2017 SUMMER **ADVOCACY** TOOLKIT

NATIONAL ASSOCIATION of COUNTIES NACo

ABOUT NACo

The National Association of Counties (NACo) unites America's 3,069 county governments. Founded in 1935, NACo brings county officials together to advocate with a collective voice on national policy, exchange ideas and build new leadership skills, pursue transformational county solutions, enrich the public's understanding of county government, and exercise exemplary leadership in public service.

With the Summer Congressional recess starting Friday, July 28th, county leaders have a great opportunity to advocate for county legislative and regulatory priorities right at home. NACo has put together the following information to help you be an effective advocate during the summer recess.

- **Advocacy Opportunities and Planning**
- **Media Toolkit**
- **Policy and Regulatory Briefs**

MISSION

Through NACo, county officials:

- Advocate with a collective voice on national policy
- Exchange ideas and build new leadership skills
- Pursue transformational, cost-effective solutions
- Enrich the public's understanding of county government, and
- Exercise exemplary leadership in public service.

VISION

Healthy, vibrant and safe counties across the United States.

STRONGER COUNTIES.
STRONGER AMERICA.

CHECK OUT NACo's NEW COUNTIES MATTER RESOURCES AT
naco.org/countiesmatter

COUNTIES MATTER

National Association of Counties

STRONGER COUNTIES. **STRONGER AMERICA.**


NATIONAL ASSOCIATION of COUNTIES NACo
2018 NACo
LEGISLATIVE CONFERENCE
SAVE THE DATE
MARCH 3-7, WASHINGTON D.C.

IDEAS FOR ADVOCACY

have you thought about...

- Inviting your member of Congress to tour your county jail
- Inviting your member of Congress to tour your county hospital
- Showing your member of Congress your county's infrastructure projects
- Inviting your member of Congress to attend your county commission meeting

NATIONAL ASSOCIATION of COUNTIES NACo

ADVOCACY OPPORTUNITIES AND PLANNING

With the 2017 legislative calendar quickly coming to an end, talk in the nation's capital has shifted to concerns over enacting "must pass" appropriations bills and other major legislation pursued by the new Trump Administration and new Congress. First, Congress must figure out how to find compromise and wrap-up the FY 2018 annual appropriations process before the current fiscal year ends September 30 to avoid causing a government shutdown. That doesn't leave much time to finish major bipartisan, bicameral bills and negotiate with the White House—which will undoubtedly further complicate matters. It is still very much uncertain whether Republicans and Democrats in the House and Senate will be able to pass any or all of the 12 individual appropriations measures, or if Congress will again have to resort to passing a Continuing Resolution to fund the entire government at prior-year levels.

Not only must Congress fund the federal government for FY 2018, but leaders are also having important conversations about other issues important to our nation's counties, which they will take up in the coming months. This is why it is so critical to meet with your members of Congress over the summer and into the fall.

Between now and the end of the year, federal lawmakers will be back in their home districts and states more days than they are in Washington. These district or state "work periods," particularly the one occurring during the month of August, provide counties with a unique opportunity to communicate with members of Congress and demonstrate your impact within your communities.

COUNTIES INVEST

over
$554 billion
annually

and employ more than
3.6 million

with more than
19,000
elected county board members
& elected county executives

JUSTICE AND PUBLIC SAFETY

$93 billion
in justice & public safety services

spending almost
$26 billion
on correctional facilities

COUNTIES MATTER
FAST FACTS

If you do not already have plans to meet with your Senators and Representative(s) while they are home, we encourage you to reach out to their offices and request meetings. To schedule a meeting with members of your congressional delegation, you should contact the scheduling staff at the office location nearest to you. Information on office locations and contact numbers can be found on Members' websites. The U.S. House of Representatives directory can be found here and the U.S. Senate directory can be found here.

If possible, county leaders should invite members of Congress and local media to tour county facilities and projects, especially those that closely relate to policy and regulatory issues outlined in this toolkit (e.g. jails, transportation facilities and hospitals that received federal funding, etc.). **Lawmakers will appreciate the opportunity to see the facilities supported by federal funds, discuss the programs, meet local elected officials and talk with employees (meaning voters!). Whether you get them in a car and drive around their district or schedule a tour, this is a highly effective way to build the relationship and begin your advocacy efforts.**

A federal project tour gives legislators an opportunity to see their contribution to their constituents and serves as an opportunity for the local community and local elected officials to provide on-site feedback to your members of Congress. If a federal project tour isn't an option for your county, consider inviting your congressional members to attend a county event such as the county fair or county board meeting. Remember to thank them for their time and, if possible, take pictures and issue a press release about the visit.

HEALTH

$83 billion
for community health & hospitals

annually supporting over
900 hospitals

and more than
100,000
hospital beds

ECONOMIC DEVELOPMENT

$11 billion
for housing and community development

and almost
$18 billion
on parks and recreation facilities, libraries and community centers

TRANSPORTATION

46%
of America's road miles

more than
38%
of bridges

34%
of public airports

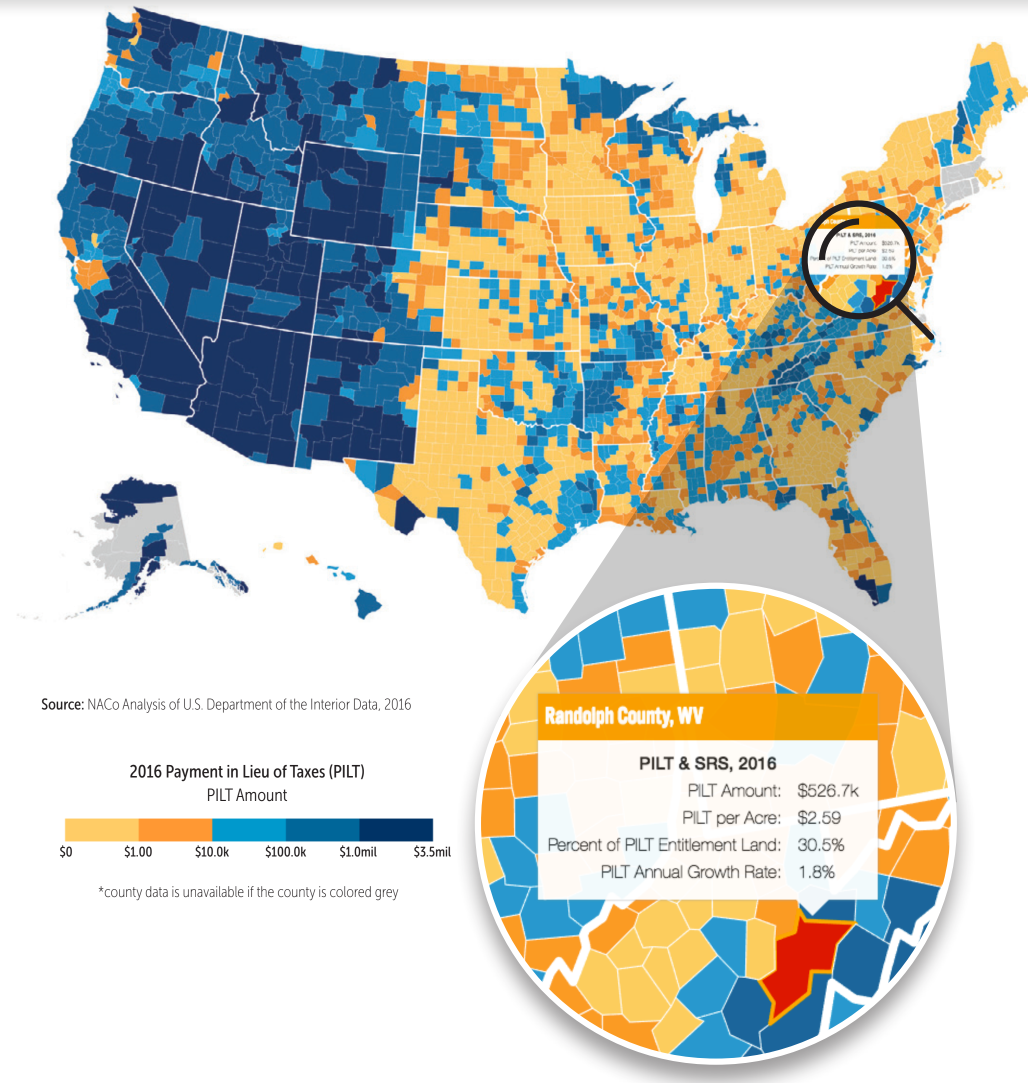
and
78%
of public transit systems

NACo COUNTY EXPLORER

MAPPING COUNTY DATA

Map an Indicator

City Search | County Search | State Search



Source: NACo Analysis of U.S. Department of the Interior Data, 2016

MORE ABOUT COUNTY EXPLORER

County Explorer includes the latest available data for 3,069 counties across 19 categories, over 100 datasets, more than 1,000 indicators and 15 types of county profiles.

Email research@naco.org for more information

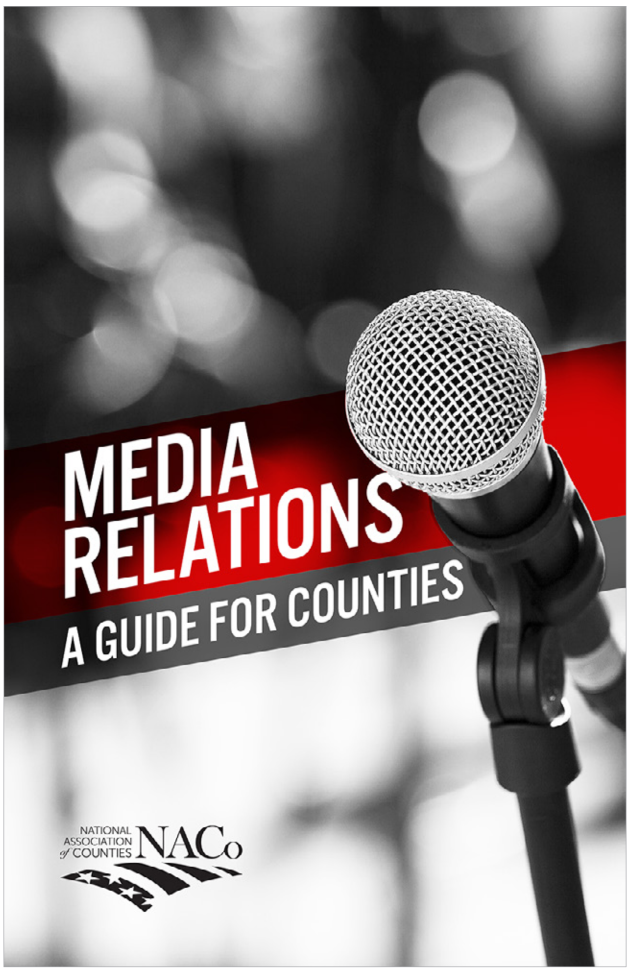
www.NACo.org/CountyExplorer

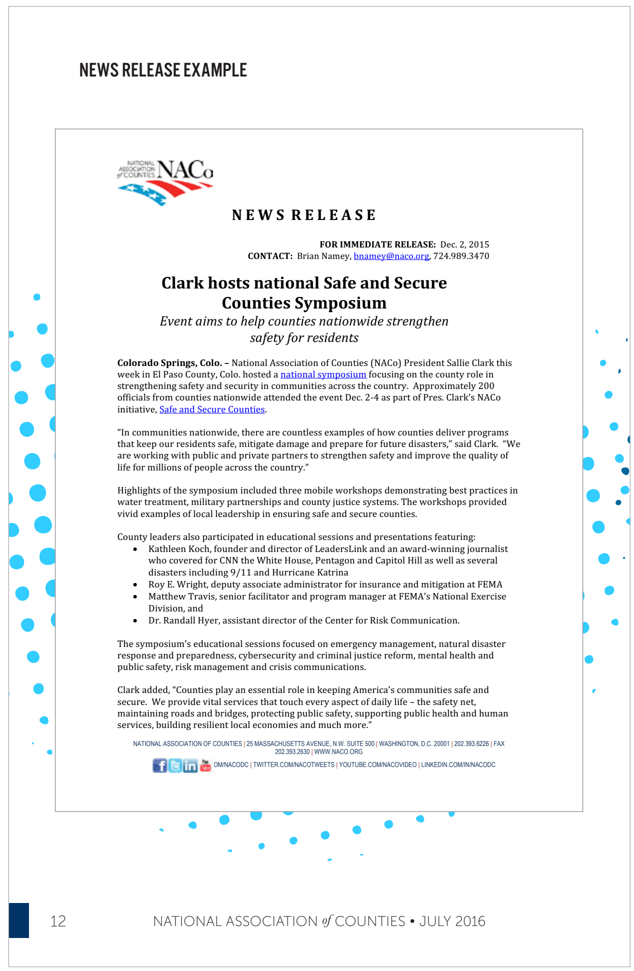
NATIONAL ASSOCIATION of COUNTIES NACo

MEDIA TOOLKIT

While members of Congress are in their states and districts during the summer and fall district work periods, county officials have a great opportunity to draw attention to key federal policy issues that impact your county. In addition to inviting your members of Congress for an in-person tour or meeting, your local media outlets are another key advocacy tool. They provide a useful way to keep your residents informed about what you are doing on their behalf.

There are many ways to work with your local media, including issuing a press release to inform your community about a congressional visit to your county projects and facilities. Submitting an op-ed or a guest commentary to local papers is also an excellent way to express your views in a highly visible way. To assist you, NACo has developed a **Media Relations Guide for Counties** that provides tools and tips on how to best work with local media outlets.





NEWS RELEASE EXAMPLE

NATIONAL ASSOCIATION of COUNTIES NACo

NEWS RELEASE

FOR IMMEDIATE RELEASE: Dec. 2, 2015
CONTACT: Brian Namey, bnamey@naco.org, 724.989.3470

Clark hosts national Safe and Secure Counties Symposium

Event aims to help counties nationwide strengthen safety for residents

Colorado Springs, Colo. – National Association of Counties (NACo) President Sallie Clark this week in El Paso County, Colo. hosted a national symposium focusing on the county role in strengthening safety and security in communities across the country. Approximately 200 officials from counties nationwide attended the event Dec. 2-4 as part of Pres. Clark's NACo initiative, Safe and Secure Counties.

"In communities nationwide, there are countless examples of how counties deliver programs that keep our residents safe, mitigate damage and prepare for future disasters," said Clark. "We are working with public and private partners to strengthen safety and improve the quality of life for millions of people across the country."

Highlights of the symposium included three mobile workshops demonstrating best practices in water treatment, military partnerships and county justice systems. The workshops provided vivid examples of local leadership in ensuring safe and secure counties.

County leaders also participated in educational sessions and presentations featuring:

- Kathleen Koch, founder and director of LeadersLink and an award-winning journalist who covered for CNN the White House, Pentagon and Capitol Hill as well as several disasters including 9/11 and Hurricane Katrina
- Roy E. Wright, deputy associate administrator for insurance and mitigation at FEMA
- Matthew Travis, senior facilitator and program manager at FEMA's National Exercise Division, and
- Dr. Randall Hyer, assistant director of the Center for Risk Communication.

The symposium's educational sessions focused on emergency management, natural disaster response and preparedness, cybersecurity and criminal justice reform, mental health and public safety, risk management and crisis communications.

Clark added, "Counties play an essential role in keeping America's communities safe and secure. We provide vital services that touch every aspect of daily life – the safety net, maintaining roads and bridges, protecting public safety, supporting public health and human services, building resilient local economies and much more."

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POLICY AND REGULATORY BRIEFS

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NATIONAL ASSOCIATION of COUNTIES NACo

PROTECT TAX-EXEMPT STATUS OF MUNICIPAL BONDS

BACKGROUND

Tax-exempt municipal bonds were first established in our nation's tax code in 1913 and are a well-established government financing tool. These bonds are predominantly issued by state and local governments for governmental infrastructure and capital needs purposes and to help pay for public projects such as the construction or improvement of schools, streets, highways, hospitals, bridges, water and sewer systems, ports, airports and other public works.

As congressional leaders have placed increased focus on comprehensive tax reform as part of larger efforts to reduce our nation's deficit, elimination or reduction of tax-exempt municipal bond interest remains on the table as one of several means of achieving lower overall tax rates. As Congressional Republicans continue working towards comprehensive tax reform in the 115th Congress, counties face the risk of losing a low-cost, market-driven means of financing to support local infrastructure and public improvement needs.

Eliminating the tax-exempt status of municipal bonds was first entertained by President Obama's National Commission on Fiscal Responsibility and Reform (Simpson-Bowles Plan). A derivative of that proposal – a 28 percent cap on the benefit of the exemption – was included in President Obama's last five budget requests.

Similar proposals have continued to surface in the ongoing debate on tax reform in the Senate Finance Committee and House Ways and Means Committee. In 2014, former Ways and Means Chairman Dave Camp (R-Mich.) included a provision in his comprehensive reform discussion draft that would have placed a surtax on otherwise tax-exempt bond interest earned by high income taxpayers. All of these proposals would have the effect of imposing an income tax on otherwise tax-exempt interest earned by investors.

Although tax reform efforts stalled in the 113th Congress, the work resumed in the 114th. House Ways and Means Chair Kevin Brady (R-Texas) held several committee hearings in early 2016, providing representatives with opportunities to provide comments and proposals for tax reform. Much of the feedback received was used to shape the tax reform blueprint released in June 2016 by House Speaker Paul Ryan (R-Wis.) as part of the GOP's "A Better Way" campaign. The blueprint is largely focused on lowering tax rates and simplifying the tax code, but lacks specific details on how these objectives would be achieved. It remains unclear how the tax-exemption for municipal bond interest would be treated under the reform plan.

COUNTY INTEREST

Over the past half century, state and local governments have increasingly borne the cost of infrastructure and public improvements. For example, according to the Congressional Budget Office, about 75 percent of public funding for transportation and water infrastructure is supplied by state and local governments.

Tax-exempt bonds are a critical tool for counties that facilitate budgeting and financing for long-range investments in the infrastructure and facilities necessary to meet public demand. Without the tax-exemption, counties would pay more to raise capital, a cost that would ultimately be borne by taxpayers through reduced spending on county roads, bridges and other essential infrastructure, slower economic development and higher taxes and fees.

STATUS

At the start of 2017, conditions appeared favorable for major tax reform legislation to advance, since the 115th Congress and White House are now controlled by the same party. Ways and Means Committee members in the U.S. House have been busy since the latter part of 2016 drafting comprehensive reform language based on Speaker Ryan's "A Better Way" blueprint. Draft text could be released by lawmakers in the coming months.

In the House, Reps. Randy Hultrgren (R-Ill.) and C.A. “Dutch” Ruppersberger (D-Md.), both former county officials, have taken up the cause of protecting the tax-exempt status of municipal bonds as co-chairmen of a bipartisan House Municipal Finance Caucus.

TALKING POINTS

- A fundamental feature of the first federal tax code written in 1913, tax-exempt financing is used by state and local governments to raise capital to finance public capital improvements and other projects, including infrastructure facilities that are vitally important to sustained economic growth.
- Between 2003 and 2012, counties, localities, states and state/local authorities financed $3.2 trillion in infrastructure investment through tax-exempt municipal bonds.
- If municipal bonds were fully taxable during the 2003-2012 period, it is estimated that the financing for the 21 largest infrastructure purposes would have cost state and local governments an additional $495 billion of interest expense. If the 28 percent cap were in effect, the additional cost to state and local governments would have been approximately $173.4 billion.
- For 2012, the debt service burden for counties would have risen by $9 billion if municipal bonds were fully taxable over the last 15 years and roughly $3.2 billion in the case of a 28 percent cap. Americans, as investors in municipal bonds and as taxpayers securing the payment of municipal bonds, would have borne this burden.
- The municipal bond tax-exemption represents a fair allocation of the cost of projects between federal and state/local levels of government. Through the use of tax-exempt municipal bonds, state and local governments invested 2.5 times more in infrastructure than the federal government.
- Tax-exempt bonds are vital for infrastructure, justice and health needs because counties own and operate 45 percent of public roads and highways, own almost a third of the nation’s transit systems and airports, own 961 hospitals, manage 1,943 health departments and own the vast majority of the nation’s jails.

RELEVANT COMMITTEES WITH JURISDICTION (FIND YOUR MEMBER):

- House Ways and Means Committee
- Senate Finance Committee

THE STATE AND LOCAL TAX DEDUCTION IN TAX REFORM

BACKGROUND

The state and local tax (SALT) deduction has existed for over a century since the institution of the original 1913 federal tax code, and it was also included in the emergency federal income tax of 1862. As Congress considers comprehensive tax reform, the SALT deduction is one of many provisions in the code targeted for elimination to offset lower individual and corporate income tax rates.

COUNTY INTEREST

The SALT deduction protects local taxpayers from double taxation and preserves our system of federalism. Currently, individuals may deduct state and local taxes paid – including local property and sales taxes – from their income before paying federal taxes. This prevents tax filers in all income brackets from facing double taxation on their income. It also allows state and local jurisdictions flexibility in setting their own tax rates, a critical issue for counties, which already face revenue limitations in most states. Counties deploy revenues from state and local property, income and sales taxes to finance infrastructure projects, local law enforcement, emergency services, education costs and many other services. Deductibility allows state and local governments to maintain authority over local tax structures supporting these services.

STATUS

Congressional leaders and the administration remain optimistic about completing comprehensive tax reform this fall. Both Vice President Mike Pence and House Speaker Paul Ryan (R-Wis.) have spoken publicly about Congress and the administration's efforts to complete comprehensive tax reform this year, and both the House and the White House have released tax reform "blueprints" that would repeal the SALT deduction. Senate Finance Committee Chairman Orrin Hatch (R-Utah) is also gathering input on issues comprehensive tax reform should address.

House and Senate leadership anticipate using the budget reconciliation process to achieve tax reform, which would only require a simple majority in both chambers. As one of the largest expenditures in the tax code, the SALT deduction faces a particularly grave risk as these talks move forward. Both Democrats and some Republicans have opposed eliminating the deduction, but it will take a broader coalition to convince leadership to omit it from tax reform plans.

TALKING POINTS

- Eliminating or capping federal deductibility for state and local property, sales and income taxes would represent double taxation on American taxpayers, a principle strongly rejected throughout the rest of the tax code. Additionally, by eliminating federal deductibility of state and local taxes, Congress would shift the intergovernmental balance of taxation and limit state and local control of our tax systems.
- States and local governments deploy revenues from state and local property, income and sales taxes to finance infrastructure projects, local law enforcement, emergency services, education costs and many other services. Deductibility allows state and local governments to maintain authority over local tax structures supporting these services.
- Eliminating the deduction hurts the middle class: in 2015, over 36 million tax filers making less than $200,000 claimed the deduction, and those families accounted for over half (52.7 percent) of the total amount of double taxation avoided in 2015.

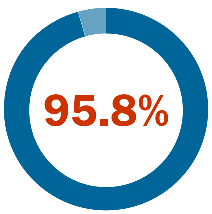
RELEVANT COMMITTEES WITH JURISDICTION (FIND YOUR MEMBER):

- [U.S. House Ways and Means Committee]
- [U.S. Senate Finance Committee]

NO DOUBLE TAXATION

CONGRESS SHOULD PRESERVE THE STATE AND LOCAL TAX DEDUCTION IN TAX REFORM

IN 2015, AT LEAST



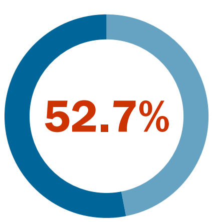
OF ALL ITEMIZERS TOOK THE STATE AND LOCAL TAX DEDUCTION

IN 2015, OVER

36 MILLION

INDIVIDUALS AND FAMILIES MAKING LESS THAN $200,000 CLAIMED THE DEDUCTION

THOSE FAMILIES ACCOUNTED FOR OVER HALF -



OF THE TOTAL AMOUNT OF DOUBLE TAXATION AVOIDED IN 2015

WHAT IS THE STATE AND LOCAL TAX DEDUCTION?

The state and local tax deduction allows taxpayers to deduct state and local taxes paid from their federally taxable income. Deductibility of these taxes prevents double taxation, since state and local taxes are mandatory payments.

WHY DO WE CARE?

States and local governments deploy revenues from state and local property, income and sales taxes to finance infrastructure projects, local law enforcement, emergency services, education costs and many other services. Deductibility allows state and local governments to maintain authority over local tax structures supporting these services.

WHAT WOULD ELIMINATING DEDUCTIBILITY DO?

Eliminating or capping federal deductibility for state and local property, sales and income taxes would represent double taxation on American taxpayers, a principle strongly rejected throughout the rest of the tax code. Additionally, by eliminating federal deductibility of state and local taxes, Congress would shift the intergovernmental balance of taxation and limit state and local control of our tax systems.

DID YOU KNOW?

The state and local tax deduction has existed for over a century since the institution of the original 1913 federal tax code.

STATE AND LOCAL GOVERNMENTS PROVIDE CRITICAL SERVICES WITH REVENUE GENERATED THROUGH STATE AND LOCAL TAXES, INCLUDING:

INFRASTRUCTURE

EDUCATION

HEALTH SERVICES

PUBLIC SAFETY AND EMERGENCY SERVICES

CSG · ICMA INTERNATIONAL CITY/COUNTY MANAGEMENT ASSOCIATION · NATIONAL ASSOCIATION of COUNTIES NACo · NATIONAL CONFERENCE of STATE LEGISLATURES The Forum for America's Ideas · NLC NATIONAL LEAGUE OF CITIES CITIES STRONG TOGETHER · NGA NATIONAL GOVERNORS ASSOCIATION · THE UNITED STATES CONFERENCE OF MAYORS

SUPPORT MARKETPLACE FAIRNESS ACT (REMOTE SALES TAX LEGISLATION)

BACKGROUND

The 1967 Supreme Court case (*National Bellas Hess v. Illinois Department of Revenue*) set the stage for the current debate on taxing Internet sales. In that case, the Court ruled it would be too much of a burden on out-of-state retailers to collect sales taxes in all the jurisdictions in which they conduct business. In 1992, the issue resurfaced in (*Quill v. North Dakota*), in which the Court reaffirmed (*Bellas Hess*), but elaborated that Congress ultimately has the power to resolve the question of taxation on interstate commerce.

Since those earlier decisions, the Internet's use and utility has developed tremendously. Consequently, online sales have also grown exponentially in the last fifteen years and are projected to continue to increase. Since state and local governments are still unable to enforce their existing sales tax laws on many of those purchases, billions of local tax dollars are lost each year.

COUNTY INTEREST

The issue of taxing remote sales has compounded in recent years due to the extraordinary development of the Internet as a retail marketplace. State and local governments have lost billions of dollars in uncollected sales taxes. At the same time, Main Street businesses are at a significant competitive disadvantage to online retailers. Sales in e-commerce are projected to continue increasing. For example, total online sales for Black Friday 2015 reached over $2.7 billion, a 14 percent increase over the same period in 2014.

The increasing level of lost revenue means less money for basic services, such as roads and law enforcement officers. With local economies still recovering from the Great Recession, additional revenue will bolster any recovery efforts, and capturing these revenues is crucial to counties, especially for mandated yet underfunded services.

STATUS

Status: In the 115th Congress, Marketplace Fairness Act (MFA) champions Sens. Michael Enzi (R-Wyo.), Richard Durbin (D-Ill.), Lamar Alexander (R-Tenn.) and Heidi Heitkamp (D-N.D.) reintroduced the MFA as S. 976 in March. In the U.S. House of Representatives, a similar bill, the Remote Transactions Parity Act (RTPA) (H.R. 2193) was introduced by Rep. Jason Chaffetz (R-Utah) with ten bipartisan cosponsors. Essentially like the original 2013 bill, S. 976 requires out-of-state merchants to collect the same taxes that local merchants collect. Though similar to the Senate bill, H.R. 2193 would ultimately phase out the small seller exemption over three years, beginning with sellers under $10 million in remote sales per year, dropping to $5 million per year and $1 million in the third. The RTPA bill also establishes a physical presence standard for the definition of a remote seller.

Neither bill has seen committee action so far this year. In the past, House Speaker Paul Ryan indicated he wants the House Judiciary Committee to take up the issue under regular order, though Judiciary Chairman Bob Goodlatte (R-Va.) continues to oppose the RTPA. Adding to the complexity of the issue is that several states are taking steps on their own in the absence of federal legislation. States like South Dakota and Alabama enacted legislation that would require remote sellers to collect sales taxes if they generate over a statutorily set threshold of remote sales in a given year into the state. In other words, even if the remote seller does not have a physical presence in the state, they would be required to collect sales tax as a result of the amount of revenue they are generating in sales within the state.

As expected, lawsuits have already been filed by certain businesses challenging the validity of the laws. For the most part, the states are passing the laws with the intention of generating litigation, with the hopes that the cases would go all the way to the U.S. Supreme Court and provide the Justices with an opportunity to reverse the decision in (Quill v. North Dakota), 504 U.S. 298 (1992). (Quill) upheld the physical presence standard and resulted in the current status quo remote sales tax. Marketplace Fairness supporters were encouraged in 2015 when Justice Kennedy wrote a concurring opinion in (Direct Marketing Association v. Brohl),135 S. Ct. 1124, 1135 (2015) in which he argued that given the evolution of technology, it is likely time for the Court to revisit the physical presence standard upheld in the (Quill) decision.

In 2017, several more states are considering similar legislation.

TALKING POINTS

- Members of Congress should support legislative initiatives that would allow states and local governments to enforce existing laws and stop the loss of billions of dollars in uncollected tax revenue on sales in e-commerce every year. This lost revenue will continue growing as e-commerce sales continue to experience significant growth. For example, total online sales for Black Friday 2015 reached over $2.7 billion, a 14 percent increase over the same period in 2014.
- The argument that requiring remote sellers to collect sales tax creates too much of a burden on business are less persuasive today. The retail world is much different today than when the U.S. Supreme Court made its rulings in 1967 and again in 1992. Certified providers with the necessary software to keep track of the various state and local tax rates already exist. Keeping track of tax rates is no more complicated than calculating real-time shipping, a feature that already exists on most web sites and online sales marketplaces.
- Passing federal legislation on remote sales tax – either the MFA or the RTPA – would not add to the federal deficit and does not create a new tax. Federal legislation would also level the playing field for local retailers who are at a competitive disadvantage to online retailers who do not have to collect taxes.

RELEVANT COMMITTEES WITH JURISDICTION (FIND YOUR MEMBER):

- House Judiciary Committee
- Senate Finance Committee

VISIT NACo's COUNTY EXPLORER TO DOWNLOAD YOUR SPECIFIC STATE PROFILE

DELIVERING UNCOLLECTED REVENUE

SUPPORT REMOTE SALES TAX LEGISLATION

Congress should act now on this critical issue for counties by passing legislation like the Marketplace Fairness Act (MFA) or the Remote Transactions Parity Act (RTPA) by the end of the year.

- **MFA/RTPA is not a new tax**. It would allow state and local governments to collect existing sales and use taxes on remote sales.
- MFA/RTPA would enable state and local governments to collect sales taxes that are already owed each year that could be dedicated to providing important local services such as infrastructure, public safety, education and economic development.
- Passing federal legislation would level the playing field for local retailers who are at a competitive disadvantage to online retailers who do not have to collect taxes.

Source: NACo Analysis of data from U.S. Census Bureau; U.S. Bureau of Economic Analysis; Federal Communications Commission; University of Tennessee.

MISSING REVENUE IS CRITICAL FOR SERVICES INCLUDING:

- ROAD AND BRIDGE MAINTENANCE
- LAW ENFORCEMENT
- PUBLIC HEALTH
- EDUCATION
- ECONOMIC DEVELOPMENT
- SOLID WASTE DISPOSAL
- ENVIRONMENTAL COMPLIANCE

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SUPPORT COUNTY PRIORITIES IN ANY NEW INFRASTRUCTURE PACKAGE

BACKGROUND

Counties play a critical role in the nation's transportation system, owning 45 percent of all public roads (compared to the 32 percent of public roads owned by cities and townships, 19 percent by states, and 3 percent by the federal government) and 39 percent of the nation's bridge inventory, and are involved with a third of the nation's transit systems and airports that connect residents, communities and businesses.

President Trump has announced his intent to introduce a $1 trillion infrastructure package designed to create, improve, renovate and repair our nation's aging infrastructure. This package, if realized, could affect counties' ability to prioritize and advocate for specific projects.

COUNTY INTEREST

Counties should be recognized as major owners of transportation infrastructure in any potential package presented by the administration or Congress. Furthermore, federal funding levels and local authority should adequately reflect the county role in the nation's transportation system. A user-pay approach should continue to be the cornerstone of federal transportation funding and federal policy should provide counties the flexibility to use additional financing tools. County priorities in any new infrastructure package include:

- **Preserving the tax-exempt status of municipal bonds**: Tax-exempt bonds are a critical tool for counties that facilitate the budgeting and financing of long-range investments.
- **Providing an environment for innovative financing**: NACo supports innovative financing mechanisms including qualified tax credit bonds; infrastructure banks; the Transportation Infrastructure Finance and Innovation Act (TIFIA); and public-private partnerships, but not as a replacement for municipal bonds.
- **New, dedicated federal funding must be part of any new infrastructure package**: It is important that any infrastructure package provide local funding to those parts of the country where private investment is not appropriate.

STATUS

While past surface transportation authorizations such as MAP-21 (P.L. 112-141) and the FAST Act (P.L. 114–94) focused on setting policy, this potential infrastructure plan will likely focus on actual project conception and construction. In the latter half of 2017, the president, along with Congress, is expected introduce a comprehensive package, which would build upon key principles outlined in the White House's Infrastructure Initiative Fact Sheet, which accompanied the President's FY 2018 budget request. The administration has expressed its intent to work with Congress to improve any legislation offered by the White House as well as find ways to pay for the package.

TALKING POINTS

- NACo believes that counties should be recognized as major owners of transportation infrastructure in any potential package presented by the administration. Key funding and financing measures must include all of the following:
- Preservation of Tax-Exempt Status of Municipal Bonds
- Dedicated Funding for locally owned infrastructure
- Policies to provide an Environment for Innovative Financing

RELEVANT COMMITTEES WITH JURISDICTION (FIND YOUR MEMBER):

- House Transportation & Infrastructure Committee
- Senate Commerce, Science & Transportation Committee

2017 POLICY BRIEF

SUPPORT COUNTY PRIORITIES IN ANY NEW INFRASTRUCTURE PACKAGE

QUICK FACTS

- Counties play a critical role in nation's transportation system
- Counties own and maintain 45 percent of all public roads
- Counties own and maintain 230,690 (or roughly 39 percent) of all public bridges
- Counties own or are part of governing authorities that operate over a third of the nation's transit systems and airports

ACTION NEEDED:

Urge your members of Congress to support county surface transportation priorities in any proposed infrastructure package introduced by the Trump Administration and considered by Congress.

BACKGROUND:

Counties play a critical role in the nation's transportation system, owning 45 percent of all public roads (compared to the 32 percent of public roads owned by cities and townships, 19 percent by states, and 3 percent by the federal government) and 39 percent of the nation's bridge inventory, and are involved with a third of the nation's transit systems and airports that connect residents, communities and businesses.

In November of 2016, then President-elect Trump announced his intent to introduce an up to $1 trillion infrastructure package designed to create, improve, renovate and repair our nation's aging infrastructure. This package, if realized, could affect counties' ability to prioritize and advocate for specific projects.

While past surface transportation authorizations such as MAP-21 (P.L. 112-141) and the FAST Act (P.L. 114–94) focused on setting policy, this potential infrastructure plan will likely focus on actual project conception and construction. In the latter half of 2017, the president, with Congress, is expected introduce a comprehensive package, which would build upon key principles outlined in the White House's Infrastructure Initiative Fact Sheet, which accompanied the President's FY 2018 budget request. The administration has expressed its intent to work with Congress to improve any legislation offered by the White House as well as find ways to pay for the package.

NACo believes that counties should be recognized as major owners of transportation infrastructure in any potential package presented by the administration. Furthermore, federal funding levels and local authority should adequately reflect the county role in the nation's transportation system. NACo believes that a user-pay approach should continue to be the cornerstone of federal transportation funding and that federal policy should provide counties the flexibility to use additional financing tools. Such policies include:

- **Preserving the Tax-Exempt Status of Municipal Bonds:** Though legislated as part of the tax code through the Ways and Means Committee, tax-exempt bonds are a critical tool for counties that facilitates the budgeting and financing of long-range investments in the infrastructure and facilities necessary to meet public demand. Without the tax-exemption, counties would pay more to raise capital, a cost that would ultimately be borne by the taxpayers through means such as reduced spending on the roads and bridges that counties are responsible for,

SUPPORT FAA REAUTHORIZATION AND CONTINUED AIR SERVICE TO LOCAL COMMUNITIES

BACKGROUND

Counties play a critical role in the nation's transportation systems, including the nation's air transportation system. Counties own 34 percent of the nation's publicly-owned airports and spend $5.14 billion annually on air transportation, which supports nearly 11,500 employees across the country.

In February of 2012, Congress passed a four-year reauthorization of Federal Aviation Administration (FAA) programs known as the FAA Modernization and Reform Act of 2012 (P.L. 112-095). The bill was the first long-term authorization of federal civil aviation programs since 2007 and was finally enacted after 23 short-term extensions. On July 15, 2016, Congress passed and the president enacted another short-term extension, which is set to expire September 30, 2017. Congress must either extend or reauthorize the FAA by September 30 to avert a shutdown of agency operations.

COUNTY INTEREST

The FAA reauthorization process allows Congress to address many aspects of FAA policy and funding, including a number of programs important to counties. These include:

- **Airport Improvement Program (AIP)**: The AIP provides federal grants to airports for airport development and planning. AIP funding can support a wide range of airports, including many large commercial airports and small general aviation airports. However, commercial revenue-producing facilities are generally ineligible for AIP funding. The main advantage to the AIP program is that it provides funds for capital projects without the financial burden of debt financing, although airports are required to provide a local match (between 5 and 25 percent depending on the airport size and eligible costs). The FAA Modernization and Reform Act of 2012 authorized the AIP at $3.35 billion for four years, with roughly $927.7 million going to counties in FY 2014. NACo supports continued funding for the AIP and an increase of the federal share on airport development projects.
- **Passenger Facility Charges (PFCs)**: The PFC is a user fee, not a federally imposed tax. The funds raised from PFCs are required to be spent on eligible airport-related projects, such as projects to enhance safety, security or capacity at airports, and projects that reduce noise or increase air carrier competition. Unlike AIP funds, PFC funds may be used to service debt incurred to carry out projects. Although PFCs are not imposed by the federal government, Congress does set a ceiling on PFCs. In 2000, legislation raised the PFC ceiling to $4.50, with an $18 limit on the total PFCs a passenger can be charged per round trip. NACo supports the continued collection of PFCs and providing airport sponsors flexibility in determining how PFC funds may be spent.
- **Essential Air Service (EAS) Program**: The EAS program was created to guarantee that small communities being served by certified airlines maintained commercial service following the deregulation of the airline industry. When Congress passed the Airline Deregulation Act of 1978, airlines were given almost complete freedom to determine areas of service and what airfares to charge, inherently putting less profitable markets at a disadvantage. Since its establishment, the EAS program has ensured continued commercial service to eligible communities by providing subsidizes to carriers providing service between EAS communities and major hub airports. The EAS program was among the most contentious issues in the FAA Modernization and Reform Act of 2012, with a final compromise including reductions in discretionary spending for the program and limiting it to only those communities participating in the program in FY 2011. For FY 2017, the program received $175 million in discretionary funding and $100 million in mandatory funding to subsidize air service to 160 communities. NACo supports continuing EAS subsidies to carriers serving small communities and fully funding the program.

- **Small Community Air Service Development Program (SCASDP)**: The SCASDP is a grant program designed to help small communities address air service and airfare issues. Compared to the EAS program, SCASDP provides communities the opportunity to self-identify their air service needs and propose solutions. Participation in the program is limited to those communities where the airport is not larger than a primary small hub, the service is insufficient and the air fares to the community are unreasonably high. The FAA Modernization and Reform Act of 2012 authorized the program at $6 million per year. However, Congress only appropriated $5 million for SCASDP in FY 2017. NACo supports continued, sufficient and guaranteed funding for the SCASDP.

STATUS

The House and Senate committees of jurisdiction advanced their respective versions of their FAA reauthorizations out of committee. The next step is for leadership of both chambers to schedule a floor vote.

TALKING POINTS

- The Airport Improvement Program (AIP) provides federal grants to airports for airport development and planning. The main advantage to the AIP program is that it provides funds for capital projects without the financial burden of debt financing, although airports are required to provide a local match. NACo supports continued funding for the AIP and an increase of the federal share on airport development projects.
- Since its establishment, the EAS program has ensured continued commercial service to eligible communities by providing subsidizes to carriers providing service between EAS communities and major hub airports. NACo supports continuing EAS subsidies to carriers serving small communities and fully funding the program.
- Passenger Facility Charges (PFCs) are state, local or port authority fees, not a federally imposed tax. The money raised from PFCs are required to be spent on eligible airport-related projects. Unlike AIP funds, PFC funds may be used to service debt incurred to carry out projects. NACo supports the continued collection of PFCs and providing airport sponsors flexibility in determining how PFC funds may be spent.

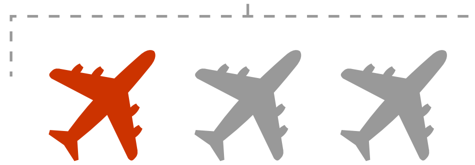
RELEVANT COMMITTEES WITH JURISDICTION (FIND YOUR MEMBER):

- House Transportation & Infrastructure Committee
- Senate Commerce, Science & Transportation Committee

Counties own

34%

of the nation's publicly-owned airports



and spend

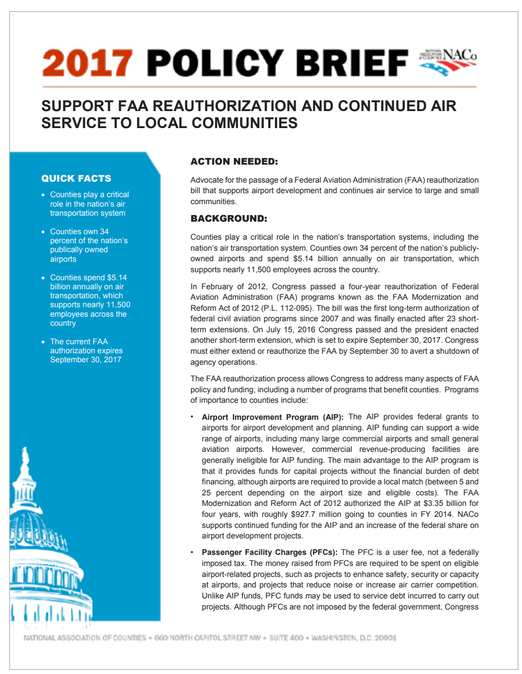
$5.14 billion

annually on air transportation

which supports nearly

11,500

employees across the country



2017 POLICY BRIEF

SUPPORT FAA REAUTHORIZATION AND CONTINUED AIR SERVICE TO LOCAL COMMUNITIES

QUICK FACTS

- Counties play a critical role in the nation's air transportation system
- Counties own 34 percent of the nation's publically owned airports
- Counties spend $5.14 billion annually on air transportation, which supports nearly 11,500 employees across the country
- The current FAA authorization expires September 30, 2017

ACTION NEEDED:

Advocate for the passage of a Federal Aviation Administration (FAA) reauthorization bill that supports airport development and continues air service to large and small communities.

BACKGROUND:

Counties play a critical role in the nation's transportation systems, including the nation's air transportation system. Counties own 34 percent of the nation's publicly-owned airports and spend $5.14 billion annually on air transportation, which supports nearly 11,500 employees across the country.

In February of 2012, Congress passed a four-year reauthorization of Federal Aviation Administration (FAA) programs known as the FAA Modernization and Reform Act of 2012 (P.L. 112-095). The bill was the first long-term authorization of federal civil aviation programs since 2007 and was finally enacted after 23 short-term extensions. On July 15, 2016 Congress passed and the president enacted another short-term extension, which is set to expire September 30, 2017. Congress must either extend or reauthorize the FAA by September 30 to avert a shutdown of agency operations.

The FAA reauthorization process allows Congress to address many aspects of FAA policy and funding, including a number of programs that benefit counties. Programs of importance to counties include:

- **Airport Improvement Program (AIP):** The AIP provides federal grants to airports for airport development and planning. AIP funding can support a wide range of airports, including many large commercial airports and small general aviation airports. However, commercial revenue-producing facilities are generally ineligible for AIP funding. The main advantage to the AIP program is that it provides funds for capital projects without the financial burden of debt financing, although airports are required to provide a local match (between 5 and 25 percent depending on the airport size and eligible costs). The FAA Modernization and Reform Act of 2012 authorized the AIP at $3.35 billion for four years, with roughly $927.7 million going to counties in FY 2014. NACo supports continued funding for the AIP and an increase of the federal share on airport development projects.
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SUPPORT PAYMENTS IN LIEU OF TAXES (PILT)

BACKGROUND

The PILT program was created in 1976 to offset costs incurred by counties for services provided to federal employees and families, the public and to the users of public lands. Services include education, solid waste disposal, law enforcement, search and rescue, health care, environmental compliance, fire-fighting, parks and recreation and other important community services.

Annual PILT funding levels remained static for many years. For nearly two decades, counties watched the value of their PILT receipts drop due to inflation. In 1995, NACo was successful in securing an amendment to the PILT formula, (P.L. 103-397), which adjusted annual authorization levels for inflation.

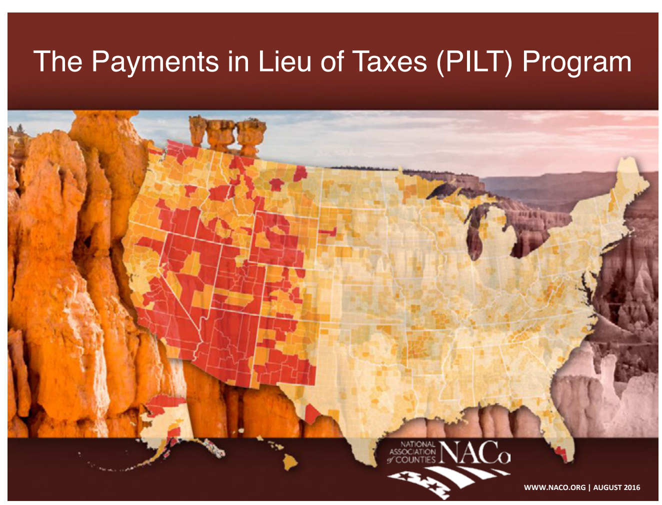
The Consolidated Appropriations Act, 2017, passed by Congress on May 4 and signed into law on May 5, 2017, fully funded PILT at $465 million for the remainder of FY 2017. For FY 2016, Congress fully funded PILT at the level of $452 million. In FY 2015, PILT was extended with $70 million in appropriations provided by the FY 2015 National Defense Authorization Act and $372 million in appropriations provided by the FY 2015 Consolidated and Further Continuing Appropriations Act (P.L. 113-235). Together the two bills provided full discretionary funding of $442 million for PILT in FY 2015.

Although full funding was provided in FY 2015, this piecemeal approach subjected a portion of PILT funds to sequestration and required NACo to advocate for a “technical fix” in order to ensure payment of nearly 10 percent of total FY 2015 PILT funds was not delayed into 2016. In FY 2014, PILT was extended through the farm bill (P.L. 113-79) as a fully funded, mandatory entitlement program at $425 million. Mandatory funding for FY 2013 was achieved through the Moving Ahead for Progress in the 21st Century Act (MAP-21) (P.L. 112-141) and provided $399 million in PILT funding. Previously, the enactment of the Emergency Economic Stabilization Act (P.L. 110-343) provided full funding for PILT from FY 2008 through FY 2012. From its enactment in 1976 to 2007, PILT was subject to annual appropriations, and as a result was underfunded year after year.

COUNTY INTEREST

PILT provides payments to over 1,850 counties in 49 states, the District of Columbia, Guam, Puerto Rico and the U.S. Virgin Islands to offset lost property tax revenues due to the presence of non-taxable federal lands within their jurisdictions. 62 percent of counties have federal lands within their boundaries. Because local governments are unable to tax the property values or products derived from federal lands, PILT payments are necessary to support essential government services (mandated by law) such as education, emergency services, transportation infrastructure, law enforcement and health care.

Status: While PILT has been fully funded for the remainder of FY 2017, without predictable mandatory funding, PILT will remain a discretionary program subject to the annual appropriations process. As Congress works through the FY 2018 appropriations process, counties ask the administration and Members of Congress to support long-term predictable full funding for PILT in FY 2018 and beyond.



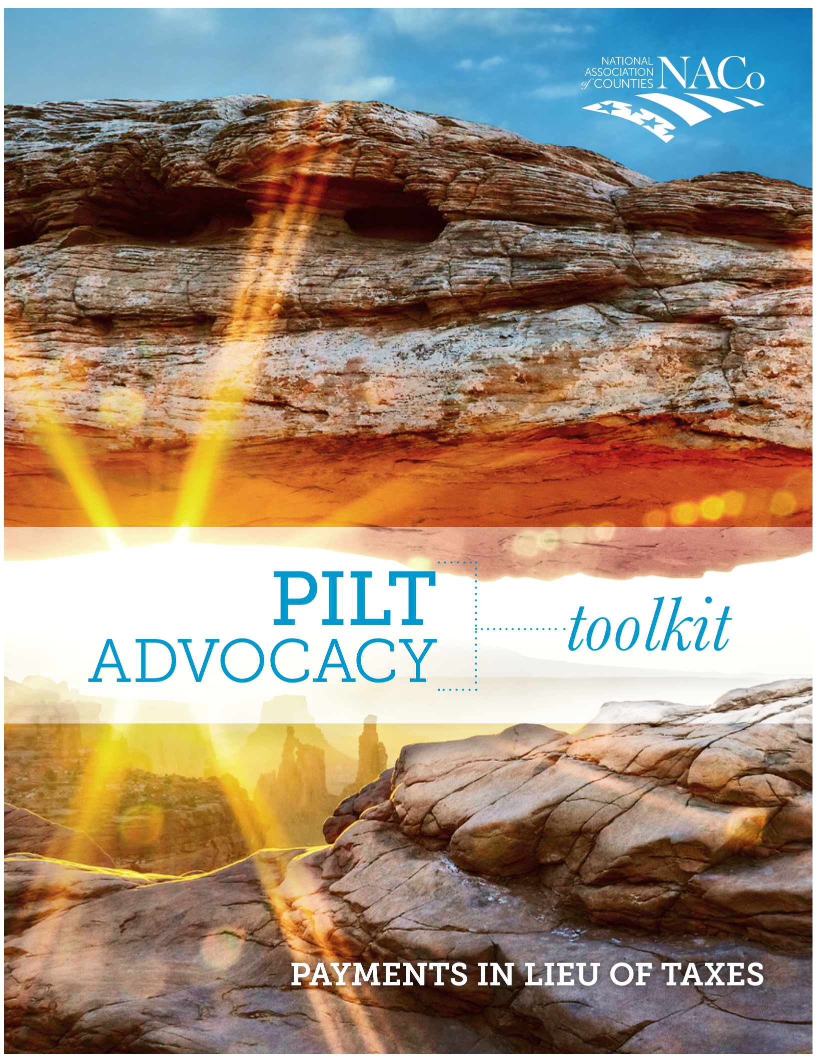
TALKING POINTS

- **While the Senate and House continue to discuss legislative solutions for funding the PILT program, urge your Members of Congress to support long-term predictable funding at its full authorized levels for FY 2018 and beyond**. Without predictable mandatory funding, PILT will remain a discretionary program subject to the annual appropriations process, causing uncertainty for counties as we seek to develop balanced budgets each year.

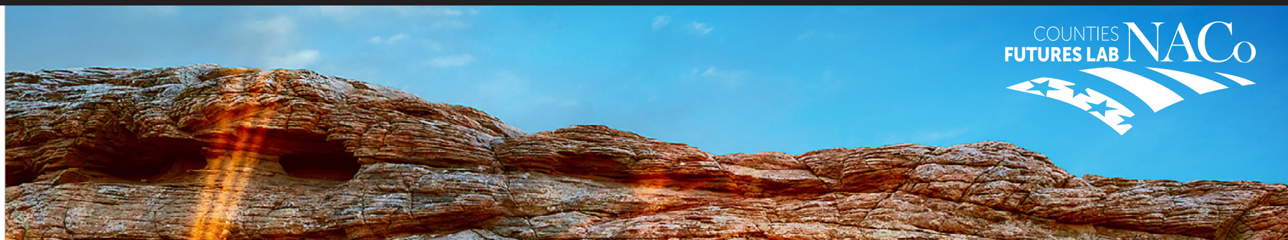
- The PILT program provides payments to counties and other local governments to offset losses in tax revenues due to the presence of substantial acreage of federal land in their jurisdictions.
- Because local governments are unable to tax the property values or products derived from federal lands, PILT payments are necessary to support essential government services (mandated by law) such as education, emergency services, transportation infrastructure, law enforcement and health care in over 1,850 counties in 49 states, the District of Columbia, Guam, Puerto Rico and the U.S. Virgin Islands.
- While the Senate and House continue to discuss legislative solutions for funding the PILT program, NACo will continue to urge leadership in both chambers and on both sides of the aisle to work together to fully fund the program.

RELEVANT COMMITTEES WITH JURISDICTION (FIND YOUR MEMBER):

- Senate Energy & Natural Resources Committee
- Senate Interior and Environment Appropriations Subcommittee
- House Natural Resources Committee
- House Interior and Environment Appropriations Subcommittee



VISIT NACo's **COUNTY EXPLORER** TO DOWNLOAD YOUR SPECIFIC **COUNTY PROFILE**

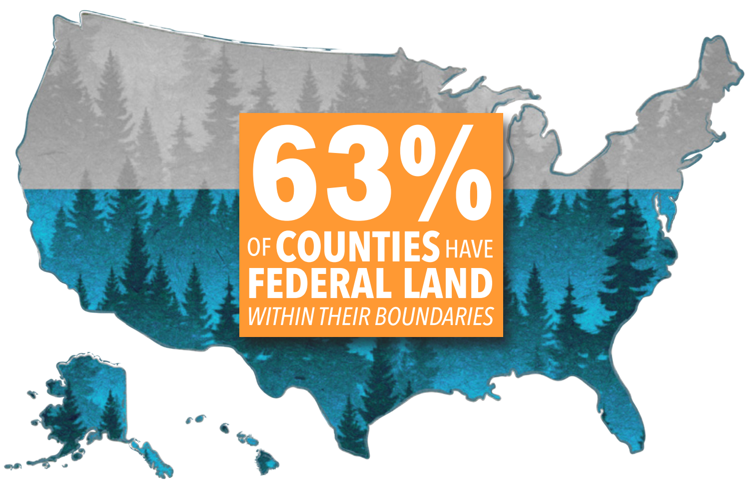


2017 PAYMENTS IN LIEU OF TAXES (PILT)

U.S. COUNTIES AND PILT

PILT RECEIVED, FY 2017:	PERCENT OF COUNTIES WITH PILT ENTITLEMENT LAND:	TOTAL NUMBER OF PILT ENTITLEMENT ACRES:	2016 MEDIAN PILT AMOUNT PER ENTITLEMENT ACRE:
$465 M	62.8%	607 M	$2.58

FEDERAL LANDS, LOCAL COMMUNITIES



- **62.8% of counties have federal land within their boundaries.** Even though they are not able to collect property taxes on federal land, county governments must still provide essential services for their residents and those who visit these public lands each year. Such services include road and bridge maintenance, law enforcement, search and rescue, emergency medical, fire protection, solid waste disposal and environmental compliance.
- Our ask: **Counties urge Congress to provide full funding for PILT in FY 2018 and to support a sustainable long-term approach to financing essential local services in America's public lands counties.**

NOTES: NACo analysis of U.S. Department of the Interior data. PILT received, FY 2017 represents the total PILT appropriations for fiscal year 2017. The total number of PILT entitlement acres reflects the number of acres eligible for PILT payments.

PILT FUNDING CRITICAL FOR SERVICES INCLUDING:

- ROAD AND BRIDGE MAINTENANCE
- LAW ENFORCEMENT
- SEARCH AND RESCUE
- EMERGENCY MEDICAL
- FIRE PROTECTION
- SOLID WASTE DISPOSAL
- ENVIRONMENTAL COMPLIANCE

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SUPPORT SECURE RURAL SCHOOLS (SRS)

BACKGROUND

The Secure Rural Schools (SRS) program provides assistance to rural counties and school districts affected by the decline in revenue from timber harvests on federal lands. Historically, rural communities and schools have relied on a share of receipts from timber harvests to supplement local funding for education services and roads. Since 1908, the Forest Service provided counties and schools 25 percent of the revenues collected from management activities on the National Forest System. However, during the 1980s, national policies substantially diminished the revenue-generating activity permitted in these forests. The resulting steep decline in timber sales decreased the revenues that rural counties and school districts received from forest management activities.

In response to this decline, SRS was enacted in 2000 (P.L. 106-393) to stabilize payments to counties and to compensate for lost revenues. In October 2008, SRS was reauthorized (P.L. 110-343) and amended to continue, on a sliding payment scale. SRS was reauthorized for FY 2013 (P.L. 113-40) and on April 16, 2015, SRS was reauthorized retroactively (P.L. 114-10) for FY 2014 and 2015. For FY 2015, SRS provided $278 million to over 700 rural counties, parishes and boroughs across the nation. SRS expired at the end of FY 2015.

COUNTY INTEREST

The SRS program was enacted in 2000 to provide funding for counties and schools to compensate for steep reductions in revenues from timber harvests caused by federal policies. For FY 2015, the last year the program was authorized, the SRS program provided $278 million to over 700 rural counties, parishes, and boroughs across the United States.

The expiration of SRS will create dramatic budgetary shortfalls if Congress fails to renew this long-standing federal obligation to county governments. Enactment of a sustainable long-term program to share revenues generated from the management of designated federal lands with forest counties and schools will ensure that students receive essential education services and rural communities have critical funding for roads, conservation projects, search and rescue missions, and fire prevention programs.

STATUS

The Secure Rural Schools and Community Self-Determination Act (SRS) expired in September 2015 and was not reauthorized for FY 2016 or beyond. Although forest counties received their FY 2015 SRS payments in calendar year 2016, the availability of future SRS payments remains in jeopardy.

Congress should reform forest management practices to improve forest health, increase production and ensure robust revenue sharing to all forest counties generated from forest management on designated federal lands. If Congress fails to renew the long-standing federal obligation to forest counties and the lands managed by the federal government by not improving forest management and reauthorizing the SRS program, counties across the United States could face dramatic budgetary shortfalls.

TALKING POINTS

- If not reauthorized for FY 2016 and beyond, the expiration of the Secure Rural Schools and Community Self-Determination (SRS) Act at the end of FY 2015 will create dramatic budgetary shortfalls for over 700 rural counties across the United States. When the authorization for SRS lapsed in Fiscal Year 2014, federal forest payments to counties decreased by over 80 percent on average.
- New legislation should be enacted that provides forest revenue sharing payments to counties and promotes active natural resource management for the stability and well-being of forest counties and communities. NACo encourages Congress to act quickly to reauthorize the SRS program, a critical safety-net for forest counties, improve federal forest management practices and address the wildfire funding crisis.
- While the Senate and House of Representatives continue to discuss options for funding the SRS program, NACo will continue to urge leadership in both houses and on both sides of the aisle to work together to enact a long-term, sustainable solution.

RELEVANT COMMITTEES WITH JURISDICTION (FIND YOUR MEMBER):

- Senate Energy & Natural Resources Committee
- House Natural Resources Committee

VISIT NACo's **COUNTY EXPLORER** TO DOWNLOAD YOUR SPECIFIC **COUNTY PROFILE**

COUNTIES FUTURES LAB NACo

SECURE RURAL SCHOOLS

SUPPORTING CRITICAL SERVICES IN FOREST COUNTIES

U.S. COUNTIES AND SECURE RURAL SCHOOLS (SRS)

SRS PAYMENT, FY 2015 RECEIPTS YEAR:	PROJECTED 25% FUND PAYMENT, FY 2016 RECEIPTS YEAR:	FY 2015 SRS vs. PROJECTED FY 2016 25% FUND PAYMENT:	PERCENT OF COUNTIES WITH U.S. FOREST SERVICE LAND:
$273.0 M	$54.0 M	-80.2%	26%

SECURE RURAL SCHOOLS

The Secure Rural Schools and Community Self-Determination (SRS) Act was enacted in 2000 to compensate for steep reductions in revenues from timber harvests, which resulted from national policies that substantially diminished revenue-generating activities within federal forests. For FY 2015, the SRS program provided $278 million for roads and schools and other critical services in 732 mostly rural counties, parishes and boroughs across the United States. The last authorization for SRS expired on September 30, 2015.

OUR ASK

Without SRS, forest counties nationwide face dramatic budgetary shortfalls. Counties urge Congress to renew its long-standing commitment to forest counties by increasing revenue sharing through active forest management and extending SRS as critical transitional funding.

Notes: The receipts year reflects when U.S. Forest Service (USFS) collects revenues from national forest lands. Without the SRS Act reauthorization, states revert to the Payments to States Act of 1908 as amended, receiving a 25 percent payment from national forest receipts. USFS estimates FY 2016 county 25 percent payments based on county shares of the national forest receipts. These estimates reflect the application of a 6.8 percent sequester to the state payments.

Sources: NACo analysis of data from the U.S. Forest Service and Bureau of Land Management and Headwaters Economics analysis of the U.S. Geological Survey, Protected Areas Database.

SRS PAYMENTS ARE CRITICAL FOR SERVICES INCLUDING:

- TRANSPORTATION INFRASTRUCTURE
- SCHOOLS
- FOREST MANAGEMENT
- ECOSYSTEM PROTECTION
- PROTECTION FROM WILDFIRE
- SEARCH AND RESCUE
- EMERGENCY SERVICES

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PRESERVE COUNTY INTERESTS IN WATERS OF THE U.S. (WOTUS) REGULATIONS

BACKGROUND

On June 27, the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) signed a notice initiating the first of a two-step process to review and rewrite the "Waters of the U.S. (WOTUS)" rule finalized in 2015. As of July 17, this notice has not yet been published in the Federal Register.

The proposed rule on *Definition of "Waters of the United States" – Recodification of Pre-existing Rules* would withdraw the 2015 rule and reinstitute regulations that were in place prior to the 2015 WOTUS rule. Once the recodification notice is published in the Federal Register, the EPA and Corps will accept public comments on the proposal for 30 days. The agencies' action is in accordance with President Trump's February 28 Executive Order (EO) 13778: Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the "Waters of the U.S." rule. As step two of the process, the agencies plan to release a revised WOTUS proposed rule sometime this fall. The revised definition is expected to be narrower in scope and limited to those waters that flow most of the year.

WOTUS is a term used in the Clean Water Act (CWA) to determine what waters and their conveyances fall under federal verses state permitting authority. In 2014, the EPA and the Corps undertook an effort to rewrite and expand the current WOTUS definition. In 2015, the Obama Administration finalized a new definition of WOTUS, which was immediately challenged in the courts.

COUNTY INTEREST

Since the rule was originally proposed in 2014, NACo has expressed concerns with the impact a broader interpretation of WOTUS may have on county-owned and maintained roads and roadside ditches, bridges, flood control channels, drainage conveyances and wastewater and storm water systems. NACo had called for the 2015 final WOTUS rule to be withdrawn until further analysis and more in-depth consultation with state and local officials can be completed.

STATUS

In April 2017, the EPA and the Corps met with their state and local government partners under Executive Order (EO) 13132: Federalism to brief them on the two step WOTUS withdrawal and rewrite efforts. EO 13132 requires federal agencies to consult with state and local government officials and/or their national associations on yet-to-be proposed rules and regulations that will directly impact state and local governments. The agencies discussed their plan to develop a new WOTUS definition based on Supreme Court Justice Antonin Scalia's opinion in *Rapanos v. United States, 547 U.S. 715 (2006)*. Justice Scalia's plurality opinion stated that federal jurisdiction should only include waters with a relatively permanent flow. Under the auspices of EO 13132, the agencies accepted comments from state and local governments on the scope of the WOTUS rewrite until mid-June. NACo, along with the National League of Cities (NLC) and the U.S. Conference of Mayors (USCM), submitted a joint letter. The agencies are currently reviewing the comments they received under EO 13132. Once the agencies release the proposed WOTUS rule this fall, counties will have another opportunity to provide public comments.

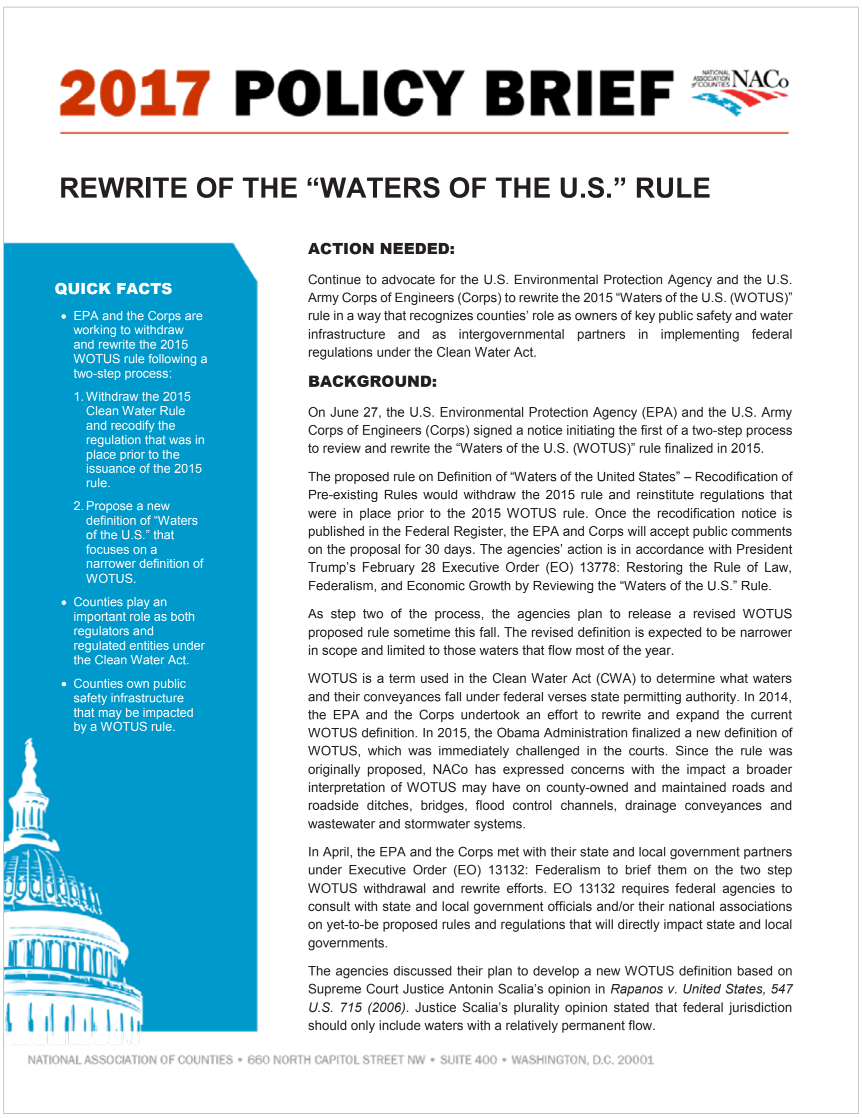
Related to the administration's efforts, in late June, the U.S. House of Representatives released two draft spending bills for FY 2018—Energy and Water, along with Interior, Environment and Related Agencies—that both contain a policy rider that would limit public notice requirements for EPA and the Corps' efforts to withdrawal the 2015 WOTUS rule. The policy rider would allow the EPA and Corps to "withdraw from the Waters of the United States rule without regard to any provision of statute or regulation that establishes a requirement for such withdrawal."

TALKING POINTS

- As co-regulators under provisions of the Clean Water Act, counties are not just another stakeholder in this discussion. Counties own and maintain roadside ditches and other water infrastructure, and act as both regulators and regulated entities under the Clean Water Act.
- We thank the EPA and the Corps for holding an EO 13132 Federalism consultation meeting with state and local governments on the WOTUS rule-making. We encourage the agencies to continue EO 13132 Federalism consultations with state and local governments throughout the WOTUS rulemaking process, as the agencies craft new definitions within WOTUS.

RELEVANT COMMITTEES WITH JURISDICTION (FIND YOUR MEMBER):

- U.S. House Transportation & Infrastructure Committee
- U.S. Senate Environment and Public Works Committee



2017 POLICY BRIEF

NATIONAL ASSOCIATION of COUNTIES NACo

REWRITE OF THE "WATERS OF THE U.S." RULE

QUICK FACTS

- EPA and the Corps are working to withdraw and rewrite the 2015 WOTUS rule following a two-step process:
  1. Withdraw the 2015 Clean Water Rule and recodify the regulation that was in place prior to the issuance of the 2015 rule.
  2. Propose a new definition of "Waters of the U.S." that focuses on a narrower definition of WOTUS.
- Counties play an important role as both regulators and regulated entities under the Clean Water Act.
- Counties own public safety infrastructure that may be impacted by a WOTUS rule.

ACTION NEEDED:

Continue to advocate for the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers (Corps) to rewrite the 2015 "Waters of the U.S. (WOTUS)" rule in a way that recognizes counties' role as owners of key public safety and water infrastructure and as intergovernmental partners in implementing federal regulations under the Clean Water Act.

BACKGROUND:

On June 27, the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) signed a notice initiating the first of a two-step process to review and rewrite the "Waters of the U.S. (WOTUS)" rule finalized in 2015.

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WOTUS is a term used in the Clean Water Act (CWA) to determine what waters and their conveyances fall under federal verses state permitting authority. In 2014, the EPA and the Corps undertook an effort to rewrite and expand the current WOTUS definition. In 2015, the Obama Administration finalized a new definition of WOTUS, which was immediately challenged in the courts. Since the rule was originally proposed, NACo has expressed concerns with the impact a broader interpretation of WOTUS may have on county-owned and maintained roads and roadside ditches, bridges, flood control channels, drainage conveyances and wastewater and stormwater systems.

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The agencies discussed their plan to develop a new WOTUS definition based on Supreme Court Justice Antonin Scalia's opinion in *Rapanos v. United States, 547 U.S. 715 (2006)*. Justice Scalia's plurality opinion stated that federal jurisdiction should only include waters with a relatively permanent flow.

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CHECK OUT NACo's ADVOCACY CENTERS

SUPPORT REAUTHORIZATION OF THE NATIONAL FLOOD INSURANCE PROGRAM

BACKGROUND

The National Flood Insurance Program (NFIP) was created by Congress under the National Flood Insurance Act of 1968 (P.L. 90-448) to provide insurance coverage to property owners for damages and losses due to catastrophic flooding. Today, the NFIP is administered by the U.S. Department of Homeland Security's (DHS) through Federal Emergency Management Agency (FEMA). The program aims to reduce the impact of flooding on private and public structures by providing affordable insurance to property owners, and by encouraging communities to adopt and enforce floodplain management regulations. The NFIP was last reauthorized in 2012 when President Obama signed the Biggert-Waters Flood Insurance Reform Act of 2012 (P.L. 112-141) into law which extended the NFIP through September 30, 2017.

The purpose of the Biggert-Waters Act was to make solvent the National Flood Insurance Program (NFIP), which faced a deficit of $24 billion. However, the Biggert-Waters Act resulted in some unintended consequences for local governments, residents and businesses.

As a result of the Biggert-Waters Act, a number of counties, both coastal and inland, have reported that their homeowners and businesses faced drastic increases in annual NFIP flood insurance premiums due to phase-outs of subsidized premium rates. Additionally, because of the Biggert-Waters Act, FEMA began to update Flood Insurance Rate Maps (FIRMs), which included new low-lying areas that also began to face drastic rate increases.

In 2014, with NACo's support, Congress passed the Homeowner Flood Insurance Affordability Act (P.L. 113-89) which included several key reforms to the Biggert-Waters Act that were favorable to counties including; grandfathering of premiums for properties built to code prior to the release of Flood Insurance Rate Maps (FIRMs); retroactive refunds to NFIP policyholders if they paid a higher premium under Biggert-Waters and the removal of a sales trigger that fully actualized premium rates at the point of sale for properties that were added to new flood zones.

COUNTY INTEREST

As Congress works to reauthorize the NFIP, NACo is focused on engaging key members of the U.S. House of Representatives and the U.S. Senate on the unintended negative impacts of the Biggert-Waters Act, and working to find remedies that will allow for participation from our nation's most vulnerable county residents. This includes restoring premium subsidies for low-income residents, and those who are at a high risk of losing their homes due to a catastrophic flood, and funding for mitigation activities at the State and local level that will help communities invest in infrastructure improvements that will help to mitigate potential property loss due to a catastrophic flood. Finally, NACo is focused on ensuring that new legislative proposal that would reauthorize the NFIP limit surcharges to new and existing flood insurance policies.

STATUS

The NFIP's authorization is set to expire on September 30, 2017 leaving all eligible county residents without flood insurance coverage unless Congress acts and passes legislation that would renew and reauthorize the program beyond September.

On June 21, the U.S. House of Representatives Financial Services Committee completed a markup of legislation that would reauthorize the NFIP. During the markup, the committee considered seven bills that may be combined into one legislative package down the road. The bills considered during the markup included:

- The National Flood Insurance Program Administrative Reform Act of 2017 (H.R. 2875)
- The Repeatedly Flooded Communities Preparation Act (H.R. 1558)
- The Flood Insurance Market Parity and Modernization Act (H.R. 1442)

- A bill to require the use of replacement cost value in determining the premium rates for flood insurance coverage under the National Flood Insurance Act (H.R. 2565)
- The Taxpayer Exposure Mitigation Act of 2017 (H.R. 2246)
- The National Flood Insurance Program Policyholder Protection Act of 2017 (H.R.2868)
- The 21st Century Flood Reform Act (H.R. 2874)

While some of the proposals considered by committee were non-controversial, the 21St Century Flood Insurance Act (H.R. 2874) includes provisions that NACo has concerns with. Specifically, it would increase the annual limitation on premium increases from 5 percent to 8 percent for NFIP policy holders. The additional 3 percent would potentially add a greater burden to low-income policy holders who are struggling to stay in the program. Additionally, this provision could result in some policy holders abandoning the program and decreasing the risk pool. The 21st Century Flood Insurance Act would also create a new state affordability surcharge on each policy issued under the program that is not residential. This surcharge could be added to publicly owned properties including county facilities, as well as businesses that operate within a flood zone.

In the Senate, there are currently two-major proposals that would reauthorize the NFIP including the Sustainable, Affordable, Fair, and Efficient National Flood Insurance Program Reauthorization Act of 2017 (S. 1386) also known as the SAFE NFIP Reauthorization Act, and the Flood Insurance Affordability and Sustainability Act of 2017 (S. 1313).

The Flood Insurance Affordability and Sustainability Act was introduced by Sens. Kristen Gillibrand (D-N.Y.) and Bill Cassidy (R-La.). This bill would reauthorize the NFIP over a 10-year term from 2017-2027 which would help limit uncertainty in both the insurance and housing markets.

This bill would also reallocate existing surcharges under the NFIP to better finance pre-disaster mitigation and FEMA's flood mitigation assistance programs. Additionally, this bill would provide affordability vouchers to offset the cost of flood insurance premiums and fees that would result in housing costs exceeding 40 percent of an individual's household income.

The other Senate bill, the SAFE NFIP Act, would reauthorize the NFIP for six years and help the program, which is currently over $24 billion in debt, by freezing interest payments on the debt that the NFIP is accruing, and provide low-interest loans for homeowner mitigation projects.

This bill would also provide additional funding to current mitigation assistance grant programs, which are estimated to have a 4:1 ratio of return on investment.

Finally, the SAFE NFIP Act would authorize funding for LiDAR mapping technology which is one of the most accurate ways to map flood risk.

NACo will continue to engage members on the Committee to advocate for a package that does not increase costs on our most vulnerable residents, and provides increased funding for accurate flood mapping and mitigation.

TALKING POINTS:

Urge you members of Congress to:

- Appropriate more funding for mitigation activities at the State and Local level
- Oppose the inclusion of H.R. 2874 in the House NFIP reauthorization package
- Limit surcharges to new and existing flood insurance policies

RELEVANT COMMITTEES WITH JURISDICTION (FIND YOUR MEMBER):

- U.S. House of Representatives Financial Services Committee
- U.S. Senate Committee on Housing, Banking and Urban Affairs

NACo's ADDITIONAL RESOURCES

PROTECT TAX-EXEMPT STATUS OF MUNICIPAL BONDS

- Click here to view NACo's Policy Brief on Municipal Bonds
- Click here to view NACo's Municipal Bonds Toolkit

SUPPORT MARKETPLACE FAIRNESS ACT

- Click here to view NACo's Policy Brief on Marketplace Fairness Act (MFA)
- Click here to view NACo's Resource Hub on MFA
- Click here to view individual state MFA profiles
- Click here to view NACo's MFA Presentation

SUPPORT PAYMENT IN LIEU OF TAXES (PILT)

- Click here to view NACo's Policy Brief on PILT
- Click here view NACo's presentation on PILT
- Click here to view NACo's PILT Advocacy Toolkit
- Click here to view individual county PILT profiles

SUPPORT SECURE RURAL SCHOOLS (SRS)

- Click here to view NACo's Policy Brief on SRS
- Click here to view individual state SRS profiles

WITHDRAW WATERS OF THE U.S. RULE

- Click here to view NACo's Policy Brief on Waters of the U.S. (WOTUS)
- Click here to view NACo's Resource Hub on WOTUS

NATIONAL FLOOD INSURANCE PROGRAM REAUTHORIZATION

- Click here to view NACo's Policy Brief on NFIP Reauthorization

INTERESTED IN WORKING ON THESE ISSUES AT THE FEDERAL LEVEL?

JOIN A NACo COMMITTEE AND MAKE A DIFFERENCE

GET INVOLVED!

NATIONAL ASSOCIATION of COUNTIES NACo

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