-option sales tax takes effect, but counties in Ala. may institute the tax without voter approval. Few counties may exceed the sales tax cap with special authority. For example, counties in N.Y. may petition the state legislature to go above the 3 percent sales tax rate approved by the state before putting the proposed sales tax rate to popular vote.[16] (See Map 5).

These many layers of limitations on county revenue authority hamper counties' ability to service their communities. These state limitations force counties to prioritize spending in a manner often at odds with the community priorities, particularly when combined with unfunded mandates. Counties may be put in a difficult position to reduce or eliminate a program, because of insufficient revenue. These limitations hinder county elected officials and voters from engaging in self-governance.

2 COUNTIES ARE COPING WITH MORE STATE AND FEDERAL MANDATES, NOT FULLY COVERED BY STATE AND FEDERAL AID.

Many county services are mandated by the states or the federal government, such as the administration of elections. In some states, counties are responsible for childhood education or even a portion of the community college costs. However, federal and state governments increasingly fail to provide counties with funds sufficient to cover the costs for mandated county services. Fifty-nine (59) percent of counties recorded dedicated grants covering a smaller percentage of county expenses between 2007 and 2013.[17] When state and federal government funding for mandates diminishes, counties are forced to cover the shortfall with general revenues and user fees.

KEY TERMS USED IN THIS STUDY

ADMINISTRATION SERVICES: Includes general governmental staff, services and functions such as county commissioners; treasurers; auditors; county clerks; councils; tax assessors, collectors; record and deed preservation; as well as financial and legislative departments. This category excludes functions that are specific to other categories such as courts (Justice and Public Safety); education and school boards (Education); and public works (Other); but otherwise encompasses all other central, legislative and executive activities and staff of the local county government.

DARK STORE METHOD: Valuation for property tax assessment purposes which assesses the value of currently operating "big-box" retail store locations as if they were vacant and closed.

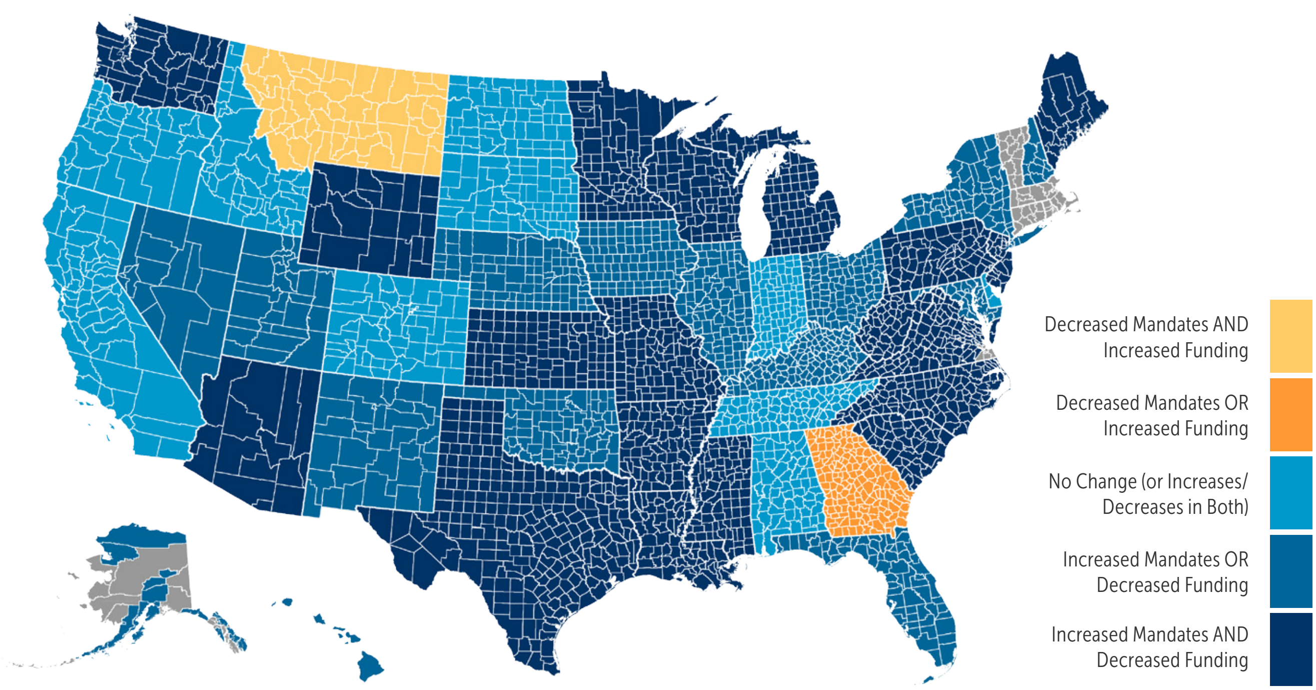
HEALTH AND HUMAN SERVICES: Includes services related to healthcare (hospitals; mental health services; services for the physically disabled; indigent care; nursing, assisted living homes); veteran's aid and services; pest, rodent, animal and weed control; animal shelters; environmental protection and improvement for purposes of public health; air pollution; welfare services; and child care and support.

MANDATE: Services, functions, or processes required of county governments by instruction from state or federal government authority. Funding to fulfill these mandates may be either funded or unfunded by the imposing authority.

Federal mandates impact the costs of many county functions and may emanate from statutory law or from federal agency rule making. With environmental issues, counties are often regulators, implementers of regulations and regulated themselves. U.S. Environmental Protection Agency (EPA) regulations are cited the most often as a federal mandate burden for counties by the state associations of counties and other officials interviewed. EPA clean water and air requirements affect local land use decisions and even post-disaster recovery efforts. A primary example is the use by the EPA of the Clean Water Act to issue storm water regulations impacting counties across the country. Further, EPA regulations affected negatively local economies relying heavily on mining, such as those in N.M. Regulations on federal lands are a major concern for counties in the West, but also counties in Miss. Land use regulations can diminish the revenue generating usages of public lands. For example, recently amended Bureau of Land Management (BLM) land use plans have excluded 2.8 million acres in three Nev. counties from future mineral extraction.

State mandates prove troublesome as well. According to the interviews with the state associations of counties and other state and county officials, nearly three-quarters (73 percent) of states are requiring counties to do more with what they have, decreasing state funding to counties or a combination of both. Over the past decade, counties in more than half of all states are experiencing a greater proliferation of mandates from states. Nearly half (45 percent) of state associations of counties reported counties receiving reduced state funding and facing more state mandates over the past ten years. (See Map 6).

MAP 6. STATE MANDATES AND FUNDING FOR COUNTIES
AS OF NOVEMBER 2016



Note: Conn., R.I., and parts of Mass. have counties or county-equivalents with no county governments (marked in grey on the map). There was no data available for Massachusetts and Vermont.

Source: NACo interviews with state associations of counties and state and county officials in each of the 48 states with county governments, research of state statutes, tax codes and local government finance literature.

State and federal mandates multiplied rapidly over the past decade, across a wide range of policy areas. Although justice and public safety is an area of shared responsibility, states consistently attempt to shift more of the burden to counties. Arkansas and Missouri have only partially compensated counties for the true costs of the increased number of prisoners sent to county jails by the state. Florida counties are responsible for the detention costs for juveniles on a pre-trial basis, state court costs and a portion of the state's Medicaid costs for the incarcerated. The state of Michigan sets the salary and benefit rates for district court judges; funding for these courts is provided by counties in six of these districts. In Ariz., the state requires counties to provide a separate tech system for the courts, without providing the full funding to cover the cost.

A cost shift is also occurring in the realm of health and human services. As an example, the state of New Hampshire transferred the cost of long-term care to counties following the Affordable Care Act's expansion of Medicaid, without providing funding for the service. As a result, property taxes are increasing to cover the costs.[18] The state of Georgia requires counties to share the cost of the state's Health Department and the Department of Family and Children.

NEARLY THREE-QUARTERS (73 PERCENT) OF STATES ARE REQUIRING COUNTIES TO DO MORE WITH WHAT THEY HAVE, DECREASING STATE FUNDING TO COUNTIES OR A COMBINATION OF BOTH.

Mandates enacted by state and federal legislators or issued by administrative agencies may advance important public interests. However, they need to be accompanied by financial resources for implementation. In many instances, the governmental entity issuing the mandate fails to provide the necessary resources, leaving counties to resort to general revenues raised from property taxes. Further, local communities are not being granted the opportunity to weigh the benefits against the increased tax burdens to implement state and federal mandates.

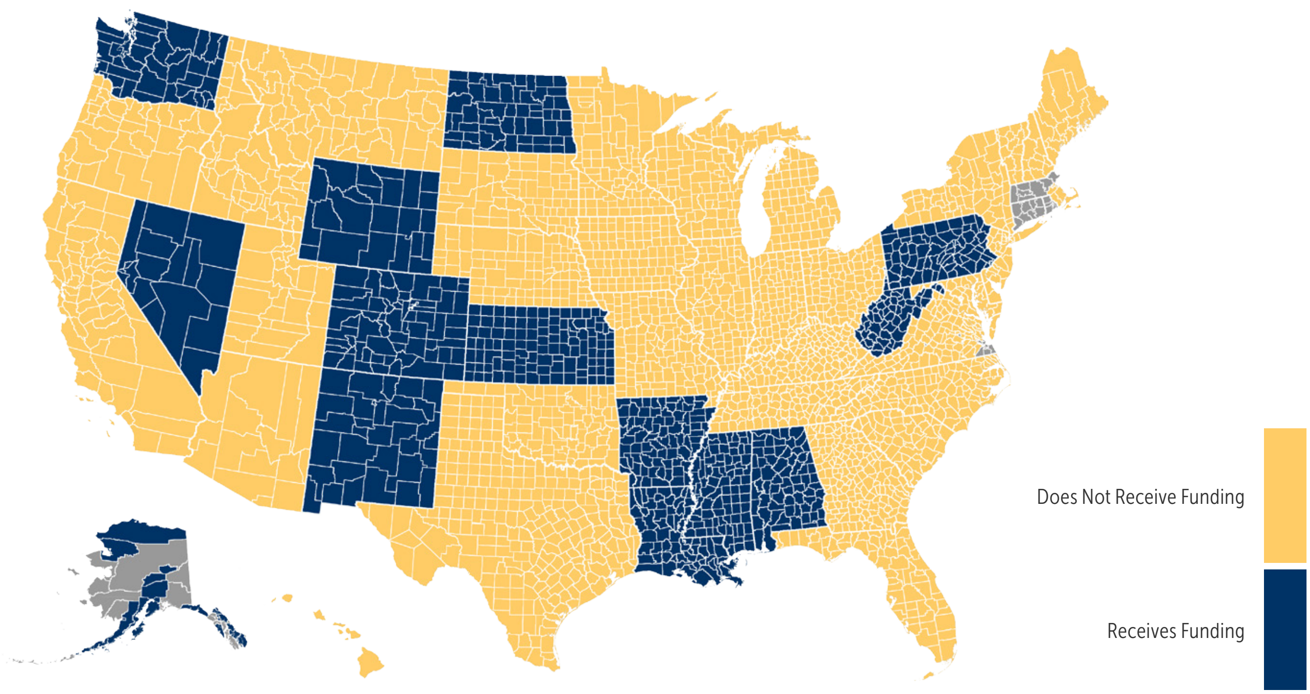
3 COUNTIES ARE ADJUSTING TO NEW FISCAL CHALLENGES ON THE HORIZON.

Several developments are challenging local fiscal conditions across the nation.

MARIJUANA LEGALIZATION. In 25 states and the District of Columbia (33 states following the November 2016 election), marijuana legalization promises to increase the flow of revenue into state coffers. However, costs associated with potential substance abuse problems (such as behavioral health, family services and law enforcement) may prevent counties from receiving a net financial benefit from this new source of revenue. Only five states (Calif., Colo., N.Y., N.C., Wash.) have revenue sharing agreements with counties for excise taxes on marijuana. This revenue sharing follows one of two models. First, the state of Washington shares a small portion of the excise tax with local governments opting to allow sale of marijuana for recreational purposes within their jurisdiction.[19] Second, Colorado shares a portion of marijuana sales revenue only with the localities that have not approved recreational marijuana use and sale; these funds are intended to address local impacts of marijuana legalization from neighboring jurisdictions. In addition, Colorado granted counties the ability to collect their own excise taxes on retail marijuana sales with no rate limitation.[20] At the same time, counties in all these states face the possibility of increasing expenses related to issues such as substance abuse or driving under the influence.

OIL, NATURAL GAS AND COAL PRODUCTION. The oil and natural gas production boom of the last 20 years brought an influx of revenue to counties in 14 states, which receive a portion of the severance taxes from oil and natural gas production. (See Map 7). The sharp drop in energy prices since mid-2014 is now resulting in less revenues for oil and gas counties (See Chart 3). For example, the revenues received by La. parishes from a state severance tax dedicated to counties declined by two-thirds between 2012 and 2015.[21] Oil production taxes comprise the majority of state funding to Alaska's boroughs; the decline in oil prices has forced the state to cut this funding to boroughs by half as of 2016.[22] Tax revenue from coal production is also on the decline. West Virginia counties are receiving less funding from coal severance taxes, oil and gas severance taxes. Kentucky funding from state coal severance tax to counties has dropped 60 to 80 percent in 2016 compared to a decade ago.[23]

MAP 7. STATE OIL AND GAS FUNDING FOR COUNTIES
AS OF NOVEMBER 2016



Note: Conn., R.I., and parts of Mass. have counties or county-equivalents with no county governments (marked in grey on the map).
Source: NACo interviews with state associations of counties and state and county officials in each of the 48 states with county governments, research of state statutes, tax codes and local government finance literature.

SHARING ECONOMY. County tax systems have not integrated yet the sharing economy developments. Rideshare companies such as Uber and Lyft are matching individual drivers with passengers. Airbnb and GuestHouser enable private homeowners to rent their residences overnight directly to individuals through online booking. According to the interviews with the state association of counties and other officials, counties in nine states are experiencing a fiscal impact from home sharing. Overall, 81 percent of counties collect occupancy taxes and those counties that largely rely on tourism may be significantly affected by home sharing arrangements.

COUNTIES IN AT LEAST 12 STATES ARE CONFRONTING VALUATION AND ASSESSMENT ISSUES, INCLUDING VALUATION APPEALS, DUE TO THE "DARK STORE" METHOD OF ASSESSING BIG-BOX STORES.

DARK STORES. Counties in at least 12 states are confronting valuation and assessment issues, including valuation appeals, due to the "dark store" method of assessing big-box stores. This method values currently operating retail store locations for tax purposes as if they were vacant and closed; proponents argue that this real estate could not be sold near the cost of construction, since these stores were built out for particular purposes. Since the assessment of a closed location is far lower than that of an operational facility, property tax revenue generated from operating big box store is significantly diminished with this valuation method.

Owners of this type of commercial real estate have achieved varying degrees of success litigating this matter in court, often by arguing the valuation method conflicts with statutory law. In October 2016, the U.S. Supreme Court refused Rite Aid Corp.'s petition for certiorari challenging property valuations of two N.Y. retail locations; the towns valued the locations based on the drugstore leases rather than using a dark store method.[24] In May 2016, the Michigan Court of Appeals reversed a ruling by a tax tribunal held in favor of retailer Menard. The court held that the tax tribunal had "made an error of law and its decision was not supported by competent, material and substantial evidence" in allowing the dark store valuation method to apply.[25]

The state of Michigan is considered to be a "founding father" of dark store cases. Since 2013, Mich. counties have refunded approximately $78 million in property taxes related to dark store valuations. In Oakland County, Mich., a Target store once valued at $80 per square foot had its assessed value reduced to $30 after the county lost the assessment appeal. In Midland County, Mich., another Target's assessed value was slashed from $66 per square foot to just $30 as well. Although various pieces of legislation have been introduced, none yet appear viable.

Counties often lack the human resources needed to challenge these valuations in court, even if financially possible. For instance, until October of 2016, Ala. state law required the local district attorney to handle all ad valorem tax cases within their respective district. Recently passed state legislation permits county boards to retain outside counsel in property tax appeals. Funding is derived from the county's reappraisal budget.[26]

Counties can also take measures to prevent "dark store" appeals. For example, some counties in Ga. issued ordinances prohibiting deed restrictions and requiring big box stores to demolish the building upon discontinuation of retail use.[27] One item on Wisconsin's county legislative agenda for 2017-2018 in the taxation and finance arena is "Amend property tax assessment to close the 'dark store' loophole." Counties recognize that this loss in property tax revenue results in a higher tax burden for the other property owners in the county, reduced services or both.

These are just of the challenges facing counties given technological, behavioral and economic shifts. Marijuana legalization is far from a national norm, and the costs have not been fully assessed. Tax revenues from oil, natural gas and coal production are particularly volatile due to market pricing and also potential regulatory impediments. Integrating the sharing economy into the tax system is still in an incipient form. The "dark store" valuation appeals are on the rise and spreading throughout the country. Counties are alert at rising issues and active in providing solutions.

4 COUNTIES ARE PURSUING VARIOUS SOLUTIONS TO ENSURE QUALITY SERVICE DELIVERY DESPITE FISCAL CONSTRAINTS.

These partial solutions include service delivery sharing, special districts, constitutional changes and alterations of maintenance schedules.

Service Delivery Sharing. Counties throughout the country partner with cities, other local governments, other counties, nonprofit organizations and the private sector to deliver high-quality services to their residents in a cost efficient manner. The purpose and design of these partnerships varies; but with decreased state funding and increased requirements for counties, sharing services can play a vital role in delivering services. For example, Iowa counties are part of more than 23,000 agreements with other local governments for service delivery ranging from ambulance services to public libraries. But numerous other examples abound, including the following:

- Some N.C. cities and counties share 911 services. Others engage in city/county partnerships for sewer infrastructure upgrades.
- Nevada's Carson City and some neighboring counties have partnered together to create a cross-county health district.
- Kansas' 105 counties share 27 community mental health centers.
- New Jersey's city of Camden turned to Camden County to fight a crime epidemic. The county took over the city police department, creating a county-wide police force. By leveraging county resources, reduced murder rate by half in two years.
- In Neb., some counties co-developed a regional juvenile detention center for counties to hold inmates for other counties. Other Neb. counties created joint public agencies with cities or other governmental entities to develop fairgrounds, arenas or water redevelopment projects.
- Some Ky. counties partnered to create regional industrial parks, funded by their coal severance taxes. Others created regional recycling centers in partnership with nonprofit organizations and neighboring counties. In central Ky., 17 counties have a regional recycling center. Moreover, Ky. counties partner to build and maintain county jails.

SPECIAL DISTRICTS: Special districts function administratively and fiscally independent from counties, but the county ultimately remains fiscally accountable for the district. Because taxes and fees imposed by special districts are not typically subject to county revenue limitations, they represent one solution to the fiscal impasse; however, these special districts can confuse citizens, are removed from full oversight and may add layers of bureaucracy.

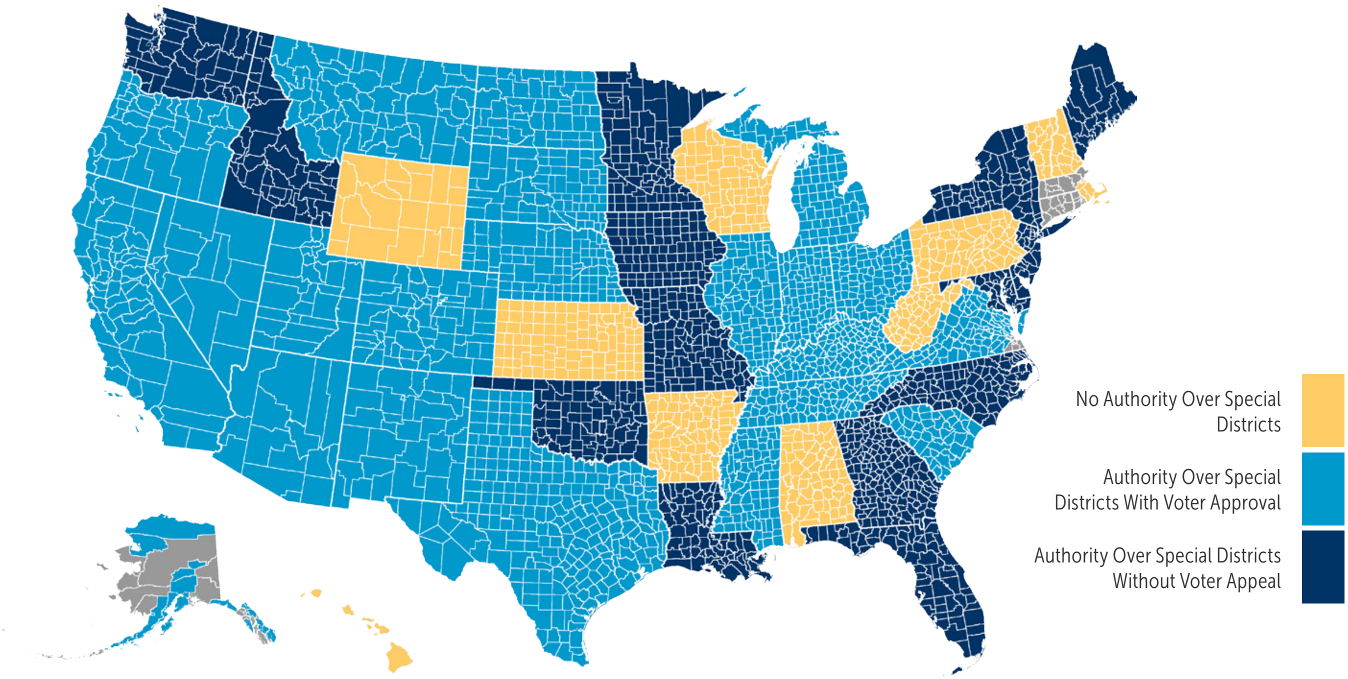
KEY TERMS USED IN THIS STUDY

SPECIAL DISTRICT: Taxing districts created by county governments or other governing bodies. Special districts function administratively and fiscally independent from county governments, although the county ultimately remains fiscally accountable for the district.

Thirty-seven (37) states grant counties the authority to create and/or manage special districts to fund specific services (See Map 8). In 22 of the 37 states, counties must obtain voter approval to create a special district.

MAP 8. COUNTY AUTHORITY OVER SPECIAL DISTRICTS

AS OF NOVEMBER 2016



Note: Conn., R.I., and parts of Mass. have counties or county-equivalents with no county governments (marked in grey on the map).

Source: NACo interviews with state associations of counties and state and county officials in each of the 48 states with county governments, research of state statutes, tax codes and local government finance literature.

Most commonly, special-purpose districts levy a separate property tax from the county to fund specific services, which can be as narrow or as broad as state statutes allow. For instance, S.C. counties may create special districts for libraries, water treatment, hospital and medical care, elections and economic development. Texas special districts complement county services. For example, Texas counties provide indigent health care in areas without a hospital district. Of special note, more than 1,000 special districts in Idaho created through referenda finance highways, firefighting, ambulance services, sewer and libraries.

CONSTITUTIONAL OPTIONS: Alabama counties have largely avoided unfunded mandates because a 1998 amendment to the Ala. Constitution requires a two thirds approval of any such mandate by the state legislature; furthermore, the state cannot enforce the mandate until the next fiscal year.

These varied solutions are enabling counties to enhance service delivery in a cost effective manner. Shared service provisions foster an enduring lean efficiency by eliminating government redundancy. Legislative and constitutional actions are also bold options to deter the allure of state unfunded mandates on counties. Lastly, special districts are a widely available mechanism for funding specific services beyond the state imposed revenue limits. Counties are using a combination of these tools to mitigate fiscal pressures.

CONCLUSION

Counties face a daunting problem. In most states, restrictions and limitations on revenue sources inhibit the responsiveness of counties to the demands of local residents.

Further complicating the financial health of counties is the growing volume of unfunded state mandates ranging from process guidelines to hefty demands on service provisions. In some cases, the state seemingly demands the impossible: fulfillment of the mandates while prohibiting counties from even developing revenue streams to pay for these mandates on their own. Adding further complexity to these pressures are the oft-incongruent demands of the electorate; the clamor for more expansive services occurs simultaneously with an insistence for a lightened tax burden.

COUNTIES FACE A DAUNTING PROBLEM. IN MOST STATES, RESTRICTIONS AND LIMITATIONS ON REVENUE SOURCES INHIBIT THE RESPONSIVENESS OF COUNTIES TO THE DEMANDS OF LOCAL RESIDENTS.

PRUDENCE OF A MANDATE CANNOT BE INFERRED SOLELY BY THE CONSTITUTIONALITY OF THAT MANDATE.

Both the state and federal governments must be more cognizant of the financial pressures created by unfunded mandates. Prudence of a mandate cannot be inferred solely by the constitutionality of that mandate. Counties need the state and the federal governments to provide full funding to cover the compliance costs of the mandates they impose. Likewise, increased county autonomy regarding revenue generation and service provisions would relieve some of the fiscal pressures. Continued partnership with state and federal governments is essential to counties' ability to effectively and successfully support thriving communities across the country.

END NOTES

[1] National Association of Counties, "Why Counties Matter," available at http://www.naco.org/sites/default/files/documents/CountiesMatter_brochure.pdf.

[2] Emilia Istrate and Daniel Handy, "The State of County Finances: Progress Through Adversity," NACo Trends Analysis Paper Series, Issue 6, October 2016, available at http://www.naco.org/sites/default/files/documents/2016%20County%20Finance%20Report_10.07.16.pdf.

[3] Based on an analysis of the 2013 audited county financial statements of 2,112 counties in 45 states and the District of Columbia.

[4] Emilia Istrate and Daniel Handy, "The State of County Finances: Progress Through Adversity," NACo Trends Analysis Paper Series, Issue 6, October 2016, available at http://www.naco.org/sites/default/files/documents/2016%20County%20Finance%20Report_10.07.16.pdf.

[5] See state profiles for state level data on property tax disbursements and state specific sources.

[6] Figures derived by calculations based on NACo interviews with state associations. Number reflect values from differing fiscal years, dependent on state.

[7] Ibid.

[8] Emilia Istrate and Daniel Handy, "The State of County Finances: Progress Through Adversity," NACo Trends Analysis Paper Series, Issue 6, October 2016, http://www.naco.org/sites/default/files/documents/2016%20County%20Finance%20Report_10.07.16.pdf.

[9] Vermont counties have no independent authority to levy property taxes. Instead, the state of Vt. and its towns collect all local taxes, disbursing a portion of this revenue to counties.

[10] New Hampshire counties do not have the authority to levy any taxes on their own. Instead, municipalities levy and collect all taxes. The county convention determines what proportion of municipal tax revenues the towns must pay the county, and counties issue warrants annually to the towns within county borders to provide these funds.

[11] Wyoming County Commissioners Association, interview response, March 2016.

[12] Alaska Taxable 2015 https://www.commerce.alaska.gov/dcra/dcrarepoext/Pages/AlaskaTaxableDatabase.aspx

[13] Kansas will be the 30th state after implementation of a levy limit effective January 1, 2017.

[14] Association of Arkansas Counties, interview response, March 2016.

[15] State of Minnesota, Department of Revenue, available at http://www.revenue.state.mn.us/propertytax/factsheets/factsheet_12a.pdf.

[16] New York Association of Counties, interview response, April 2016.

[17] Emilia Istrate and Daniel Handy, "The State of County Finances: Progress Through Adversity," NACo Trends Analysis Paper Series, Issue 6, October 2016.

[18] New Hampshire counties do not have the authority to levy any taxes on their own. Instead, municipalities levy and collect all taxes. The county convention determines what proportion of municipal tax revenues the towns must pay the county, and counties issue warrants annually to the towns within county borders to provide these funds.

[19] Washington State Association of Counties, interview April 2016.

[20] Colorado Counties, Inc., interview March 2016.

[21] Police Jury Association of Louisiana, interview May 2016.

[22] Alaska Municipal League, interview March 2016.

[23] Kentucky Association of Counties, interview April 2016.

[24] Rite Aid Corp. v. Huseby, U.S., No. 16-36, petition for certiorari denied October 3, 2016.

[25] Menard, Inc. v. City of Escanaba, number 325718, before the State of Michigan Court of Appeals.

[26] Association of County Commissions of Alabama, correspondence with NACo.

[27] Association County Commissioners Georgia, interview March 2016.

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