



NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas

September 27, 2016

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Harry Reid
Minority Leader
United States Senate
Washington, DC 20510

The Honorable John Thune
Chairman
Commerce Committee
United States Senate
Washington, DC 20510

The Honorable Bill Nelson
Ranking Member
Commerce Committee
United States Senate
Washington, DC 20510

Michael Gronstal
*Senate Majority Leader
Iowa
President, NCSL*

Raúl E. Burciaga
*Director
Legislative Council Service
New Mexico
Staff Chair, NCSL*

William T. Pound
Executive Director

Dear Senators McConnell, Reid, Thune, and Nelson,

We write on behalf of the National Conference of State Legislatures to express our opposition to the “Wireless Telecommunications Tax and Fee Collection Fairness Act of 2016,” which was added to S. 2555, the “MOBILE NOW Act,” during the Commerce Committee mark-up. NCSL, along with other state organizations, has long opposed provisions similar to those in the Wireless Telecommunications Tax and Fee Collection Fairness Act.

The wireless tax and fee collection provision is supported by prepaid wireless providers whose business models rely heavily on subsidization from the federal Universal Service Fund, which is funded through fees levied on telecommunications consumers each month. It is our understanding that the largest prepaid provider, which also benefits the most from the federal Universal Service Fund program known as “Lifeline,” supports the inserted provision so that they would not have to collect 911 fees from customers using prepaid phones in one state.

Eight years ago, NCSL acknowledged the difficulty in collecting 911 fees on prepaid wireless services and worked with the wireless industry to develop model legislation that established a seamless system to collect 911 fees on prepaid wireless services. We are pleased to report that of the 42 states that place a 911 fee on prepaid wireless services, 41 states have enacted the NCSL model 911 fee collection legislation. We therefore believe it is unnecessary to preempt every state that has already acted to address this issue.

Additionally, the provisions of the Wireless Telecommunications Tax and Fee Collection Fairness Act are so broadly and vaguely drafted that we believe that in addition to preempting state 911

September 27, 2016

p. 2

fee collection authority, it would also impact many state and local taxes and fees that currently being collected by wireless providers and would therefore cost states billions of dollars annually. This ambiguity confused the Congressional Budget Office as well, which in its cost estimate of the Wireless Telecommunications Tax and Fee Collection Fairness Act provision of S. 2555 wrote that the language “is circular in nature, and consequently, it is difficult to clearly determine when state or local taxing authority would be allowed and when it would be preempted.”

NCSL has supported federal efforts to increase the broadband access and adoption across this country as we know that broadband is an economic driver for many of our communities. However, if the Wireless Telecommunications Tax and Fee Collection Fairness Act remains in S. 2555, NCSL must oppose passage of the MOBILE NOW Act.

Thank you for consideration of our opposition to this provision.

Sincerely,



Senator Michael Gronstal
Majority Leader, Iowa Senate
President, NCSL



Senator Deb Peters
Assistant Majority leader, South Dakota Senate
President-elect, NCSL