

**Congressional Testimony in Opposition to
H.R. 5429 The Satellite Services Act of 2002
and
H.R. 4869 The Satellite Radio Freedom Act**

presented by

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on behalf of the

**National League of Cities
United States Conference of Mayors
and
TeleCommUnity Alliance**



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**House Subcommittee on Commercial and Administrative Law
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TeleCommUnity

... Alliance for a Communications Bill of Rights

EXECUTIVE SUMMARY

Section 602 of the Telecommunications Act of 1996, 47 U.S.C. § 152 nt, preempted local government taxation of direct-to-home satellite service, but preserved the right of states to tax such services and the right of local governments to receive portions of such state taxes. H.R. 5429, the Satellite Services Act of 2002, would expand the preemption of local taxation authority to all direct-to-subscriber satellite service. H.R. 4869, the Satellite Radio Freedom Act, would preempt local taxation of satellite digital radio service, but preserve local government authority to tax or require fees for terrestrial transmitters physically located within their jurisdictions.

TeleCommUnity, the National League of Cities, and the United States Conference of Mayors urge the Subcommittee to reject these bills on the basis that they violate the principles of good tax policy, good federal policy, and good broadband policy.

- **Good Tax Policy:**
 - allows jurisdictions that must deliver services to be responsible for, and held accountable for, imposing the taxes necessary to pay for such services;
 - recognizes that removing elements from the tax base increases the tax burden on all other taxpayers; and
 - does not confuse tax efficiency with tax eradication.
- **Good Federal Policy:**
 - respects the sovereignty of other state and local elected governments;
 - places tax and spending decisions at the lowest level of government where voters have the greatest impact; and
 - avoids creating unfunded mandates.
- **Good Broadband Policy:**
 - does not use tax subsidies to favor one form of technology over others; and
 - recognizes that tax subsidies are the least efficient form of subsidies to promote broadband deployment.

The Satellite Services Act in particular would have the unintended consequence of creating disparate taxation schemes for similarly situated providers. Competition in the satellite service market is robust, and there is no evidence at this time to support creation of federal tax subsidy that would provide satellite service providers with a competitive advantage over fiber optic, wireless terrestrial, ultrawideband, and other forms of broadband technology.

H.R. 5429 and H.R. 4869 contain ambiguous definitions and fail to define key terms. As drafted, satellite service providers that have a strong local presence and almost no national presence, could unintentionally be exempted from paying almost all local taxes and regulatory fees, including tax and fees of generally applicability. Compliance and enforcement of either bill would be difficult, and a reviewing court would likely find either bill void for vagueness.

For these reasons, we urge Congress to forgo the temptation to provide special tax breaks to small pockets of industry at the expense of local governments and competing industry technologies.

September 25, 2002
TeleCommUnity



Testimony of Nicholas P. Miller
House Subcommittee on Commercial and Administrative Law
September 25, 2002

Thank you Mr. Chairman:

It's an honor to be here today. We appreciate the chance to work with Congress on this important issue. I'd also like to thank Subcommittee Council, Diane Taylor for the tremendous work she did to enable us to prepare and present testimony to the Subcommittee on very, very short notice.

I am testifying before the Subcommittee today in my capacity as legal counsel to the TeleCommUnity Alliance, on behalf of TeleCommUnity, the National League of Cities, and the United States Conference of Mayors. TeleCommUnity is an alliance of local governments and their national associations which advocates for, and educates on behalf of, local government interests on matters of federal telecommunications, broadband, and right-of-way legislation.

I. OVERVIEW

TeleCommUnity, the National League of Cities, and the United States Conference of Mayors urge the Subcommittee to reject H.R. 5429 and H.R. 4869 on the basis that they do not promote good tax policy, good federal policy, or good broadband policy.

- **Good Tax Policy:**
 - allows jurisdictions that must deliver services to be responsible for, and held accountable for, imposing the taxes necessary to fund such services;
 - recognizes that removing elements from the tax base increases the tax burden on all other taxpayers; and
 - does not confuse tax efficiency with tax eradication.
- **Good Federal Policy:**
 - respects the sovereignty of other state and local elected governments;
 - places tax and spending decisions at the lowest level of government where voters have the greatest impact; and
 - avoids creating unfunded mandates.
- **Good Broadband Policy:**
 - does not use tax subsidizes to favor one form of technology over others; and
 - recognizes that tax subsidies are the least efficient form of subsidies to promote broadband deployment.

Tax efficiency should not be confused with tax eradication. Local governments have been working with state governments to simplify and streamline tax collection. I direct the Subcommittee's attention to the progress being made in the area of tax efficiency as a result of the "Streamlined Sales Tax Project." The SSTP is a voluntarily effort involving thirty-nine

states and the District of Columbia, to among other things: (1) create uniform tax definitions and sourcing rules; and (2) legally and technically enable sellers to pay all local taxes to the state government with the state, and not sellers, assuming the burden of distributing taxes back to local governments.¹ Local governments are working to simplify the administrative burden of tax compliance. As of June 2002, thirty-three states and District of Columbia have enacted tax simplification legislation and two states are considering pending legislation.²

Permitting local taxes to be paid to the state government, is not the same thing as permitting only the state and not local governments to levy taxes. The power of local voters to determine for themselves how their community will fund locally-provided services is significantly diluted if all tax decisions must require the approval of a majority of state legislators and the governor.

I'd like to take a moment at this point to put this discussion in context by pointing out the recent experiences of a few local governments in Texas. In the same week that bureaucrats at the Federal Communications Commission arbitrarily decided to strip local governments of \$500,000 in annual revenue (by mistakenly concluding that cable modem service is not cable service), the federal government decided to recall National Guard troops from airports, leaving local governments primarily responsible for paying for the increased airport security costs. Let me be clear, local governments are not questioning the need to provide additional services at additional expense, and we are not necessarily asking to be relieved of these new responsibilities – but local governments cannot continue to provide and pay for additional services if, at the same time, the federal government continues to shrink the tax base upon which we rely to fund the delivery of these vital services.

In the rest of my testimony, I'd like to discuss why H.R. 5429 and H.R. 4869 are bad broadband policy. The specific terminology used in both bills creates a lot of legal ambiguity and I will address those points specifically at the end of my presentation.

¹ For more information, visit <http://streamlinedsalestax.org>.
<http://66.28.69.53/sline/124amdedactandagrmt.pdf>

² Streamlined Sales Tax Project, “Status of State Efforts on Streamlined Sales Tax Project (as of 6/16/02),” available at <http://66.28.69.53/sline/statestatus.pdf> (last visited 9/25/02), or by selecting “State Legislation Status” on the Streamlined Sales Tax Project homepage at <http://streamlinedsalestax.org>. See also “Uniform Sales and Use Tax Administration Act,” available at <http://66.28.69.53/sline/124amdedactandagrmt.pdf> (last visited 9/25/02) (model tax simplification legislation), or by selecting “Act and Agreement as Amended 1/24/021” from “Library” on the Streamlined Sales Tax Project homepage.

II. LOCAL GOVERNMENTS STRONGLY SUPPORT NATIONAL POLICIES THAT WILL PROMOTE EXPANDED DEPLOYMENT OF SATELLITE SERVICES.

Local government welcomes and encourages true competition in the provision of video, voice, data, information, and high-speed Internet access services to all Americans. Direct Broadcast Satellite service in particular has provided many consumers with a viable alternative to incumbent cable service, and in turn, competition from DBS providers has provided cable operators with a competitive incentive to offer a wider range of competitively priced services to cable subscribers. Promoting and encouraging greater deployment of all forms of broadband service continues to be a critical issue in our communities and we welcome the technical innovation and expanded broadband opportunities offered by wireless cable (“MMDS” or “MDS”), private cable (“SMATV”), and satellite messaging service providers.

III. LOCAL GOVERNMENTS SUPPORT SOUND TAX POLICIES.

The following are excerpts from “The Impact of Electronic Commerce on State and Local Tax Systems: Building A Constructive Solution After The [Advisory Commission on Electronic Commerce] Commission’s Failure”, written by the U.S. Conference of Mayors, May 2000.³

The American federal system reflects democracy at its best. Localities and states choose the mix of taxes, and the level of taxes that best suits their preferences, traditions, and needs. Thousands of localities levy sales taxes while many others do not.

A. Local Governments Support Tax Fairness.

Local governments call for tax “fairness” which asks each business to pay for its share of local government services in a manner that does not bias the competitive marketplace. Local governments support a tax system at all levels of government that treats competitors the same when they engage in the same activity. It is true that current utility taxes often apply to the Bell Operating Companies and other traditional telephone and cable television companies in ways that do not apply to new telecommunications providers. This needs to be fixed. We should make sure that taxes apply to all the competitors.

³ The text of the entire article is available at http://usmayors.org/USCM/wash_update/documents/commission.htm.

Further, it is wrongheaded to assert that the tax rate for telecommunications providers must necessarily be same as the tax rate for other industries. This is a unique, community by community question. It is common, and appropriate, to ask that individual industries pay taxes that are related to the burden they place on the community's infrastructure and services. A software development company does not place the same demands on the sewers, roads, or police as a major heavy manufacturing facility. It is fallacious public policy to suggest that all businesses, necessarily, should have exactly the same tax burden.

B. Local Governments Support Efficient Tax Administration—NOT Tax Eradication.

Local governments are firmly committed to finding more efficient and fair ways to administer their taxes. This is NOT the same as adopting a single tax-rate statewide, or adopting uniformity, which ignores necessary local differences.

It is self-evident that the business opportunity presented by access to mid-town Manhattan is different than by access to Sarasota Springs, NY. The tax rates in those two locations will — and must — be different. The cost of necessary municipal services in Manhattan is greater, just as the business opportunity is greater, than in Sarasota Springs. The tax system must produce the revenues needed to sustain the required LOCAL public services. Similarly, the difficulties of enforcement and auditing compliance are different in the two communities. One tax form will not fit all businesses and all circumstances.

C. Sales Taxes Are an Essential Part of the Tax Base For Many Local Governments.

As the report submitted to Congress in April 2000 by the Advisory Commission on Electronic Commerce stated:

State and local governments that levy sales taxes rely on them as a major source of revenue for their general funds. According to the U.S. Census Bureau, state and local governments collected approximately a total of \$237 billion in sales and use taxes in 1999, comprising 24.8% of all revenues generated that year.

For many local governments, sales taxes are an essential source of revenue. Of the 25 largest cities that collect general sales taxes, four cities (Albuquerque, Denver, Oklahoma City, and Tucson) rely on them for over half of all tax revenues. Another seven cities (Austin, El Paso, Nashville-Davidson Metro area, New Orleans, Phoenix, San Antonio, and San Diego) rely on them for between thirty and fifty percent of tax revenues.

(U.S. Census, Statistical Abstract of the United States: 1999, p. 334, “City Governments – Revenue for Largest Cities: 1996”).

These are huge numbers. For most of these cities (Albuquerque, Austin, Denver, Nashville-Davidson Metro area, New Orleans, New York, Oklahoma City, San Diego, and Tucson), the amount collected in general sales taxes exceeds the amount that they spend on police protection. (U.S. Census, Statistical Abstract of the United States: 1999, compare p. 334, “City Governments – Revenue for Largest Cities: 1996” to p. 335, “City Governments – Expenditure and Debt for Largest Cities: 1996).

Sales taxes also are an important source of a city’s local bonding capacity. Local governments use sales taxes to back bonds for many different purposes: local school district capital needs in Iowa and Louisiana, infrastructure in Texas and California, transportation in New York City, a jail in New Mexico, and municipal parking in Phoenix, for example. (Standard & Poor’s CreditWeek Municipal, August 16, 1999, p. 10).

D. Local Governments Continue to Support Reasonable Management and Compensation for Use of Public Rights-of-Way.

Public rights-of-way are the most precious property interests held by local governments. Of course the telecommunications providers want free use of our streets and highways. Similarly, the oil companies want free oil leases on federal lands. But free use means over-use. And the daily commuter, the abutting shop-owner, and water system user will pay dearly if the rights-of-way they all depend on are not managed to achieve the highest and best use for all. Every business should pay the fair costs of its impact on others: inspection and oversight fees; adverse impacts on other rights-of-way users; shortened road life due to cuts to road surfaces; and fair-market value for the public resource permanently occupied.

IV. THERE IS NO RATIONAL BASIS TO SUPPORT ENACTMENT OF EITHER THE SATELLITE SERVICES ACT OR THE SATELLITE RADIO FREEDOM ACTS.

Local governments cannot support H.R. 5439, the Satellite Services Act, or H.R. 4869, the Satellite Radio Freedom Act.

- *Neither bill explains why local governments should abandon our general philosophy to promote technology-neutral regulation, and instead, support to two bills which would provide an exclusive tax subsidy and thus a competitive advantage to a single technology. **Local governments support all means of delivering broadband service.** We are not aware of any evidence presented to this Subcommittee that would justify our support of a federal policy to use costly local tax subsidies to discriminatorily promote development of satellite service to the possible detriment of wireless terrestrial, fiber optic, and ultrawideband technologies.*
- *Neither bill explains what if any critical problem has emerged that could or should be solved by further preempting the power of your constituents to influence tax and revenue decisions at the local level. Local taxation of DBS service is already preempted by Section 602 of the 1996 Telecommunications Act, 47 U.S.C. § 152 nt. **Only three states, Florida, Tennessee, and North Carolina, tax direct-to-home satellite service, while two states, Pennsylvania and Virginia, prohibit such taxes.***
- *Neither bill contains any persuasive findings to explain why local taxpayers should continue to have to subsidize DBS service under Section 602, much less explains why this type of industry-exclusive subsidy should be expanded to subsidize other satellite services. **Local governments believe the preemption provision of Section 602 should be sunsetted.** The exemption should not be *expanded* to cover direct-to-subscriber satellite service.*
- *There is no basis for continuing to subsidize direct-to-home satellite service with local tax dollars. **DBS is no longer a nascent industry with little to no local presence that lacks the resources to fully comply with local tax policies.***
 - DBS providers served 18.2% of the multichannel video market in 2001, as compared to the 6.85% they served in 1997 when Section 602 first took effect.⁴
 - Between 1997 and 2001, cable systems added 4.8 million subscribers **while DBS added over 11 million subscribers** over the same period. The Satellite Broadcasting and Communications Association stated that DBS is gaining over **8,500 subscribers per day.**⁵

⁴ *In re Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Eighth Annual Report, 17 FCC Rcd. 1244, Appendix C, Table C-1 (2002) (“8th Rept.”).

⁵ *Id.* at Appendix C, Table C-1 and ¶ 57.

- DBS revenue for 2001 was projected to be **\$12.1 billion dollars**, up 37.5 % from 2000 revenues.⁶
- DBS offers local broadcast channels in at least 41 markets. Direct-to-home satellite service has a 30% penetration rate in five states, more than a 20% penetration rate in thirty states, and more than a 10% penetration rate in forty-five states.⁷

It is bad tax policy to require a “mom and pop” TV shop to pay local business taxes as a condition of the privilege to operate a business in the community and sell television subscription services, while a billion dollar company is permitted to sell comparable television subscription services without paying any local taxes.

V. UNINTENDED CONSEQUENCES AND UNFUNDED MANDATES: WHY LOCAL GOVERNMENTS OPPOSE H.R. 5429 AND H.R. 4869.

H.R. 5429 and H.R. 4869 are both impermissibly vague. If enacted, both statutes will certainly be challenged. Both bills are based on Section 602 of the 1996 Act, but neither bill has been submitted as an amendment to the Communications Act, so the Act’s definitions will not be considered by a reviewing court. Thus, a court would have to interpret the statutes based on the plain language of each bill, common usage, and possibly these hearings to guide the courts. For this reason alone, this Subcommittee should reject these bills.

A. The Definition of “Direct-to-Subscriber Satellite Service” in H.R. 5429 Would Exempt Many More Satellite Services From Local Taxation Than Congress Intended.

H.R. 5429 preempts local taxation of “Direct-to-Subscriber Satellite Service,” which is defined in relevant part as “the distribution or broadcasting *of programming* transmitted or broadcast by satellite directly to the satellite service subscriber’s *receiving equipment* without use of the provider’s ground receiving or distribution equipment . . .” The definition further permits a satellite service to use “*terrestrial repeater transmitters* to retransmit signals received

⁶ *Id.* at ¶ 57.

⁷ *Id.* at ¶¶ 58-59.

from the provider's operating satellites" and still qualify for treatment as a "direct-to-subscriber satellite service."⁸

A key omission in H.R. 5429 is its failure to state what Congress intended "programming" to mean. A voice telephone call might not fit the definition, but video, data, music, pay-per-view movies and arguably Internet access could be included.

In addition, neither "receiving equipment" nor "terrestrial repeater transmitter" is defined or limited in any way. **The "direct-to-subscriber satellite service" definition is so broad and so vaguely defined that it theoretically could include any non-terrestrial service.** Terrestrial service may use a combination of wire, fiber or microwave to transmit information. For example, a wireless terrestrial service typically uses fiber to transport a signal to a transmitter, where the signal can be sent via microwave to a fixed or mobile user device. A satellite service uses a satellite to send a signal to a transmitter, where the signal can be sent via microwave to a fixed or mobile user device. Thus, H.R. 5429 would give satellite service providers a significant competitive advantage over comparable terrestrial service providers.

⁸ Section 602(a) prohibits local taxation of direct-to-home satellite service. Section 602(b)(1) defines "direct-to-home satellite service" to mean:

only programming transmitted or broadcast by satellite directly to the subscribers' premises without the use of ground receiving or distribution equipment, except at the subscribers' premises or in the uplink process to the satellite.

Section 2(a) of H.R. 5429 prohibits local taxation of direct-to-subscriber satellite service. As a comparison, below, words omitted from the current definition of direct-to-home satellite service in Section 602(b)(1) are struck through, and new text of H.R. 5429's Section 4(1) definition of direct-to-subscriber satellite service are underscored. Section 4(1) defines "direct-to-subscriber satellite service" to mean:

~~only the distribution or broadcasting of~~ programming transmitted or broadcast by satellite directly to the ~~subscribers' premises satellite service~~ subscriber's receiving equipment without the use of the provider's ground receiving or distribution equipment, except equipment at the subscribers' premises or in the uplink process to the satellite. A service that otherwise qualifies as a direct-to-subscriber satellite service as defined in this paragraph, but that uses terrestrial repeater transmitters to retransmit signals received from the provider's operating satellites, shall none the less be treated as a direct-to-subscriber satellite service.

H.R. 5429 could be interpreted to unintentionally provide a significant tax subsidy to many satellite-based services. Local government believe that the following services may also intentionally, or unintentionally, be included in the definition of direct-to-subscriber satellite services:

- **Direct Broadcast Satellite Service (“DBS”)** (A signal is sent from a satellite to a small parabolic receiver or “dish”.)
- **Home Satellite Dish Service (“HSD” or “C-Band”)** (HSD customers receive satellite signals from multiple satellites in different orbits using a very large dish – typically 4 to 8 feet in diameter.)
- **Private Cable Systems, also known as Satellite Master Antenna Television (“SMATV”)** (A SMATV system delivers satellite signals to customers – usually a large-unit building or a closely-located group of buildings – typically without using the public rights-of-way. Satellite receivers, processors and modulators are installed on a building rooftop to process signals from satellites, and hard wiring in the building is used to distribute service to units within the building. Some SMATV systems use microwave transmission to serve multiple buildings in a building complex. Most SMATVs do not serve more than one community.)
- **Wireless Cable or Multichannel Multipoint Distribution and Multipoint Distribution Service (“MMDS” or “MDS”)** (Satellite signals are beamed to a transmitter which then uses microwaves to distribute the signal to customer antennas and receivers. Line-of-sight between the transmitter and the receiver is required and the range of transmission depends on the transmitter’s power. It was named multipoint service because signals go from one point, the microwave transmitter, to multipoints, the customer receivers, and is commonly called wireless cable because the type programming is similar to franchised cable, but does not use wires to deliver a signal to customers.)
- **Instruction Television Fixed Service (“ITFS”)** (A minimum number of hours of education programming is distributed using wireless cable technology. ITFS is funded by leasing excess programming time to commercial wireless cable providers.)
- **Very Small Aperture Terminal Networks (“VSAT”)** (VSAT technology is typically used internally by very large corporations to transmit a single message to multiple receivers at the same time everyday. For example, the headquarters of national chain of retail stores may use VSAT to deliver price changes every morning to computers in every one of its stores. Or a very large company may use VSAT to deliver a daily message from the president to every employee.)
- **Satellite Digital Audio Radio (“Satellite DAR”)** (A national package of audio signals are transmitted to small, mobile, subscriber receivers. Satellite DAR service is funded by subscription fees instead of advertising.)

- **Satellite Transmission of Broadcast Television** (Signals are sent from a remote location to a satellite, then beamed back to a broadcasting center. Or, a large broadcast center send out several signals or feeds, and affiliate stations can choose which feeds to download directly to the broadcast station, or to nearby antenna farm.)
- **Satellite Internet Access Service** (two-way transmission of information that permits the user to store, transform and change the content of the information sent and received.)
- **Satellite-Based Message Service** (Any service that uses satellites to distribute voice, data, e-mail, electronic pages, or video to a subscriber device.)

Further, because the local tax exemption is extremely broad, H.R. 5429 could provide an incentive to deliver at least some portion of service via satellite, instead of via fiber optics, to take advantage of an unintended, yet significant, tax subsidy. So while most terrestrial-based 3G and cellular phone services would not fit the definition of “direct-to-subscriber satellite service,” H.R. 5429 is potentially providing an economic incentive to make new services meet this broad definition.

B. There Is No Rational Policy Basis to Justify the Disparate Tax Treatment Created By the Tax Definitions of H.R. 5429 and H.R. 4869.

The tax definitions in both bills could be interpreted to broadly preempt local authority to require any tax or fee of general applicability, including local sales tax, income tax, business privilege taxes, franchise fees, and possibly property taxes and administrative regulatory fees.

Arguably, there may have been valid policy reasons to preempt local taxation of national DBS service under Section 602 of the Telecommunications Act. DBS service did not use the public rights-of-way, initially offered service only on a national basis, may have had very little to no local presence, and may have served a limited number of homes in any particular jurisdiction. As discussed above, this is no longer the case for DBS, and these factors do not necessarily apply to the type of satellite services that would be exempted from local taxation by H.R. 5429.

- For example, a SMATV system usually operates in one community, and often extends over no more than a few buildings. The FCC stated, “the service area covered by a SMATV system usually includes only a small portion of a cable operator’s franchise area.”⁹ There is no rational basis to justify why a coffee vender in a SMATV building pays a business privilege fee or a gross receipts tax, the coffee drinker pays a sales tax, the building owner pays property taxes, the telephone company pays utility and income

⁹ 8th Rept. at ¶ 121.

taxes, and yet the single building SMATV would be exempt from paying any and all local taxes and fees solely because she receives the programming signal via satellite.

- Furthermore, unlike the DBS example, many of the direct-to-subscriber satellite service providers may have transmitters, antenna farms, or other facilities located in the public right-of-way or on public property. H.R. 4869 contains an exemption that seemingly recognizes the inequity of exempting satellite service providers from having to pay rent or taxes on terrestrial equipment, but H.R. 5429 contains no such exemption. **There simply is no rationale basis to provide a discriminatory tax subsidy to a class of broadband providers that may be local in nature and make significant use of the right-of-way, simply because their transmissions originate from satellites instead of via terrestrial microwave.**

C. The Definition of “Primary Use” As Drafted Cannot Be Applied to Mobile Devices.

Both bills prohibit states from imposing taxes if the “place of primary use” of the service is not physically located within the state. Both bills use a circular logic definition to define primary use as the business or residential address where use of direct-to-subscriber satellite service primarily occurs, and prohibit states from charging taxes if primary use does not occur within the physical boundaries of the state. Simply stating that the place of primary use is the place where a service is primarily used does not provide a meaningful definition. A more meaningful definition of primary use was contained in the Mobile Telecommunications Sourcing Act, Pub. Law 106-252, 114 Stat. 629 (2000). .

Both bills seems to overlook the fact that both bills are attempting to encompass *mobile* services. One of the unintended consequence of these definitions as drafted is a disproportionate impact on smaller states and intrastate commuters, because these bills create a loophole for providers to challenge legitimate taxes, on the basis that a state has no authority to require a tax on service which does not primarily occur in a single state.

- For example, if I listen to satellite DAR as I drive between my home in Maryland and my office in Washington DC, where is my “primary place of use,” and which state has jurisdiction to tax me? Maryland and DC may not be able to require me to pay a legitimate tax, but California would be able to tax the delivery driver who uses his satellite DAR when driving 300 miles 4 times a week between Los Angeles and San Francisco, or the commuter that drives 50 miles a day within a single county.

VI. CONCLUSION

For these reasons, we urge Congress to forgo the temptation to provide special tax breaks to small pockets of industry at the expense of local governments and competing industry technologies.

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