



➤ October 6, 2017

NASBO 2017 Fall Meeting

WHAT'S NEW IN STATE TAX & REVENUE POLICIES

Brian Sigriz & John Hicks
NASBO Staff

National Association of State Budget Officers | **NASBO**



**RECENT GENERAL FUND
REVENUE HISTORY**

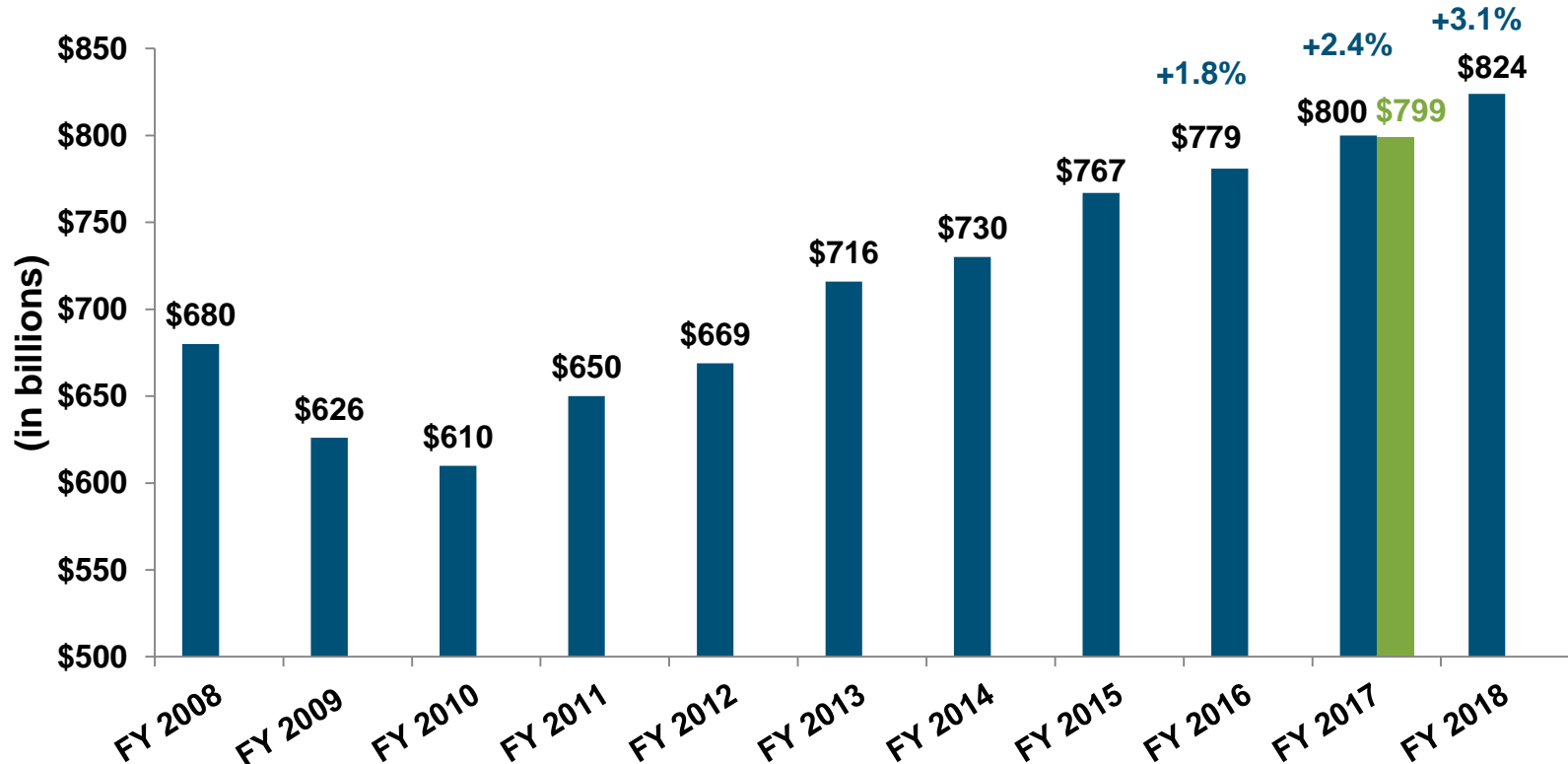
Photo by: Jake McGuire



SLUGGISH GENERAL FUND REVENUE GROWTH FOR TWO CONSECUTIVE YEARS

Modest Improvement Expected in Fiscal 2018

General Fund Revenue: FY 2008-FY 2018

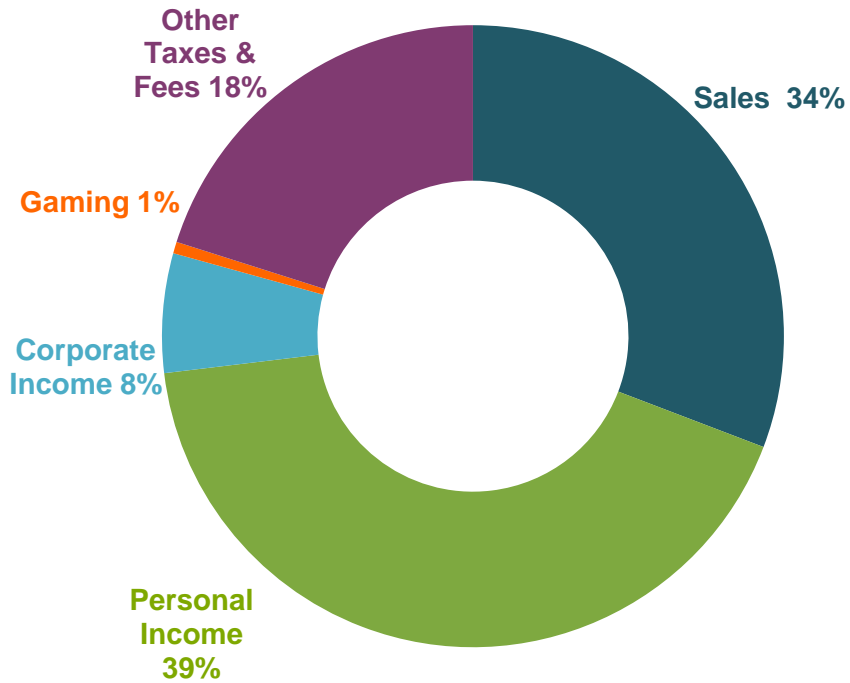


Source: NASBO Spring Fiscal Survey of States; Fiscal 2018 figure is based on recommended budgets.

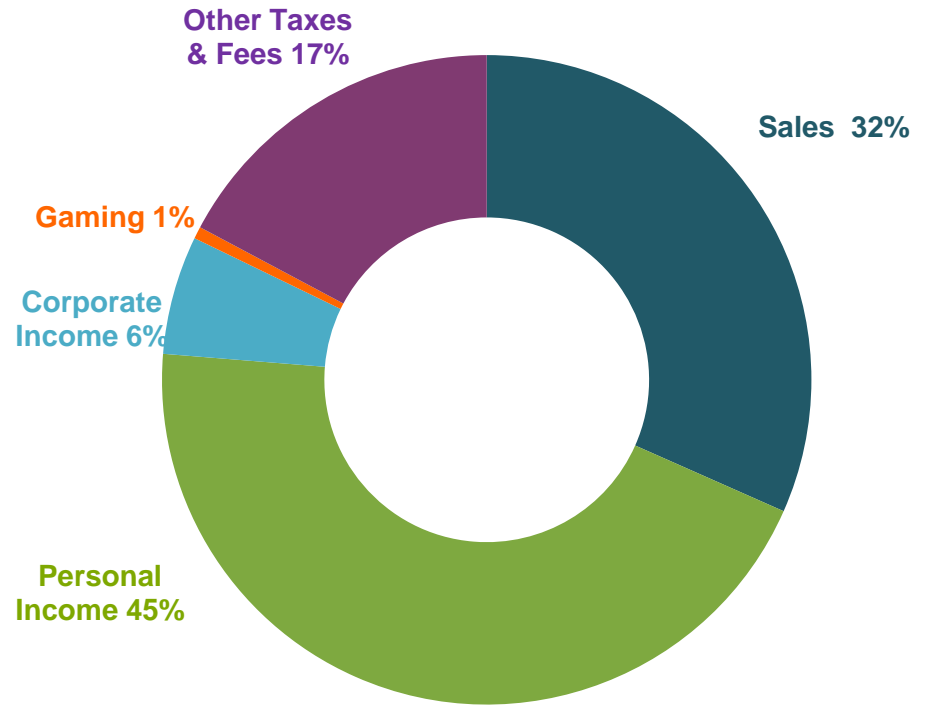
*Aggregate revenue level needed to total at least \$799 billion in fiscal 2017 to be equivalent with or exceed real 2008 spending level.

GENERAL FUND REVENUE SOURCES ALL 50 STATES

Fiscal 1998



Fiscal 2016





**State Tax Issues Related to
the New Economy**

Photo by: Jake McGuire



Short-term Rentals

- All states except Alaska and California have some form of a state lodging tax; rates vary from 1.8% to 15% (National Conference of State Legislatures)
- However, taxes on short-term rentals vary greatly
 - Often a combination of state sales taxes, lodging taxes, local levies
- Airbnb is currently collecting sales, hotel, or other taxes in 26 states and D.C.
 - State level taxes are collected in 18 of those states (Institute on Taxation and Economic Policy)
- 22 states considered legislation this year dealing with the taxation of short-term rentals (MultiState Associates)
- Recent actions include:
 - Idaho – Gov. Otter signed legislation in April requiring short-term marketplaces to collect and remit state and local taxes
 - Kentucky – Airbnb began collecting and remitting the state's 6% sales tax and 1% transient room tax on October 1
 - Massachusetts – legislature is considering a bill to require people renting out rooms to pay a 5% excise tax



Ride-Sharing

- In most states, both taxi fares and rides with companies such as Uber and Lyft (transportation network companies) are exempt from sales taxes
 - Only 8 states currently apply sales or gross receipts taxes to taxi fares (Institute on Taxation and Economic Policy)
- Some states are now levying taxes specifically targeting ride-sharing companies
- Actions include:
 - Nevada (2015) – the state enacted a law requiring a 3 percent excise tax on the total fare
 - South Carolina (2015) - began imposing a 1 percent fee on the gross trip fare
 - Massachusetts (2016) - began imposing a 20-cent surcharge per ride
 - Pennsylvania (2016) – requires companies to pay a 1.4% gross receipts tax in Philadelphia
- 17 states enacted legislation in 2017 related to ride-sharing (MultiState Associates)



Digital Taxation

- States are increasingly enacting legislation expanding sales taxes to digital goods and services, as well as cloud computing services
 - There is a lot of variation in what is taxed and the method for taxation
 - Some states have exempted certain digital goods or computing services
- Preliminary findings from Federation of Tax Administrators (FTA) Services Taxation Survey
 - States are more likely to tax computer software than computer services
 - For example, 47 states tax packaged software while only 17 tax streaming video services
 - Few states tax cloud computing services
- Arkansas this year enacted legislation expanding the gross receipts tax to certain digital goods
- In a number of other states the legislature considered, or is currently examining, issues associated with the taxation of digital goods



Fantasy Sports

- States have begun setting guidelines for companies that operate fantasy sports leagues, including DraftKings and FanDuel
- 16 states have legalized the industry, but not all impose a tax
- Taxes are typically paid as a percentage of the game operator's gross revenues less prize payouts, or on the winnings
- States that have imposed a tax include (Fantasy Sports Trade Association):
 - Delaware (15.5%)
 - New York (15%)
 - New Jersey (10.5%)
 - Maine (10%)
 - Arkansas (8%)
 - Mississippi (8%)
 - Tennessee (6%)
- New Jersey estimates it will receive \$6.6 million a year in taxes
- Vermont imposes a 5% registration fee on companies, and is examining imposing a tax



Online Gaming

- Gambling revenue represents between 2.0%-2.5% percent of state own-source revenue in the typical state (Rockefeller Institute)
 - Lotteries represent about two-thirds of gambling revenue, with casinos and racinos next
 - In most states, gaming revenues have seen slow growth or declines in recent years
- Delaware, Nevada, and New Jersey allow in-state residents to gamble on websites run by casinos (Stateline)
 - At least 8 states considered legalizing online wagering this year – California, Hawaii, Illinois, Michigan, New Hampshire, New York, Pennsylvania, and West Virginia
- Casino winnings from online gambling represented roughly 10% of overall revenue in New Jersey, while Delaware and Nevada have seen less impact
- A few states, like Georgia, Illinois, and Michigan, allow residents to buy lottery tickets online
 - Some states are concerned about logistical and security issues



ONLINE SALES TAX ACTIONS

Photo by: Jake McGuire



ONLINE SALES TAX

STATE LEGISLATION ACTIVITY GROWING

2016 – Economic Nexus and Reporting

- › Colorado’s 2010 Reporting Law denied cert by US Supreme Court
- › South Dakota statute - \$100,000 sales threshold; 200+ transactions
- › Alabama statute - \$250,000 sales threshold for remote “entities”

2017 – Economic Nexus – South Dakota-like

- › Indiana, North Dakota and Wyoming – new legislation
- › Massachusetts and Tennessee – new regulations

2017 – Marketplace Providers on Behalf of Sellers

- › Minnesota and Washington – first state laws - \$10K sales threshold
- › Attempt to put onus of collection on marketplace provider
- › Wash imposes notice/reporting obligations on marketplace providers

2017 – Substantial “Cookie” Nexus

- › Massachusetts, Ohio, Rhode Island
- › Sales revenue and transaction thresholds



\$26 Billion Estimate of Uncollected Sales Tax from Online/Remote Sales

- National Conference of State Legislatures released an updated estimate in March, 2017
- Updated the 2009 studies by Univ. of Tennessee & Washington State Office of Financial Management
- \$25.9 Billion in uncollected sales and use tax in 2015
 - \$17.2 Billion from Electronic Sales
 - \$12.4 Billion from non-Electronic Sales
 - (\$3.6) Billion discount for Amazon's
- Several of the States that passed or introduced legislation prepared their own estimates of lost sales tax revenues



EARNED INCOME TAX CREDIT

Photo by: Jake McGuire



EARNED INCOME TAX CREDIT – 2017 LEGISLATION

EITC

- › 23 States have Refundable Credits
- › 6 States have Non-refundable Credits

NEW EITC

- › Montana - refundable
- › Hawaii - nonrefundable
- › South Carolina – nonrefundable

EXPANDED EITC

- › California
- › Illinois
- › Minnesota

INCREASED ACCESS TO EITC

- › Massachusetts – domestic violence victims
- › Oregon – increased advertising/outreach



TAX AMNESTIES

Photo by Jake McGuire



TAX AMNESTIES – NEW & RECENT HISTORY

2017 LEGISLATION – 3 States

- › Oklahoma, Rhode Island, Virginia

ENDED in 2016 & 2017 – 3 States

- › Alabama, Arizona, Pennsylvania

ENDED in 2014 & 2015 – 11 States

- › Arizona, Indiana, Kansas, Louisiana, Maryland, Massachusetts
- › Missouri, New Hampshire, New Jersey, North Carolina, Oklahoma

ENDED in 2012 & 2013 – 8 States

- › Connecticut, Kentucky, Louisiana, Maine
- › New Jersey, Rhode Island, Texas, Vermont

ENDED in 2009-2011 – 20 States

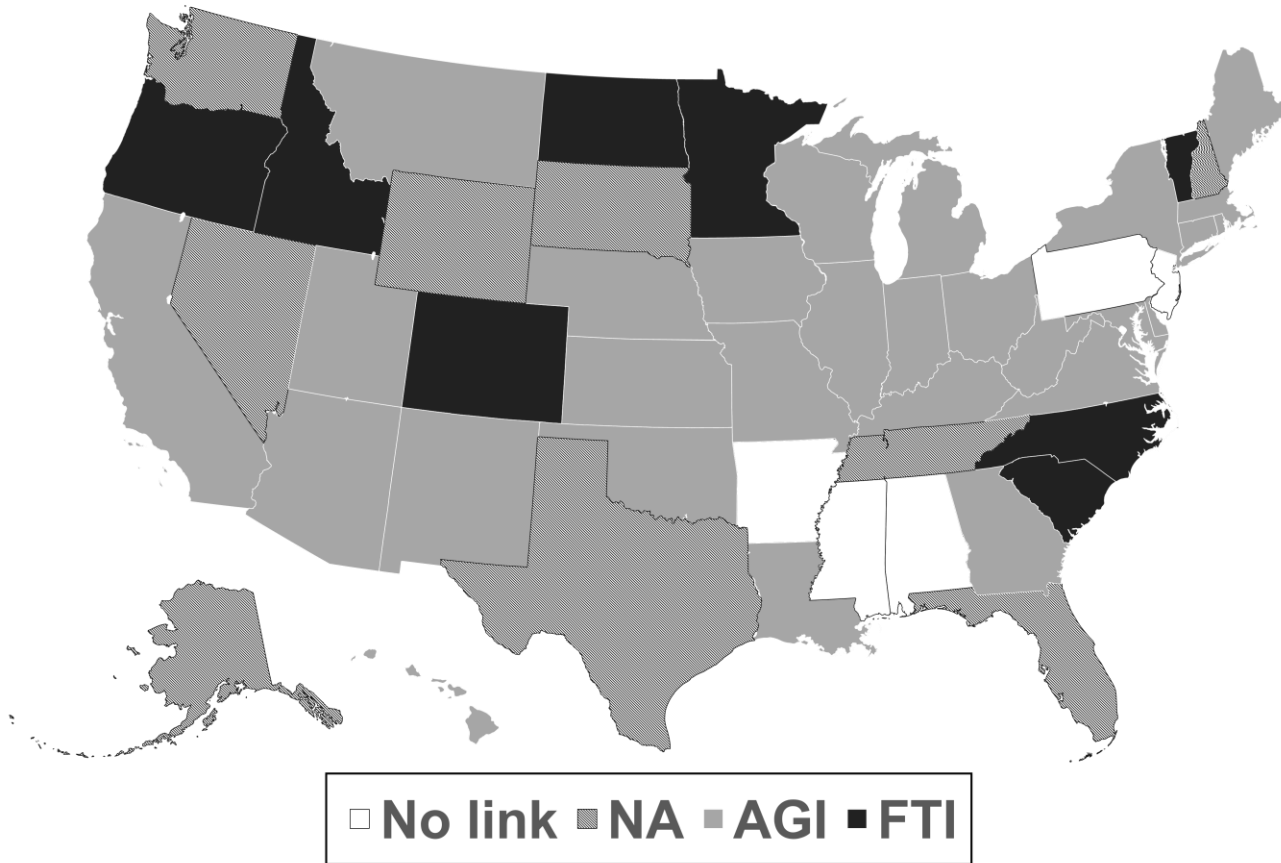
Source: Multistate Tax Commission



**FEDERAL INCOME TAX
CONFORMITY**

Photo by: Jake McGuire

> STATES CONFORMITY WITH FEDERAL INCOME TAX



AGI = Federal Adjusted Gross Income

FTI = Federal Taxable Income

No Link = No Link

NA = No Broad-Based Personal Income Tax



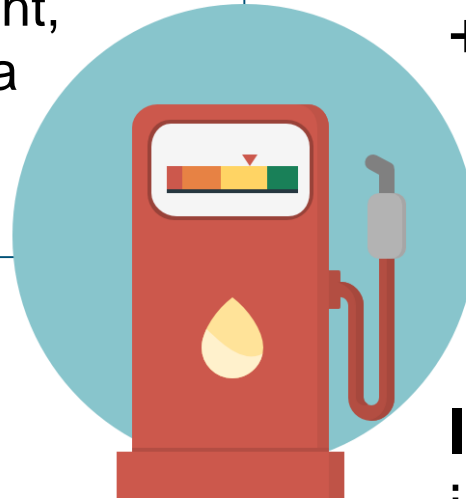
TRANSPORTATION

Photo by Jake McGuire

Gas taxes raised in
26 states since 2013

-8 states in 2017

Sessions (Rate
increases: Cal, Ind, Mont,
Ore, SC, Tenn. Formula
change: Utah, W Va)



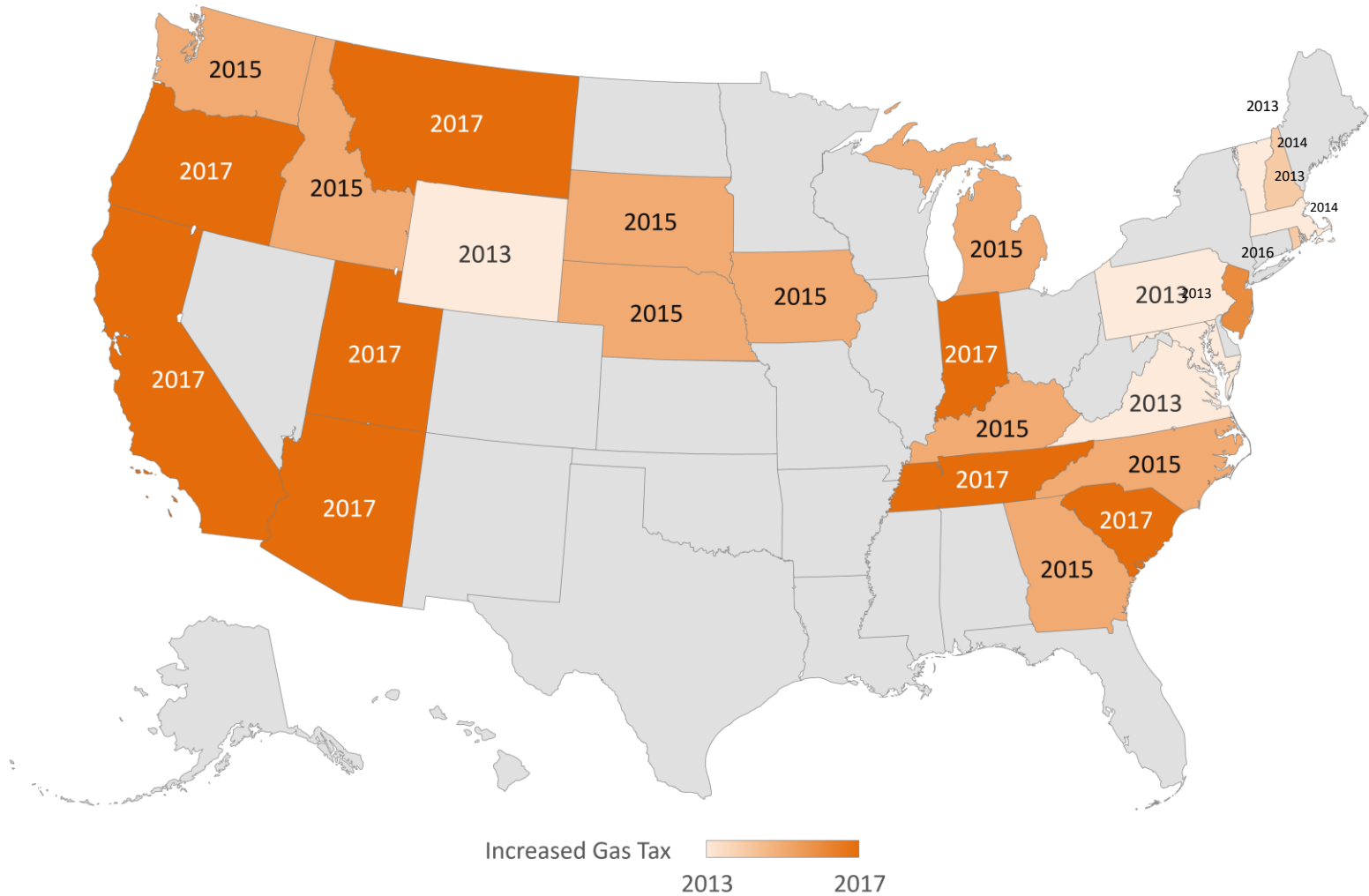
**Average Number of
Years** since last
increase = 25

Average Increase
+10 cents

32 states have
Constitutional
restrictions on how
revenues in
transportation fund can
be spent

Illinois & New Jersey
joined them through
2016 ballot measures,
Connecticut ballot
measure in 2018

STATE GAS TAX INCREASES 2013 - 2017





TRANSPORTATION FUNDING – Other than Fuel Tax Increases – 2017 Sessions

Fees

- **Increase in Vehicle Registration Fee:** Mont, Ore, SC, Tenn, Utah
- **New Electric Vehicle Fee:** Cal, Ind, Minn, Mont, Okla, Ore, SC, Tenn, W Va
- **Joining:** Colo, Ga, Wash, Idaho, NC, Mo, Neb, Va, Wyo – **18 States**
- **New Hybrid Vehicle Fee:** Cal, Ind, Mont, Okla, SC, W Va
- **New Transportation Improvement Fee:** Cal (based on vehicle value), Ind, Mont (for vehicles > \$150,000)
- **Truck Use/Weight Fee:** SC, Wyo
- **Bicycle Fee:** Ore

- **Vehicle Use/Sales Tax:** Okla, Ore, SC, W Va
- **Divert Revenue Stream to Transp Fund:** Minn
- **Rental Car Charge:** Tenn
- **Toll Authorization:** Ind

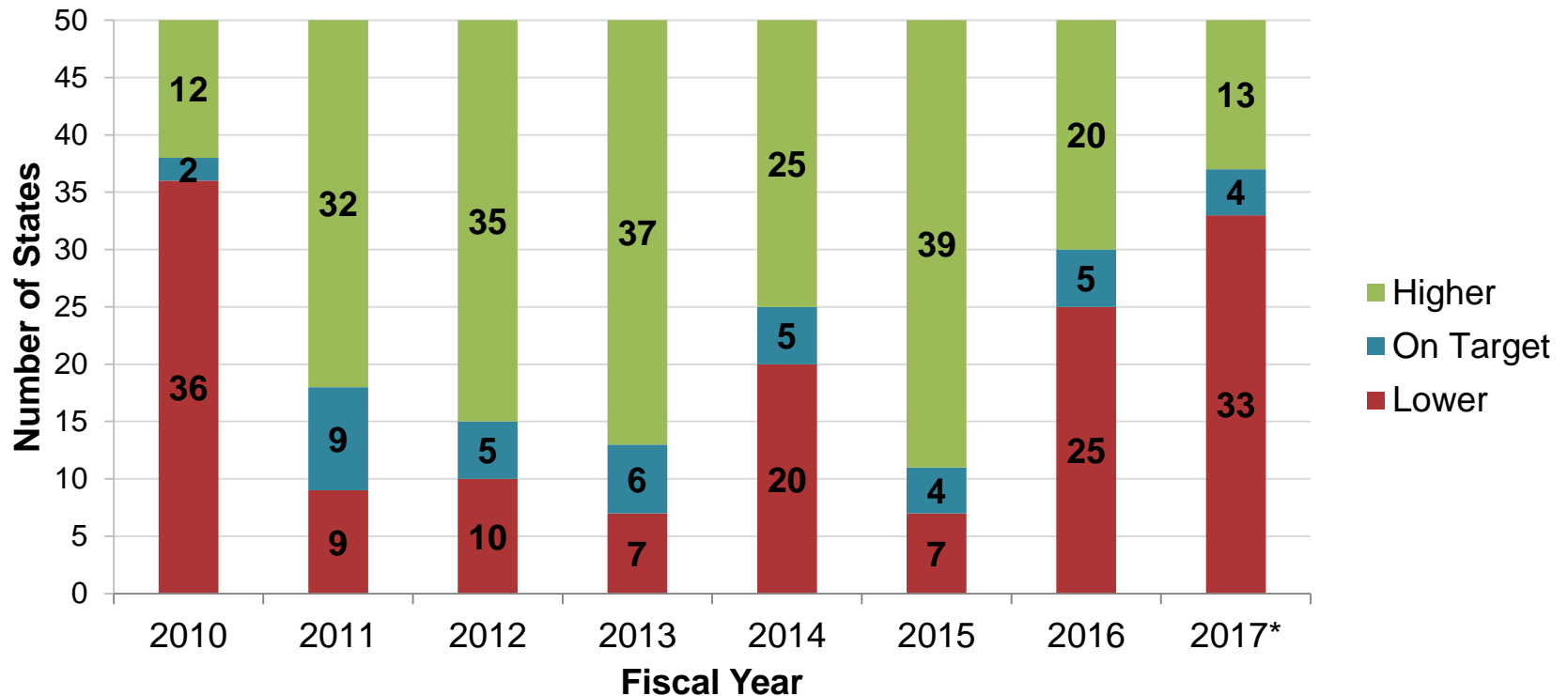


STATE REVENUES

Photo by: Jake McGuire

33 STATES REPORTING REVENUE COLLECTIONS BELOW BUDGET PROJECTIONS

General Fund Revenue Collections Compared to Original Budget Projections



Source: NASBO Fiscal Survey of States.

*Fiscal 2017 figures are based on data collected in spring 2017, before the end of the fiscal year and before April collections were in.



FY 2017 GENERAL FUND REVENUE UPDATE

35 States Revised their Revenue Forecasts Downward

9 of 11 Eastern States

10 of 15 Southern States

11 of 11 Midwestern States

5 of 13 Western States

- › Average Downward Revision of -2.0%
- › Economic forecasts of GDP and income were rosier than what actually happened
- › 5 states with a -4% or more downward revision

14 States Revised Forecasts Upward

- › Average Upward Revision of +2.3%



FY 2018 GENERAL FUND REVENUE FORECASTS-BEFORE TAX POLICY CHANGES

General Fund Revenue Growth **+2.9%**

48 States:

- | | |
|--------------------|-------|
| › Personal Income | +3.9% |
| › Sales | +3.9% |
| › Corporate Income | +3.3% |
| | |
| › East | +2.9% |
| › South | +2.6% |
| › Midwest | +3.2% |
| › West | +3.3% |



FY 2019 GENERAL FUND REVENUE FORECASTS - 17 States BEFORE TAX POLICY CHANGES

General Fund Revenue Growth +3.8%
17 Biennial Budget States:

- › Personal Income +4.7%
- › Sales +4.0%
- › Corporate Income +2.6%



WWW.NASBO.ORG

Brian Sigritz & John Hicks
NASBO Staff

National Association of State Budget Officers | **NASBO**