

**TESTIMONY OF THE HONORABLE IRENE FRENCH,  
MAYOR, MERRIAM, KANSAS  
on behalf of  
THE NATIONAL LEAGUE OF CITIES  
before the  
SENATE COMMERCE SUBCOMMITTEE ON COMMUNICATIONS  
Tuesday, March 7, 2000**

Mr. Chairman and Members of the Subcommittee, the National League of Cities (NLC) is pleased to have this opportunity to share our views on the Mobile Telecommunications Sourcing Act (MTSA). My name is Irene French, and I am the Mayor of Merriam, Kansas, and the Chairwoman of NLC's Finance, Administration & Intergovernmental Relations Steering Committee.

The National League of Cities represents 135,000 mayors and local elected officials from cities and towns across the country. NLC member cities and towns range in size from our nation's largest cities of Los Angeles and New York to the smallest towns. NLC is the nation's oldest national association representing municipal interests in Washington. At this time, I ask that my written testimony be submitted for the record.

On behalf of the National League of Cities, I would like to express my gratitude to Senators Brownback and Dorgan for introducing the Mobile Telecommunications Sourcing Act (S. 1755). Your leadership on this issue clearly shows your respect for principles of federalism, and your confidence in state and local governments' ability to resolve complex telecommunications issues with industry at the local level without the need to preempt our traditional municipal authority.

The mobility afforded to millions of American consumers by mobile telecommunications services has helped transform the American economy, facilitate the development of the information superhighway, and provide important public safety benefits. As we enter the 21<sup>st</sup> Century, however, the telecommunications industry and state and local governments have been wrestling with numerous difficult taxation issues presented by the changing marketplace and technology. This bill is proof positive that local governments and industry can work together to forge solutions that address both the critical fiscal needs of cities and business needs of the telecommunications industry. NLC welcomes the opportunity to develop a partnership with you, Mr. Chairman, and the members of the Subcommittee, to address the Mobile Telecommunications Sourcing Act and other joint efforts of local governments and industry relating to meaningful telecommunications tax simplification that maintains respect for local governments' fiscal needs and autonomy.

In my testimony today, I want voice the National League of Cities' strong support for the Mobile Telecommunications Sourcing Act. This legislation is the culmination of a three-year cooperative effort between the wireless industry, the National League of Cities, the National Governors' Association, the Federation of Tax Administrators, and the Multi-State Tax Commission. Working with industry and our state partners, we have developed a measure that, we believe, provides a straightforward solution to a very complicated problem that, as things now stand, poses unresolved questions for both state and local governments and for industry. From the National League of Cities' perspective, this legislation is a "win-win-win" for consumers, state and local governments, and the wireless industry.

The application of local taxes to wireless services presents unique and difficult problems both for local governments and for wireless service providers. There has been considerable debate among industry and state and local governments, as well as legal scholars, as to which jurisdictions have the right to tax wireless calls. Is it the city, county and state from which the call originated? Where the call terminated? Where the wireless provider's transmission facility is located? Or is it some combination of these, subject to apportionment or offsets?

The Mobile Telecommunications Sourcing Act answers these questions and others like it in a way that respects traditional notions of state and local sovereignty with respect to taxation that are essential to our system of federalism. It is important to note that the bill does not create any new taxes, nor does it require that state or local governments impose any new taxes. The bill leaves the decision as to whether to impose a local tax on wireless service where it currently is, and where it properly belongs: the local government. The mayors and councils of NLC member cities have widely divergent views about whether to impose taxes on wireless services; some have imposed such taxes, while many others have not. Much, of course, depends on the budgetary requirements of each local government, the level of demands placed on it by residents for essential public services, and the scope of its taxing authority under state law. In our system of federalism, these are difficult balancing matters that are best left to local elected officials who are closest to the people. Wisely, we believe, the bill does not seek to alter that balance.

The bill is generally revenue-neutral among local governments, equitable among carriers and taxing jurisdictions, and considerably easier for carriers to comply with and for local government to administer and audit. For local government as well as industry, the bill addresses and clearly resolves several important issues - taxing nexus, collection and remittance of existing taxes due, and, of course, simplification and uniformity. The bill does not mandate any expenditure of state or local funding

The bill bolsters the ability of state and local governments to collect those taxes they choose to impose on wireless providers while, at the same time, greatly simplifying wireless providers' job of determining which taxes apply to them, and remitting those taxes to the proper taxing authority. The bill removes any doubt as to a local taxing jurisdiction's ability to impose an existing tax on wireless services by expressly recognizing the authority of those taxing jurisdictions whose boundaries encompass the customer's place of primary use, and preventing the exercise of taxing authority by any other local taxing jurisdictions that do not encompass the customer's place of primary use.

The critical component of the bill is the concept of a customer's place of primary use. This must be either a customer's residential address or a customer's primary business address. By restricting taxing authority to a single location, and by allowing those taxing authorities where the customer's place of primary use is located to tax the customer's entire bill, the Act serves the twin objectives of simplicity and avoidance of conflicting tax claims.

In addition to preserving state and local government revenues, the Mobile Telecommunications Sourcing Act lowers the cost of collecting taxes that are owed. I cannot stress enough, that the current system is an accounting nightmare and a drain on local governments. Overall, the existing system is administratively

burdensome for local governments and costly for consumers. State and local taxes that are not consistently based can result in some telecommunications revenues inadvertently escaping local taxation altogether, thereby violating standards of tax fairness and depriving local governments of needed tax revenues to pay for the vital services they provide, such as police and fire, and emergency services. The Mobile Telecommunications Sourcing Act would ease much of local taxing authorities' current costs and burdens associated with audits and tax enforcement under present tax regimes while, at the same time, preserving local authority to tax wireless calls. And, of course, the bill would relieve both industry and state and local governments of the high litigation costs of resolving the difficult and unanswered legal questions posed by the current tax regime.

The measure would allow, but not require, states and municipalities to develop databases that assign each address to the relevant taxing jurisdictions. If such databases are not provided, carriers may develop their own, as long as they rely on nine-digit zip codes. From the National League of Cities perspective, this matter is not controversial. This measure provides much needed relief for state and local governments without impinging upon the essential responsibility of local taxing authority.

The bill puts local governments and service providers on a level playing field by sparing them from the arduous task and expense of determining the taxability of every individual call included in a wireless service bill, including calls that crossed taxing jurisdictions multiple times during the same call. The bill accomplishes this by establishing a uniform standard -- the place of primary use -- for sourcing all wireless telecommunications services for all state and local governments that tax these activities. For local governments, uniformity that respects local autonomy is important, because it simplifies compliance for our cities and avoids multiple taxation.

The bill's new method of sourcing wireless revenues for state and local tax purposes is needed to avoid the potential for double or no taxation, and to provide carriers, taxing jurisdictions and consumers with an environment of certainty and consistency in the application of tax law. The bill represents a public-private partnership that shows that state and local governments and the wireless industry can work together to produce beneficial results both for themselves and, perhaps most importantly, for the consumers who are our constituents and industry's customers.

Mr. Chairman and Members of the Subcommittee, I greatly appreciate your leadership on this issue and look forward to working with you as this crucial piece of legislation moves forward toward final passage. We are appreciative of the continued federal recognition of the role of local governments in telecommunications and taxation. I would be happy to answer any questions that the subcommittee may have at the appropriate time.