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Graham Knaus

February 1, 2023

The Honorable Grace Napolitano
United States House of Representatives
1610 Longworth House Office Building
Washington, D.C. 20515

Dear Representative Napolitano:

On behalf of the California State Association of Counties (CSAC), I'm writing to thank you for reintroducing the *State and Local General Sales Tax Protection Act*. This important legislation (H.R. 695), which we are pleased to endorse, would protect states and localities from federal government intrusion regarding the use of their general sales tax revenues.

In 1987, Congress passed legislation that required airports to spend jet fuel excise tax revenues on aviation-related purposes only. The Conference Report to the *Airport and Airway Improvement Act* (H.R. Conf. Rept. No. 484, 100th Cong., 1st Sess. 1987 accompanying P.L. 100-223) clearly states that the requirement that local taxes on aviation fuel must be spent on airports "is intended to apply to **local fuel taxes only, and not to other taxes imposed by local governments, or to state taxes.**"

In 2014, however, the FAA issued a rule that contradicts the intent of the aforementioned law, and which overturns decades of legislative interpretation. Specifically, the FAA's policy amendment (79 FR 66282) requires states and local governments to spend the proceeds of any aviation-related tax – those derived from excise taxes **and** local sales taxes – for airport capital and operating costs. Although the final rule went into effect in 2017, many jurisdictions have been given significant time to come into full compliance with the terms of the FAA's requirement.

According to the California State Board of Equalization (BOE), the FAA's policy change, if fully enforced, will divert \$17 million away from State law enforcement purposes and \$17 million away from State health and social programs annually. Moreover, CA BOE estimates that an additional \$24 million per year in local general sales taxes will be diverted from their voter-approved purposes.

In California, there are 33 counties that administer local voter-approved sales taxes, the proceeds of which support a number of critical governmental functions, including transportation, first responder, and education. When voters approve local sales tax increases, they do so with the promise that the revenue generated from the tax will be used for the purposes identified in the ballot measure. The FAA's rulemaking is an affront to local

control of general application sales tax initiatives, as the policy effectively overturns the decision of local voters in taxing themselves for specific purposes. Furthermore, because sales taxes on aviation fuel are not segregated from other taxable sources, states and local governments must implement an extensive new tracking system(s) in order to comply with the FAA's policy. This administrative burden represents an unfunded mandate.

Again, CSAC strongly supports HR 695, which would re-establish 29 years of FAA interpretation by clarifying Congress' original intent that general sales taxes are not subject to airport spending requirements as are excise taxes.

Thank you for your ongoing support of California's counties. Should you have any questions or if you need any additional information, please contact Joe Krahn, CSAC Federal Representative, Paragon Government Relations at 202-898-1444.

Sincerely,



Graham Knaus
CSAC Executive Director

cc: California Congressional Delegation