



WRITTEN STATEMENT FOR THE RECORD

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**RESTORING THE PARTNERSHIP:
THE FUTURE OF FEDERALISM IN AMERICA**

**BEFORE THE
SUBCOMMITTEE ON GOVERNMENT OPERATIONS
COMMITTEE ON OVERSIGHT AND REFORM**

UNITED STATES HOUSE OF REPRESENTATIVES

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Chairman Connolly, Ranking Member Meadows and members of the Subcommittee, thank you for the opportunity to testify on “Restoring the Partnership: The Future of Federalism in America.”

My name is Matthew Chase and I serve as the CEO/Executive Director of the National Association of Counties (NACo). Founded in 1935, NACo is the only national association representing America’s 3,069 counties, parishes and boroughs, including nearly 40,000 county elected officials and more than 3.6 million county employees. The association advocates for county priorities in federal policy making, promotes exemplary county policies and practices, nurtures leadership and knowledge networks, optimizes county and taxpayer resources and enriches the public’s understanding of county government. NACo’s ultimate purpose is to build healthy, safe and vibrant counties across the nation.

NACo is also a member of the Big 7 coalition in Washington, D.C., which is comprised of the national associations representing state and local elected officials. This coalition includes NACo, along with the National Governors Association, National League of Cities, U.S. Conference of Mayors, The Council of State Governments, National Conference of State Legislatures and the International City/County Management Association.

Today, Mr. Chairman, I would like to share three main points about our nation’s current form of federalism and our ideas for strengthening the intergovernmental partnership of federal, state, local and tribal officials. This includes our overall support for creating a new, modern national forum for advancing and facilitating improved intergovernmental relations.

1. Counties play an important, fundamental role in our intergovernmental system with significant policy, service delivery and administrative roles and responsibilities
2. Early, consistent and meaningful engagement with intergovernmental partners is vital in the development and implementation of effective policies, programs and regulations, even when competing visions and priorities might exist throughout levels of government, and
3. The establishment of a new national commission on intergovernmental relations would help create a better system of federalism that benefits all levels of government and, most importantly, the public we serve.

Public trust in institutions, including government, is at an all-time low, and dysfunction and a lack of coordination and dialogue between levels of government are key contributors to this

trend. Our Founding Fathers established a brilliant form of federalism with multiple layers of checks and balances, including across the three federal branches and between the federal government and state governments. One of our main lessons learned in modern times is that while there is a clear distinction and separation of powers and duties among these levels of government, there is also a deep interconnectedness and interdependence. This bond is a shared purpose to achieve public policy outcomes that serve the American public, often requiring the collective efforts of federal, state, local and tribal governments working together.

In recent decades, we have witnessed a significant decline in a structured, intentional dialogue and partnership between federal, state and local government officials. While we recognize deep political divides, competing partisan visions and a lack of political incentives for partnerships and compromise in today's climate, the vast challenges facing the nation require a new pathway for intergovernmental relations, including with the private, nonprofit, philanthropic and academic sectors.

Our nation, states, counties and other localities are highly diverse and vary immensely in social and political systems, as well as cultural, economic and structural circumstances. In our case, despite this diversity, all counties fulfill many similar mandates and duties. We are responsible for supporting and maintaining public infrastructure, transportation and economic development assets, providing justice, law enforcement and public safety services, and protecting the public's health and well-being.

While some of these responsibilities are unique to counties, in many cases we work with our state and federal partners to achieve optimal solutions. These responsibilities are the shared, fundamental components of a broader national interest in serving our citizens. Policies and programs established by the federal government are intended to guide and coordinate efforts, but are ultimately implemented at the state and local levels. That is why federal policies matter to states, counties and cities, and why states and local governments matter to federal policies.

NACo and our state and local partners support the formation of a national commission to facilitate intergovernmental cooperation, based on the lessons learned of the Advisory Commission on Intergovernmental Relations (ACIR) and other previous national efforts. With emerging issues such as cybersecurity, artificial intelligence and advanced automation, we need a neutral forum for elected policymakers from all levels of government to focus on a shared purpose, including balancing the scale of federal powers and resources with the rights, responsibilities, capabilities and innovations of states, local governments and tribal officials.

County Role in the Intergovernmental System

First, Mr. Chairman, counties play an important, fundamental role in our intergovernmental system with significant policy, service delivery and administrative roles and responsibilities. County governments affect the lives of Americans across the country every day and provide vital services, including those mandated by federal and state policies, as well as those requested by local residents. America's 3,069 counties:

- Build and maintain the largest share of public road miles (46 percent); own four out of every ten bridges; and support one-third of airports and nearly 80 percent of public transportation systems
- Support nearly 1,000 safety net hospitals, 1,900 public health departments, 750 behavioral health authorities and 900 skilled nursing facilities
- Operate nine out of every 10 local jails with nearly 12 million inmates each year
- Fund and manage over 100,000 polling places for federal, state and local elections
- Invest in human services such as senior and child protective services, workforce skills training, early childhood development and veterans' programs
- Manage a wide range of public facilities, such as libraries, community centers, parks, museums and ports
- Invest in sewage and solid waste disposal, recycling and environmental stewardship, and
- Maintain vital records, such as birth certificates, marriage licenses, court documents and land records.

Counties are incredibly diverse with respect to population and geography, ranging in area from 26 square miles (Arlington County, Va.) to 87,860 square miles (North Slope Borough, Alaska). The population of counties varies from Loving County, Texas, with 112 residents, to Los Angeles County, Calif., which is home to 10.2 million people and would be the 8th largest state on its own. Only 40 counties have over one million residents, while 2,120 (or 70 percent of) counties have populations under 50,000. In fact, half of the U.S. population resides in just 144 large urban counties, while roughly 2,900 counties are home to the other 50 percent of the U.S. population.

All told, counties across the country serve nearly 310 million residents, employ 3.6 million people and invest nearly \$600 billion annually in local programs and services, including those mandated by federal and state directives. Counties also service vast areas of federal public land, with 63 percent of counties having federal public land within their boundaries. Counties matter to America, and therefore, federal policies matter to counties.

Counties play an often-misunderstood role in our intergovernmental system, with a unique position to understand the diverse needs of our local communities. State and local governments' experience and expertise can help identify creative, cost-effective methods to address issues and can better identify and mitigate potential impacts to localities that may be overlooked without continuous, engaged intergovernmental cooperation.

Current Intergovernmental Relations Hold Both Tension and Promise

Second, Mr. Chairman, early, consistent and meaningful engagement with intergovernmental partners is vital in the development and implementation of effective policies, programs and regulations, even when competing visions and priorities exist throughout levels of government. Today's complex public policy issues – both challenges and opportunities – are often interrelated and cross multiple federal, state and local jurisdictions and responsibilities.

There are few federal and state programs that do not interact with counties in some manner. The complexity of issues facing federal, state and local governments necessitate a strong and institutionalized national forum for intergovernmental collaboration in order to produce optimal results for our residents. To better underscore this complexity, I would like to highlight four policy areas that impact all levels of government and our shared constituents:

1. **The Opioid Crisis.** Substance use and abuse, often with co-occurring mental health issues, has touched every corner of our country over the past few years. Counties have felt the impacts acutely. As individuals and their families experience an overdose, for example, just think about the number of potential contacts with our county services: dispatch calls typically go through county 911 and sheriffs' offices, individuals are often transported to county hospitals and jails, children are managed by county child welfare caseworkers, states and counties pay for prosecutors, public defenders, jail health care professionals and investigators, and in the worst case scenarios, county coroners are responsible for examining overdose deaths in overflowing county morgues. We are greatly appreciative of recent bipartisan federal efforts by Congress and the White House to assist us with this devastating and evolving crisis, but we still have major challenges ahead as a nation.
2. **Disasters and Emergency Management.** Local government officials are the first responders to natural disasters and other major emergencies. Without proper federal and state assistance, recovery and mitigation efforts may lack the full capabilities and resources necessary to be successful. In the past two years, more than 830 counties (25 percent of all counties) received a presidential disaster declaration, and in 2018 alone

the federal government provided more than \$130 billion for disaster relief and mitigation. However, this funding is routed through dozens of different programs with varying mandates, timelines, application procedures and other complications states and local governments must navigate during dire times of need. We understand that this level of federal investment is not sustainable. There is an immediate need for public sector partners, in cooperation with the private and nonprofit sectors, to develop a more sustainable national strategy for community resilience and disaster mitigation.

3. **Election Security.** Although the federal government, states, counties and other local jurisdictions have different roles in our election process, we must all work together to ensure the integrity and security of our election systems. In any given election, we are only as secure as our weakest link: a failure in the chain at any point could cause major problems in the rest of the system. In 2018, Congress authorized \$380 million for election security improvements, however much of this funding was directed and held at the state level rather than reaching the county and local levels where we play a significant, direct role in purchasing and maintaining election equipment and operating polling locations. The Help America Vote Act (HAVA), which was implemented in 2002, improved intergovernmental coordination and systems upgrades, though the momentum was short lived. As Congress continues to consider legislation that will directly impact state and local election administrators, a robust consultation process would strengthen the integrity, efficiency and quality of our election systems.

4. **Public Lands.** Both the Federal Land Policy Management Act (FLPMA) and the National Forest Management Act are clear that the U.S. Department of the Interior (DOI) and the U.S. Forest Service are to coordinate their land management plans with localities, giving counties a voice in the process. Federal land management plans determine how a national forest is managed, where the public can recreate on federal lands, wildlife habitat conservation and resource extraction. These decisions impact watersheds, economic opportunity, public health and county governments' revenue streams. However, federal agencies have met these mandates unevenly, leading to conflict with local governments. While the current White House has worked to improve coordination of land use planning, more controls must be put in place. This would ensure the federal government upholds its end of the bargain and utilizes expertise county governments can offer. Enhanced coordination would help to make federal land management plans consistent with local needs, while also meeting our responsibilities as good stewards of our nation's resources and the environment.

The list of issues that demand a more modern, practical approach from the public sector is lengthy, from examining and preparing for the impacts of artificial intelligence to updating tax systems to preparing future generations of our workforce and our aging population. We are even launching a new partnership with the U.S. Department of Defense to better understand how local land use decisions and development patterns, such as housing, renewable energy and conservation projects, impact our nation's military readiness.

In each of these examples, the roles and responsibilities of county governments evolve as local conditions and needs change with shifting economies, demographics and overburdened infrastructure. However, our ability to adapt is constrained by federal and state mandates, and often any mandates passed from the federal government to states are then passed to local governments. Forty-five states also place limitations on county property tax authority, and the number of restrictions has expanded significantly since the 1990s. Only 29 states authorize counties to collect sales taxes, but almost always under various restrictions: twenty-six impose a sales tax limit and 19 require voter approval.

At the same time, NACo interviews reveal 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 imposed a combination of both. Meanwhile, federal changes such as capping the state and local tax (SALT) deduction and eliminating advance refunding bonds have constrained fiscal options for both states and local governments.

In an environment where cities and counties have truncated financial flexibility, a strong intergovernmental partnership is even more important to ensure available dollars and resources are deployed effectively. To that end, we urge Congress to pass the Restore the Partnership Act and join states, counties, tribal governments and other localities in supporting our system of federalism to the fullest extent possible.

Congress Should Establish a National Commission on Intergovernmental Relations

Finally, Mr. Chairman, the establishment of a new national commission on intergovernmental relations would help create a better system of federalism that benefits all levels of government and, most importantly, the public we serve. While we recognize that there appears to be very little political reward or incentive for this concept, history shows that our nation is strongest when we envision and pursue public policy goals together in a sustainable, practical way for all Americans, across all levels of government.

Counties – along with our other state and local association partners – urge Congress to embrace this commitment to intergovernmental participation. The bipartisan *Restore the Partnership Act* from Reps. Gerry Connolly (D-Va.) and Rob Bishop (R-Utah) takes an important step towards this commitment by establishing a national Commission on Intergovernmental Relations. We can respect and protect the unique roles and responsibilities of each level of government (and our non-governmental partners), while also creating new forums that help us pursue joint actions that are collaborative, performance driven and leverage our combined investments and assets.

Currently, the federal relationship with states and local governments varies greatly among branches of the federal government and among agencies within the federal government. When legislation is introduced, the Unfunded Mandates Reform Act (UMRA) ensures that a bill does not include an unreasonable unfunded mandate on state and local governments, at least to a certain extent. In recent years, Congress has found new ways to circumvent these restrictions, including adding in new grant conditions, increasing matching requirements or punting specific decisions to federal agencies. While we have pursued updates to UMRA, the current law still provides some protection for the federalism process in any new legislation.

Federal agencies, however, do not operate consistent intergovernmental processes. While Executive Order 13132 nominally requires agencies to engage in a federalism consultation process, this is adhered to unevenly not only across agencies, but often within a specific agency or regions of a specific agency. For example, the U.S. Department of Transportation may consider “early in the process” to mean during the public comment period, while the U.S. Environmental Protection Agency may interpret it to mean before a draft rule is released to the public. Similarly, for rules determined on a regional basis within a department or agency, each region may have a different process for engaging other governmental stakeholders.

These discrepancies make it difficult for states and local governments, including our national associations, to navigate the federalism process. This is concerning because the best solutions – those that meet the needs of our residents and are practically applicable on the ground – are most often developed in concert with all governmental stakeholders. This is not a political issue. Rather, we hope that by supporting the *Restore the Partnership Act* and forming this new Commission, Congress will affirm the federal government’s seat at the table with its intergovernmental partners.

As outlined by former ACIR official Bruce McDowell in an April 2011 article, in the 1990s, the ACIR served a valuable role by “interjecting intergovernmental principles into the dialogue” at

the federal level.¹ For over three decades, the ACIR “championed the idea that America’s federal, state, and local governments need to work together if they are to serve the nation’s citizens well.” In addition, McDowell noted that governments “work best when they work together, each providing what it does best in a balanced partnership with the others.”

Following the disbanding of the ACIR, the strong partnership between governments faded and local and state governments have faced increased mandates and a loss of local control from our federal counterparts. Intergovernmental collaboration requires bipartisan - and even nonpartisan - commitment to pursuing the best means of serving our constituents. Forming a new Commission on Intergovernmental Relations would inject a much-needed sense of governmental cooperation into our policy making process.

In addition to clarifying the regulatory process, states and local governments urge Congress to include its intergovernmental partners early and often in the legislative process. States and local governments, and our national associations, serve as a repository for policy ideas ripe for federal partnership. This includes direct interaction with state and local elected officials. The Big 7 coalition and our other state and local elected official associations are governmental partners, often representing the same taxpayers and residents. We are not a collection of special interest groups, and we share public accountability with our federal counterparts.

With today’s increasingly complex public policy issues, we now need a neutral forum for elected policymakers from all levels of government to focus on a shared purpose, including balancing the scale of federal powers and resources with the rights, responsibilities, capabilities and innovations of states, local governments and tribal officials. It is important that we acknowledge the interconnectedness of the public sector and recommit to elevating our dialogue and professional relationships. As our Founding Fathers demonstrated, we can have intense, rigorous debates and viewpoints, while still embracing a boundary-crossing institution that can facilitate intergovernmental relations and effective intergovernmental partnerships.

CONCLUSION

Chairman Connolly, Ranking Member Meadows and members of the Subcommittee, thank you again for your leadership on this matter and for bringing the county voice to the table to discuss the importance of a robust federal, state, local and tribal partnership. County officials stand ready with innovative approaches and solutions to work side-by-side with our federal and state partners to ensure the health, well-being and safety of our citizens.

¹ McDowell, Bruce. “Reflections on the Spirit and Work of the U.S. Advisory Commission on Intergovernmental Relations.” *Public Administration Review*, 2011.