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END DISCRIMINATORY STATE TAXES FOR AUTOMOBILE RENTERS ACT OF 2011

HEARING

BEFORE THE

SUBCOMMITTEE ON COURTS, COMMERCIAL AND ADMINISTRATIVE LAW

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

ON

H.R. 2469

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END DISCRIMINATORY STATE TAXES FOR AUTOMOBILE RENTERS ACT OF 2011

WEDNESDAY, FEBRUARY 1, 2012

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COURTS,
COMMERCIAL AND ADMINISTRATIVE LAW,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to call, at 1:34 p.m., in room 2141, Rayburn Office Building, the Honorable Howard Coble (Chairman of the Subcommittee) presiding.

Present: Representatives Coble, Gowdy, Quayle, Cohen, Johnson, Polis

Staff present: (Majority) Daniel Flores, Subcommittee Chief Counsel; Travis Norton, Counsel; Johnny Mautz, Counsel; Ashley Lewis, Clerk; (Minority) James Park, Subcommittee Chief Counsel; and Norberto Salinas, Counsel.

Mr. COBLE. The Subcommittee will come to order. Good to have you all with us today.

This Congress, our Subcommittee has considered a number of bills addressing taxes that appear to be unfair or inefficient. While several iterations of H.R. 2469 have been included in past sessions of Congress, car rental taxes are another area of our tax law that have been routinely criticized on Capitol Hill.

Ranking Member Cohen, my good friend from Tennessee, and our Republican colleague from Missouri, Sam Graves, have taken on the task of trying to address these criticisms by introducing H.R. 2469. Hopefully, today's hearing will shed some light on this issue and on H.R. 2469.

State and local governments impose excise taxes on car rentals for a number of purposes. While these taxes are explicitly applied to rental vehicles, they undoubtedly raise the ire of the car rental industry, and travelers who rely on car rentals.

During the past several years, our office has received critical comments about car rental taxes from the car rental industry. I expect that witnesses today will further highlight these criticisms.

One issue that could be affected by H.R. 2469, which was recently brought to my attention, and creates great concern, is the potential impact on local transportation authorities. I understand many of these organizations rely upon car rental tax revenues. I cannot speak to every variation of—or use of car rental revenues, but I can say with certainty that this funding is critical for transportation authorities in my district and in my state.

Along these lines, I am very interested in how H.R. 2469 would affect the ability of jurisdictions to use these taxes to fund local transportation authorities. For many years, and perhaps you have heard me say it, I have warned that the number one issue, in my opinion, plaguing transportation in America is vehicular congestion. To the extent these revenues are utilized to alleviate congestion, I believe they are being invested wisely.

I appreciate the bipartisan support for H.R. 2469, and look forward to the testimony from our witnesses who are here today. I apologize to you all for my raspy voice. I have come down with my annual winter cold, so bear with me. Even though the weather outside is more like April than February.

[The bill, H.R. 2469, follows:]

I

112TH CONGRESS
1ST SESSION

H. R. 2469

To protect consumers from discriminatory State taxes on motor vehicle rentals.

IN THE HOUSE OF REPRESENTATIVES

JULY 8, 2011

Mr. COHEN (for himself, Mr. GRAVES of Missouri, Mr. AKIN, Mr. CARTER, Mr. PETRI, and Mr. ELLISON) introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To protect consumers from discriminatory State taxes on motor vehicle rentals.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "End Discriminatory State Taxes for Automobile Renters Act of 2011".

SEC. 2. PURPOSE.

The purpose of this Act is to prohibit prospectively, and provide a remedy for tax discrimination by a State or Locality against the rental of motor vehicles.

SEC. 3. DEFINITIONS.

(a) ASSESSMENT AND ASSESSMENT JURISDICTION.—The term "assessment" means valuation for a property tax levied by a taxing district. The term "assessment jurisdiction" means a geographical area in a State or Locality used in determining the assessed value of property for ad valorem taxation.

(b) COMMERCIAL AND INDUSTRIAL PROPERTY.—The term "commercial and industrial property" means property, other than motor vehicle rental property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use, and subject to a property tax levy.

(c) DISCRIMINATORY TAX.—The term "discriminatory tax" includes the following:

(1) A tax discriminates against the rental of motor vehicles if a State or Locality imposes the tax on, or with respect to—

(A) the rental of motor vehicles but not on, or with respect to, the rental of more than 51 percent of the rentals of other tangible personal property rented within the State or Locality, or

(B) the rental of motor vehicles at a tax rate that exceeds the tax rate generally applicable to at least 51 percent of the rentals of other

tangible personal property within the same State or Locality.

(2) A tax discriminates against the business of renting motor vehicles if a State or Locality imposes the tax on, or with respect to—

(A) the business of renting motor vehicles but not on, or with respect to, the business of more than 51 percent of the other commercial and industrial taxpayers within the State or Locality, on the same tax base as the State or Locality employs with respect to the business of renting motor vehicles, or

(B) the business of renting motor vehicles, at a tax rate that exceeds the tax rate generally applicable to the business of more than 51 percent of the other commercial and industrial taxpayers within the State or Local jurisdiction.

(3) A tax discriminates against motor vehicle rental property if a State or Locality—

(A) assesses motor vehicle rental property at a value that has a higher ratio to the true market value of the property than the ratio that the assessed value of other commercial and industrial property of the same type in the same assessment jurisdiction has to the true market

value of the other commercial and industrial property,

(B) levies or collects a tax on an assessment that may not be made under subparagraph (A), or

(C) levies or collects an ad valorem property tax on motor vehicle rental property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(d) LOCAL OR LOCALITY.—The terms ''Local'' and ''Locality'' mean a political subdivision of any State, or any governmental entity or person acting on behalf of such Locality, and with the authority to impose, levy or collect taxes.

(e) MOTOR VEHICLE.—The term ''motor vehicle'' has the same meaning as in section 13102(16) of title 49 of the United States Code.

(f) OTHER COMMERCIAL AND INDUSTRIAL TAXPAYERS.—The term ''other commercial and industrial taxpayers'' means persons or entities who are engaged in trade or business within a State or Locality and who are subject to some form of taxation by a State or Locality.

(g) RENTAL OF MOTOR VEHICLES.—The term ''rental of motor vehicles'' means the rental of a motor vehicle

that is given by the owner of the motor vehicle for exclusive use to another for not longer than 180 days for valuable consideration and only includes the rental of motor vehicles with a pre-arranged driver or motor vehicles without a driver, but shall not include taxi cab service as defined by section 13102(20) of title 49 of the United States Code.

(h) STATE.—The term "State" means any of the several States, the District of Columbia or any territory or possession of the United States, or any governmental entity or person acting on behalf of such State, and with the authority to impose, levy or collect taxes.

(i) TAX.—Except as otherwise specifically provided below, the term "tax" means any type of charge required by statute, regulation or agreement to be paid or furnished to a State or Locality, regardless of whether such charge is denominated as a tax, a fee, or any other type of exaction. The term "tax" does not include any charge imposed by a State or Locality with respect to a concession agreement at a federally assisted airport (provided the agreement does not violate the revenue diversion provisions of section 40116(d) of title 49 of the United States Code, or the registration, licensing, or inspection of motor vehicles, if the charge is imposed generally with respect to motor vehicles, without regard to whether such vehicles

1 are used in the business of renting motor vehicles within
2 the State or Locality.

3 (j) TAX BASE.—The term "tax base" means the re-
4 ceipts, income, value, weight, or other measure of a tax
5 to which the rate is applied. The "tax base" of a tax im-
6 posed on a per unit basis is the unit.

7 (k) TAX RATE GENERALLY APPLICABLE TO OTHER
8 COMMERCIAL AND INDUSTRIAL TAXPAYERS.—The term
9 "tax rate generally applicable to other commercial and in-
10 dustrial taxpayers" means the lower of—

11 (1) the tax rate imposed on the greatest num-
12 ber of other commercial and industrial taxpayers or
13 their customers, or

14 (2) the unweighted average rate at which the
15 tax is imposed.

16 **SEC. 4. PROHIBITED ACTS.**

17 No State or Locality may levy or collect a discrimina-
18 tory tax on the rental of motor vehicles, the business of
19 renting motor vehicles, or motor vehicle rental property.

20 **SEC. 5. REMEDIES.**

21 (a) JURISDICTION.—Notwithstanding any provision
22 of section 1341 of title 28, United States Code, or the
23 constitution or laws of any State, the district courts of
24 the United States shall have jurisdiction, without regard
25 to amount in controversy or citizenship of the parties, to

1 grant such mandatory or prohibitive injunctive relief, in-
2 terim equitable relief, and declaratory judgments as may
3 be necessary to prevent, restrain or terminate any acts in
4 violation of this Act, except that such jurisdiction shall
5 not be exclusive of the jurisdiction which any Federal or
6 State court may have in the absence of this section.

7 (b) BURDEN OF PROOF.—The burden of proof in any
8 proceeding brought under this Act shall be upon the party
9 seeking relief and shall be by a preponderance of the evi-
10 dence on all issues of fact.

11 (c) RELIEF.—In granting relief against a tax which
12 is imposed in violation of section 4, the court shall strike
13 the tax in its entirety, unless the court finds the tax—

14 (1) is the equivalent of a specific tax imposed
15 on at least 51 percent of other commercial and in-
16 dustrial taxpayers, and

17 (2) is not discriminatory in effect. If such tax
18 is discriminatory in effect with respect to tax rate or
19 amount only, the court shall strike only the discrimi-
20 natory or excessive portion of the tax as determined
21 by the court. Notwithstanding subsection (b) of this
22 section, the burden of proof on the issue of whether
23 a tax is the equivalent of a tax imposed on other
24 commercial and industrial taxpayers shall be on the
25 State or Locality that imposes the tax.

(d) CAUSE OF ACTION.—

(1) An action to enforce the provisions of this Act may be brought only by a person who—

(A) rents motor vehicles to another person,

(B) is engaged in the business of renting motor vehicles,

(C) owns motor vehicle rental property, or

(D) rents a motor vehicle from another person.

(2) A person who rents a motor vehicle from another person and is seeking relief under this Act may only bring a cause of action against the State or Locality imposing the discriminatory tax as defined by this Act.

SEC. 6. LIMITATIONS.

This Act shall not be construed to constitute the consent of Congress to State or Local taxation that would be prohibited in the absence of this Act.

SEC. 7. EFFECTIVE DATE.

(a) EFFECTIVE DATE.—The provisions of this Act shall become effective on the date of the enactment of this Act.

(b) EXCLUSION.—Discriminatory taxes as defined by this Act are not prohibited under this Act if—

(1) State or Local legislative authorization for a discriminatory tax that is in effect as of the date of the enactment of this Act, does not lapse, the tax rate does not increase and the tax base for such tax does not change; or

(2) a State enacts legislation by the date of the enactment of this Act—

(A) that specifically authorizes a Locality to impose a discriminatory tax;

(B) the Locality imposes the authorized tax within five years from the date the State enacted the authorization for the Local tax; and

(C) the tax rate imposed by the Locality is not increased and the tax base for such tax does not change.

○

Mr. COBLE. I recognize the distinguished gentleman from Tennessee, Mr. Cohen, for an opening statement.

Mr. COHEN. Thank you. Thank you. Thank you, Mr. Coble. And welcome back.

Mr. COBLE. Oh. Thank you, sir.

Mr. COHEN. It is good to have you back where you belong, just like Kotter.

Mr. COBLE. Thank you.

Mr. COHEN. Yes. Thank you for holding this hearing as well.

In the 111th Congress, this Subcommittee held a hearing on the earlier version of the bill that we consider today, H.R. 2469, the "End Discriminatory State Taxes for Automobile Renters Act of 2011," which I introduced that year. The act prohibits future discriminatory state and local taxation of the rental of motor vehicles, the business of renting motor vehicles, or a motor vehicle rental property. And I am glad that Mr. Graves, from Missouri, worked with me on this bill this year.

Importantly, the Act does not apply to discriminatory State or local car rental taxes already in effect, as the effective date of this bill, and those that have already been authorized or those that will be after the effective after—the effective date and afterwards. So, it has no impact on current State and local taxes.

In 2010, I noted that States and localities often turn to discriminatory taxes on certain goods or services. That is, taxes that are higher than the generally applicable sales tax in—in the jurisdiction on other types of goods and services. This temptation to rely on discriminatory taxation is heightened in the case of taxes imposed on rental cars.

As a former State senator and a county official, I understand why States and localities love car rental taxes. They seem like a relatively painless way for political officials to raise revenue, because of the widespread belief that these taxes primarily affect out-of-towners, getting non-constituents to pay for local needs. Even though that is wrong, it does make it politically more feasible for them.

State and local officials like to impose discriminatory taxes on car rentals, because there is no political accountability, they get the money, and they can go to the groundbreaking.

Such thinking reminds me of an old saying that I used to hear from Leonard Donovant, of Millington, Tennessee, a fine member of the Tennessee State Senate, and a conservative member of the Tennessee Senate. He said, "Don't tax me. Don't tax thee. Tax that man behind that tree." And, indeed, those are the people you are taxing.

For consumers, discriminatory rental car taxes impose an unfair burden on them. Many of our constituents have faced a situation where an individual rents a car from a rental car company, is told the daily rate would be $25. By the time the bill comes due, however, the renter is often shocked to learn the actual charges are closer to $40 a day, after these taxes are added on.

Over 1 week's time, that is a difference of $105, from the quoted price, to the final bill, enough to persuade many from renting a car in the future, or from even traveling in the first place. Such an impact on the interstate traveler represents an unwarranted burden

on interstate commerce by local taxing authorities. Worse, the discriminatory State and local taxes on car rental for consumers are often used to build local sports stadia and convention centers not to benefit car rental consumers.

We also learned during our hearing last Congress that car rental taxes may be regressive, because low-income and minority individuals end up paying a larger share of car rental taxes, relative to their population. This impact is stark.

In Georgia, in 2008, households making $50,000 a year or less paid over $9 million in rental car taxes. Households making $25,000 a year or less, roughly the poverty line for a family of four, accounted for $3.5 million of that $9 million.

Additionally, Caucasians who account for two-thirds of Georgia's population paid less than half the car rental taxes. In contrast, African-Americans, who accounted for just 12 percent of Georgia's population, generated one-quarter of rental car revenues, and shouldered 27 percent of the car rental tax burden. Minority groups, as a whole, bore 92 percent of the car rental tax burden.

A broad range of groups have endorsed this legislation, including the National Consumers League, the United Auto Workers, the Global Business Travel Association, Americans for Tax Reform, the National Urban League, and the major automobile manufacturers as well.

More than 117 discriminatory rental car taxes have been enacted in 43 States and the District of Columbia. It is time Congress put a halt to such taxation, which is discriminatory in several ways.

So, I thank Congressman Graves for joining me in introducing the legislation. And I thank my predecessor in the Judiciary Committee, and in the House, Rick Boucher, a fine gentleman from Virginia, who introduced this bill prior to my taking over prime sponsorship. And he was the leader on it for quite a while. And I thank Chairman Coble for scheduling this hearing. And I thank our witnesses for participating. And I urge my colleagues to support this legislation.

Mr. COBLE. I thank you, Mr. Cohen. And we also have on the panel today Mr. Gowdy, the distinguished gentleman from South Carolina, Mr. Quayle, the distinguished gentleman from Arizona, Mr. Polis, the distinguished gentleman from Colorado. Good to have you all here as well.

I am now pleased to introduce our panelists. I will start with Sally Greenberg, who serves as the Executive Director of the National Consumers League, a position she has held since 2007. The mission of the NCL is to protect and promote social and economic justice for consumers, workers in the United States and abroad. Prior to her service at NCL, Ms. Greenberg worked at Consumers Union for 10 years on a variety of issues, including product liability and food safety issues. Her career also included positions at the U.S. Department of Justice and the Anti-Defamation League, in Boston.

Dr. Brian Frederick is the Executive Director of the Sports Fan Coalition, a national non-profit organization dedicated to advocating issues of importance to sports fans. He's also an adjunct professor at Georgetown University, where he teaches sports industry management.

Dr. Frederick earned his Ph.D. from the University of Colorado, at Boulder, and his master's degree from UNC, at Chapel Hill, North Carolina. He completed his undergraduate work at the University of Iowa.

Bio for Mr. Ray Warren. Mr. Warren is a Deputy Commissioner of Revenue for Arlington County, Virginia. His testimony today is on behalf of the National Association of Counties, the National League of Cities, the United States Conference of Mayors, and the Government Finance Officers Association.

Mr. Warren has been a practicing attorney for 28 years, having earned his law degree and undergraduate degree from the University of North Carolina. This is North Carolina day, it appears. Good to have you all here as well.

He also served 2 terms in the North Carolina General Assembly, and 7 years as a North Carolina Superior Court judge. He has taught law classes at UNC, Charlotte, and Marymount University, in Arlington.

As an aside, Mr. Warren, where were you reared? What was your home county?

Mr. WARREN. Mecklenburg County.

Mr. COBLE. Pardon?

Mr. WARREN. Mecklenburg County, sir.

Mr. COBLE. Oh. From the big city area.

Mr. WARREN. Absolutely.

Mr. COBLE. Well, good to have you with us, Judge.

And finally, the bio for Mr. Michael McCormick. Mr. McCormick serves as Executive Director of the Global Business Travel Association, a position he has held since August 2009. GBTA is a leading source for networking, advocacy, and—and education for business and government travel managers, buyers, and planners.

Prior to his tenure at GBTA, Mr. McCormick spent more than 20 years in the travel industry. Mr. McCormick earned his bachelor's degree at the University of Notre Dame. Good to have you all with us. And I remember you now, Mr. Warren, as a Mecklenburger, since you refreshed my memory.

Folks we will ask you all to keep a sharp lookout on the timer. It is on the desk. The light will go from green, to yellow, to red. And we try to comply with the 5-minute rule, if possible. Nobody will be keel-hauled if you violate it. But if you could wrap up when you see that yellow light appear, that is your warning that we have 1 minute to go. And Mr. Cohen and I will try to practice the 5-minute rule against ourselves as well.

So, Ms. Greenberg, if you will be our leadoff hitter. And thank you all for being with us.

TESTIMONY OF SALLY GREENBERG, EXECUTIVE DIRECTOR, NATIONAL CONSUMERS LEAGUE

Ms. GREENBERG. Well, thank you very much, Congressman. And I'm delighted to be here today. Thank you, Ranking Member Cohen, and Congressman Polis, and Congressmen Gowdy and Quayle. I really appreciate the opportunity to be here to talk to you about H.R. 2469. It is the End Discriminatory State Taxes for Automobile Renters Act of 2001.

I am, indeed, the Executive Director of the National Consumers League. We are the nation's oldest consumer organization, founded in 1899.

Mr. Chairman, consumers today feel that in many of their transactions they are being nickled and dimed constantly. Added fees are everywhere. The National Consumers League feels consumers' pain. And rental car taxes top the list of the worst abusers.

Don't take it from me. "Consumer Reports," in August 2010, ran a piece called, "Fees that Irk Consumers." The worst case were the fees attached to a rental car. And as "Consumer Reports" puts it, "But our hearts really go out to a couple who rented a compact car in Boston last summer. They paid $444 for 15 days of driving. And then came the rental vehicle surcharge, customer facility charge, parking surcharge, energy recovery fee, fleet recovery surcharge, concession recovery fee, and State tax." So, we are here to say, we support the legislation, and also to say enough.

H.R. 2469 will prospectively bar discriminatory car rental taxes, which are simply added fees imposed by States and localities. Now the bill will grandfather in existing taxes and not affect the ability of States and localities to impose general taxes that are levied on all citizens or business.

According to the New York Times, the most common use of these rental car excise taxes is to finance sports stadiums and convention centers. The "Times" noted that at least 35 sports stadiums were expected to be financed partly with subsidies from car rental taxes.

As of this time, 43 States and the District of Columbia have imposed 118 excise taxes on car rentals. This is eight times the number of these taxes that existed in 1990.

A perfect example is Minneapolis. The Minnesota Vikings already have the Metrodome. But the Minnesota Vikings' owner, Zigmunt Wilf—I may be pronouncing it wrong. The Vikings' billionaire owner, he wants another stadium, with a retractable roof. And State lawmakers were asking consumers who rent cars to help pay for it with a 2.5 percent tax on rental cars to finance this new billion-dollar stadium.

Interestingly, more than half of those who rent cars in Minnesota are residents of the State. So, to add insult to injury, Minnesota residents are already paying a special 6.2 percent excise tax on car rentals, a tax that was adopted to pay for the cost of the State trying to bring the Super Bowl. That tax was supposed to expire in 2005, but it was extended, even though the revenue it raised has far exceeded its original purpose. Talk about fleecing the consumer.

In addition, I want to talk for a moment about how nonprofit organizations experience the heavy taxes on rental cars. I have a staff of 16. When my people travel, or even have meetings locally and need transportation, we must often rent cars. Receipts from our car rentals over the past year tell the tale.

In September of last year, I rented a car in Minneapolis. The base fee was $128. But the following taxes were added on. CFC, at $2 a day. $6. APCONGR fee, I have no idea what it was for, $14.33. State taxes of $10.86. Vehicle tax, $7.47. Rental tax, $9.26. Total, $176. So, 37 percent of the total cost in Minneapolis was fees and taxes.

I have another example in my testimony in renting a car in Chicago last year. I also paid 37 percent in total taxes for my rental there. My base rental was somewhere around $123. I also had no idea, when I paid these fees, what they were for. Nor do other consumers. The names of the taxes are indecipherable, maybe by design.

Unfortunately, there are misconceptions about who rents cars. There is the myth that those that rent cars are from out of state, and, therefore, it is easy to impose taxes on people who are just passing through. In fact, a study by the Brattle Group said that 54 percent of those who rent cars are actually in-state residents.

This tax falls very heavily on—on African-Americans. They generate 26 percent of the rental car revenues, according to the same Brattle Group study, and pay 27 percent of the excise tax, despite accounting for only 12 percent of the population.

So, in conclusion, with an 8-fold increase in taxes on rental cars since 1990, it seems clear that the multitude of fees, taxes, and charges have dramatically inflated the cost of renting a car. My organization, the National Consumers League, certainly understands the importance of citizens paying their fair share of taxes to provide critical services that we all rely on, our schools, hospitals, libraries, and roadways. We don't—we don't object to paying for those items. But what we do object to is paying for sports stadiums and taxes that have—that consumers have no idea what the tax is for, let alone what it is being used for. So, it is time to say enough is enough.

For those reasons, the National Consumers League is pleased to offer our support for H.R. 2469. Thank you very much.

[The prepared statement of Ms. Greenberg follows:]

Testimony of the National Consumers League Before the House Judiciary Subcommittee on Administrative and Commercial Law of the House of Representatives

February 1, 2012

Sally Greenberg, NCL Executive Director

Good afternoon, Mr. Chairman and Ranking Member Cohen and Members of the Subcommittee. Thank you for the opportunity to appear before you in support of H.R. 2469, a bill entitled the "End Discriminatory State Taxes for Automobile Renters Act of 2011."

My name is Sally Greenberg and I am Executive Director of the National Consumers League, the nation's oldest consumer organization, founded in 1899 with the mission of protecting the interests of workers and consumers and creating a more fair marketplace for both.

Mr. Chairman, consumers today feel that in many of their transactions they are nickel and dimed, whether it is their cell phone bill, late fees and finance charges on credit and debit cards, bogus convenience fees added onto tickets for live performances or extra charges for baggage, food or pillows on an air plane. Indeed, a good example is the survey from *Consumer Reports*, August 2010[1], which found that there are myriad fees that irk travelers: rental car fees, fees for hotel safes, minibars, hotel gym, ice in the drinks, fees for buying a gift card, fees for using that same card and the list goes on and on.

The National Consumers League feels consumers' pain – and unfortunately most of the time consumers have little power to challenge these fees. Indeed, the *Consumer Reports* article contained this paragraph:

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[1] Fees That Irk Consumers, *Consumer Reports*, August 2010 http://www.consumerreports.org/cro/magazine-archive/2010/august/money/travel-fees/overview/index.htm

> *But our hearts really go out to the couple who rented a compact car in Boston last summer. They paid $444.37 for 15 days of driving. Then came the rental vehicle surcharge, customer facility charge, parking surcharge, energy recovery fee, fleet recovery surcharge, concession recovery fee and state tax.*[2]

So today we are here to support legislation that says: Enough!

HR 2469 will prospectively bar many discriminatory car rental taxes – which are simply added fees – imposed by states and localities. These fees have been increasingly piled on consumers who rent cars in order to fund pet projects. HR 2469 will grandfather in existing taxes and not affect the ability of states and localities to impose general taxes that are levied on all citizens or businesses. But NCL believes that these same states and localities should not impose fees on consumers who rent cars when the fees have little or nothing to do with improving the services they receive. Indeed, according to the *New York Times*, the most common use of these excises is to finance sports stadiums and convention centers. In a 2006 article, the *Times* noted that at least 35 sports stadiums were expected to be financed partly with subsidies from car-rental taxes. Other research has shown that in the 1990's, subsidies provided 94 percent of sports stadium financing. [3]

Legislators who adopt these fees operate under the misperception that taxes on car rentals, which we believe make the taxes hard to justify. My predecessor and former NCL President Linda Golodner discussed the issue of fees and their impact on consumers in the *Pittsburgh Post-Gazette*[4] several years ago. Golodner noted how

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[2] Ibid.

[3] How Far Would You Drive to Avoid a Rental Car Tax? NYTimes, David Cay Johnston, July 17, 2006. http://www.nytimes.com/2006/07/17/business/17tax.html

[4] **Private Sector: Pain, No Gain.** Car rental excise taxes are discriminatory and bad policy, http://www.post-gazette.com/pg/07219/807421-28.stm#ixzz1ksWJPsRihttp://www.post-gazette.com/pg/07219/807421-28.stm

Congress has prohibited practices by state and local governments that unreasonably burden or discriminate against interstate commerce and transportation. Examples include the Railroad Revitalization and Regulatory Reform Act (1976), Airports and Airways Improvement Act (1978), Motor Carrier Act (1980) and Bus Regulatory Reform Act (1982). So enacting HR 2469 would be following a long line of bills that prohibit discrimination in interstate commerce.

The Problem

As of this time, 43 states and the District of Columbia have imposed 118 excise taxes on car rentals. This is eight times the number of these taxes that existed in 1990. As noted above, rental car taxes tend to pay for entertainment items like stadiums, performing arts centers, or culinary institutes and not for vital services like schools, roads, libraries, hospitals or services to the elderly. Industry research indicates that rental car customers have spent more than $7.5 billion in taxes to fund the pet projects of elected officials.

A perfect example has been playing out for the past two years in my hometown of Minneapolis. The Minnesota Vikings already have the Metrodome, a beautiful indoor stadium right in the middle of downtown Minneapolis. But Zygmunt Wilf, the Vikings' billionaire owner, wants another one -- with a retractable roof! -- and state lawmakers were asking consumers who rent cars to help pay for it with a 2.5% tax on rental cars to finance a new billion-dollar stadium. The state still hasn't figured out a long-term funding source for the new digs, so we'll have to wait and see if rental car customers will ultimately foot the bill.

More than half of those who rent cars in Minnesota are residents of the state. To add insult to injury, Minnesota residents are already paying a special 6.2% excise tax on car rentals, a tax that was adopted to pay for the cost to the state of trying to attract the Super Bowl. That tax was supposed to expire in 2005, but it was extended, even though the revenue it raised has far exceeded its original purpose. Talk about fleecing the consumer!

Tourists are also affected by these pervasive fees. They might be easier to tax as non-constituents, but tourist charges are also spiraling out of control. According to the *New York Times*, taxes and

other costs such as vehicle licensing fees or high levels of excise taxes raise the average rental bill 28 percent at airport locations.

Excise taxes on car rentals hurt nonprofits

In addition, as head of a nonprofit organization overseeing a staff of 16, when my people travel – or even have meetings locally and need transportation- we often must rent cars. I see the bills come in, and the excise fees and sales taxes together represent a hefty percentage of the entire rental.

As an addendum to this testimony, I've provided exhibits that demonstrate that the taxes we all pay when we rent cars are similar to what the couple in the *Consumer Reports* article experienced - in the form of receipts from my car rentals over the past year. Here are a few highlights:

In September of last year I rented a car in Minneapolis; the base fee was $128.97, but the following taxes were added on: CFC@2 a day, $6.00, APCONRGFEE - $14.33, State Tax - $10.86, Vehicle Fee $7.47, Rental Tax - $9.26. Total: **$176.89** So 37.5% of the total cost in Minneapolis was fees and taxes.

In November of last year I rented a car in Chicago. The base amount was $123.11, but the following taxes were added on: MTRVEH Tax - $2.75, CFC@ $8.00 a day x 5 days, $40.00, Motor Vehicle Tax – 5 days @ $1.20 $6.00, State Tax $25.82 **Total: $197.68** So 37.7% of the total cost in Chicago was fees and taxes.

It is worth noting that I had no idea when I paid these fees what they were for – what is APCONGRFEE in Minnesota? What is MTRVEH in Chicago? What is VLF? What are CFC fees in both Minneapolis and Chicago? They lack transparency and they seem duplicative. In Minneapolis, I paid a state tax, plus a vehicle fee, plus rental tax . In Chicago I paid a MTRVEH tax, a CFC, a Motor Vehicle Tax and a State Tax. Where does it end?

These added costs also hurt nonprofit organizations like mine that operate on modest budgets but are vitally important to civil society.

And these taxes hurt the many families who are tourists visiting cities and towns across the country and are being required to fund projects for which they are unlikely to derive any benefit and are not essential services.

We understand why local elected officials have increasingly turned to car rental transactions to raise fees for stadiums and impose fees. They undoubtedly want to escape the wrath of their own constituents who have the power to vote them out of office if taxes go up. So why not shift the tax burden onto someone else? Who better than out-of-towners who come to their cities and towns to do business or visit friends and family.

Misconceptions about who rents cars in America

Unfortunately, politicians who pass these laws taxing rental car transactions are operating on several false assumptions. First, that the vast majority of people who rent cars live outside of the state or locality. Second, that most consumers who rent cars are either businesses who won't feel the extra charges or affluent consumers who won't notice an extra $30 or $40 fee on a car rental.

Let me address each of these issues in turn:

First, the myth that most people who rent cars are from out of state. If local officials conducted research on who rents cars, they would learn that many people who don't own a car because they can't afford rent when they have a specific need – like taking an elderly relative to a doctor's appointment, moving a relative from one residence to another, taking a child to a doctor's appointment, visiting a relative in prison, or for a special occasion like a wedding or graduation.

Consumers who rent cars for these reasons are not the affluent out-of-town businesspeople that state and local legislators may assume rent most of the cars– far from it. And they need affordable car rental options without the multitude of indecipherable fees and charges.

A June 2010 study conducted by the Brattle Group (A study commissioned by the rental car industry), a Cambridge, MA based consulting group that looks at economic impacts, found that the

estimated total revenue for rental cars in the US for 2004 was around $17.6 billion, with home city rentals accounting for $9.5 billion or 54% of the industry's annual revenues. This conflicts with many legislators' assumptions about who rents cars. The mayor of a suburb north of Atlanta is a case in point: "We're not raising any tax. I didn't think it would be a big deal as most rentals are visitors anyway." The record is replete with such statements.

A second misconception is that affluent consumers and businesses rent most of the cars. The same Brattle Group study found that this is not the case. In fact, 19% of these car rental excise taxes are paid by working families that earn less than $50,000 a year and 7% of the total was paid by households earning less than $25,000. Enterprise Car Rentals estimates that 25% of its customers have incomes below $40,000.

The Brattle study also found that African-Americans generate 26% of the rental car revenues and pay 27% of the excise taxes, despite accounting for only 12% of the US population. Members of other minority groups pay 13% of the total car rental excise taxes, despite being only 7% of the population, while high-income households – defined as households earning over $100,000 pay only half of these excise taxes, which means the rental car excise taxes are a very regressive tax.

In a similar study, two leading tax policy experts, William Gale of the Brookings Institution and Kim Rueben of the Urban Institute, analyzed the impact of a $4-per-day rental car tax in Kansas City, MO.[5]

Gale and Rueben found that piling taxes onto car rental customers is both inefficient, because it can distort choices about modes of transportation and send people across state borders to avoid even a modest tax, and that the taxes are also inequitable. Communities that already are taxing car rental customers might want to take another look at their working assumptions and long- term strategy.

Conclusion

With an eight-fold increase in taxes on rental cars since 1990, it

[5] How Far Would You Drive to Avoid a Rental Car Tax? http://www.nytimes.com/2006/07/17/business/17tax.html

seems clear that the multitude of fees, taxes, and charges that have so dramatically inflated the cost of renting a car has gotten out of hand. NCL understands the importance of citizens paying their share of taxes to provide critical services that we all rely on – for our schools, hospitals, libraries, roadways, and for clean water and safe roadways. But when rental car customers are asked to pay for sports stadiums and the taxes imposed seem to have no limit, with consumers having no idea what the tax is, let alone what it is being used for, its time to say, enough is enough! Consumers are tired of taxes and fees without having any understanding of where that funding is going or why they are being asked to pay them.

For the reasons stated above, NCL is pleased to offer our support for H.R. 2469, which will help put the brakes on discriminatory taxes on consumers who rent cars. We thank you for inviting the National Consumers League to share our views with you today and urge you to support this important legislation.

Fees that irk travelers

WITH SUMMER travel season upon us, Spirit Airlines has announced a charge of $20 to $45 for carry-on bags stashed in overhead bins. (One senator termed the practice "skyway robbery," and several proposed legislation to ban it.) Irish airline Ryanair is pursuing a pay-to-go potty charge. So it seemed like a good time to ask readers to name the fees they hate most while traveling.

There were plenty. Common answers: a fee for a hotel safe or mini-bar, even if it's not used; fees for resort perks; a hotel gym fee ($15 for 30 minutes on a treadmill); and as much as $250 round-trip for a pet in a carry-on under a seat.

ADD-ONS Jack Ellis of Ohio got a quote of $297 for a car rental but paid almost $200 more for fees, taxes, and handling.

One of the more unusual nominees: an $18 "gift ticket fee" that Greyhound tacked onto the bus ticket a couple bought their son. The reason? He wasn't the credit-card holder. Then there was the $2 surcharge a reader's friend paid last December at a Bethlehem, Pa., hotel restaurant. It was for the ice in his scotch.

But our hearts really go out to the couple who rented a compact car in Boston last summer. They paid $444.37 for 15 days of driving. Then came the rental vehicle surcharge, customer facility charge, parking surcharge, energy recovery fee, fleet recovery surcharge, concession recovery fee, and state tax. Those added $186.45, bringing the cost to $630.82. Fees were about 30 percent of the total bill.

To avoid fees while traveling, always read the fine print. Other tips:

When you fly. Book online (you may pay up to $35 more to book by phone and $45 to buy at a ticket counter); limit luggage fees by taking only carry-ons, consolidating checked bags, or flying Southwest, the only big U.S. carrier that doesn't charge for one or even two checked bags. If you must check luggage, do it online—from home, on your way to the airport, or at the terminal. Some airlines charge $2 or $3 for a bag checked in at the counter.

When you stay at a hotel. Postpone checking your e-mail (some hotels charge for each day you use their Web connection) and avoid room service.

When you rent a car. Try to return it to where you picked it up; opt out of extras you may pay for even if unused (like a toll pass); use your own gear (bike rack, child safety seat); consider a mileage cap option; top off the gas tank before you return; and cancel if you're not going to show up, to avoid a possible noncancellation fee.

Stopping the shake, rattle, and roll

Because of their superfast rotation, many front-loading washers vibrate. If they're on a wood-framed floor, they can make the floor and the house itself shake, possibly cracking tiles.

We tested five pads or feet meant to solve the problem: Super Soundproofing Dimple Support Pads, VibeAway Anti-Vibration Pad, Shake Away Plus Vibration Pads, Silent Feet Vibration Isolating Feet, and Good Vibrations Vibration Dampener Pads. They cost $20 to $47. We also tested the Steadywash Vibration Isolation Platform (pictured), a 27x7x3-inch metal box with an upper support that can shimmy and a fixed bottom plate. It costs $200. We used each product with a washer that vibrated in earlier tests.

Bottom line. Pads or feet didn't cut vibration noticeably. The Steadywash sent less vibration to the floor, but the washer wiggled a bit on the upper plate, so it couldn't abut walls or a dryer. It's best to buy a washer that doesn't shake in the first place. CR Best Buy front-loaders with low vibration are the Kenmore 4027, $800, and the LG WM2050C, $700.

Don't carry items on an SUV's roof. SUVs have a higher center of gravity than sedans. Loading the roof raises it further.

Keep pets secure. Use a secured crate or barrier that separates the rear cargo and passenger areas. Otherwise, a harness or restraint can serve as a pet's safety belt. Be sure it lets pets sit or lie down.

Don't overload. The capacity of small SUVs can range from less than 700 pounds to more than 1,100. If you pack three of your fishing buddies into a Honda Element (capacity 675 pounds), they'd better not catch anything. Load capacity is listed in the owner's manual.

Test your packing job. In a safe spot, drive slowly, then hit the brakes to see whether any cargo shifts.

What's up with Double Down?

"So meaty, there's no room for a bun," the KFC website says of the chain's Double Down sandwich. Hatched in April, the Double Down consists of two slices of bacon, two melted slices of cheese, and mayonnaisey sauce slapped between—no, not bread—two boneless battered or grilled chicken patties. It has been lampooned as a dietitian's nightmare, but KFC claims the Original Recipe (battered) version has 540 calories, fewer than many other fast-food sandwiches. (Hardee's Monster Thickburger, for instance, has a monstrous 1,320 calories.)

We analyzed three Double Down Original Recipe sandwiches from different locations to see whether the claimed calories and fat are accurate and found that they are. Still,

the sandwich has about 30 grams of fat and 1,380 milligrams of sodium. That's roughly half the daily limit for both, so watch how often you down Double Downs. Oh—our trained tasters said that it's good, with crispy, tender, flavorful chicken, peppery cheese, and smoky bacon, but tastes a little too salty.

DOLLAR RENT A CAR
CHICAGO O'HARE FIELD
[redacted]
COMPLETED BY: KTHOM1
RENTED: CHICAGO O'HARE FIELD
RENTAL: 11-22-11 1932
RETURN: 11-27-11 1037
VEH NUMBER: V813396
MILES IN: 21681 OUT:21522
MILES DRIVEN: 159
CHECK IN FUEL LEVEL: 8 OUT:6
PLAN IN/OUT: R4UW5
CLS: FDAR
1 WEEK @ $123.11 $123.11
SUBTOT $123.11
TAXABLE TOT: $123.11
TIME $123.11
HIRVEHTAX $2.75
CFC
5 DAYS @ $8.00 $40.00
VLF
5 DAYS @ $1.20 $6.00
STATE TAX $25.62
TOTAL CHARGE $197.88
NET DUE $0.00
PAYMENTS -$197.88
[redacted]

THRIFTY CAR RENTAL
MINNEAPOLIS/ST.PAUL
[redacted]
COMPLETED BY: CBAEZT
RENTED: MINNEAPOLIS/ST.PAUL
RENTAL: 09-02-11 2159
RETURN: 09-05-11 1147
VEH NUMBER: W496834
MILES IN: 40656 OUT:40476
MILES DRIVEN: 180
CHECK IN FUEL LEVEL: 8 OUT:6
PLAN IN/OUT: RCU03
CLS: CDAR
3 DAYS @ $42.99 $128.97
SUBTOT $128.97
TAXABLE TOT: $128.97
TIME $128.97
CFC
3 DAYS @ $2.00 $6.00
APCONRGFEE $14.33
STATE TAX $10.86
VEHLICFEE $7.47
RENTALTAX $9.26
TOTAL CHARGE $176.89
NET DUE $0.00
PAYMENTS -$176.89
[redacted]

NATIONAL
CAR RENTAL
[redacted]
Rental 18-JUN-2009 07:01 PM
CHICAGO O'HARE ARPT
Return 22-JUN-2009 09:43 AM
CHICAGO O'HARE ARPT
[redacted]
Vehicle # 83416921
Model PRIUS
Class Driven ICAR Class Charged ICAR
License# XVW7597 State/Province VA
M/Kms Driven 260
M/Kms Out 35722
M/Kms In 35982

Charges	No Unit	Price	Amount
T & M	4 Days	25 96	103 84*
UNLTD M/KM	0 M/Kms		0 00*
LESSOR TAX 2.75 USD			2.75
AUTO RENT TAX @5.000 %			5 19
HPEA TAX @6.000 %			6 23
MASS TRANSIT TX @1.000 %			1.04
TRANSACTION TX @8.000 %			8.31
Total Charges			USD 127.36

[redacted]
Amount Due USD 0.00

* Taxable Items
Subject to Audit
Customer service Number @1-800-468-3334

DOLLAR RENT A CAR
MINNEAPOLIS/ST.PAUL
RENTAL RECORD: [redacted]
[redacted]
COMPLETED BY: LUHLEU
RENTED: MINNEAPOLIS/ST.PAUL
RENTAL: 10-15-11 2049
RETURN: 10-16-11 1806
VEH NUMBER: V820956
MILES IN: 18330 OUT:18275
MILES DRIVEN: 55
CHECK IN FUEL LEVEL: 8 OUT:6
PLAN IN/OUT: EDIT
CLS: CDAR
1 DAY @ $38.00 $38.00
SUBTOT $38.00
TAXABLE TOT: $38.00
TIME $38.00
CFC
1 DAY @ $2.00 $2.00
APCONRGFEE $4.22
STATE TAX $3.22
VEHLICFEE $2.21
RENTALTAX $2.74
TOTAL CHARGE $52.39
NET DUE $0.00
PAYMENTS -$52.39
[redacted]

Mr. COBLE. Due to the lady's time has expired, Mr. Frederick? Dr. Frederick?

TESTIMONY OF BRIAN FREDERICK, EXECUTIVE DIRECTOR, NATIONAL SPORTS FAN COALITION

Mr. FREDERICK. Thank you, Chairman Coble, Ranking Member Cohen, Representative Quayle, Representative Polis.

It is a great honor to speak to you on behalf of Sports Fans Coalition, where I am the Executive Director. Sports Fans Coalition is the largest non-profit advocacy organization in the country for fans. We are a bipartisan organization, founded by members of the Clinton and Bush White Houses to give sports fans a voice on public policy issues.

We urge your support on this bill today, because rental car taxes are one of the primary ways that sports team owners are able to manipulate public—public dollars into private profit. Experts across the political spectrum agree that these stadiums provide little to no economic benefit for the community, and only serve to increase the value of the franchise.

The rental car taxes that help finance stadiums are assumed to be paid by non-residents, but, in fact, more residents rent cars than non-residents. Eliminating these excise taxes will help shift the responsibility back toward the sports teams' owners to privately finance stadiums.

Mr. Chairman, let me state that I do not wish to sit up here and single out the NFL or any particular owner. These owners are all playing by the same rules that everybody—everyone else is, and the leagues are—are playing by the same rules as well.

But this weekend, the Super Bowl will be played in Lucas Oil Stadium, in Indianapolis. The stadium opened in 2008, and cost $720 million, of which the public was supposed to pay 87 percent through taxes on hotels, and food, and a tax on rental cars.

For his part, Indianapolis Colts' owner, Jim Irsay, kicked in $100 million, although $48 million of that came from the public buying out the Colts' lease on the RCA Dome. So, the public share was actually more like 92 percent.

Irsay and the Colts also receive around $14 million per year for advertising in the stadium, $25 million for luxury seating, and $6 million for the naming rights of the stadium, all while paying nothing in rent.

Situations not unique to Indianapolis. Last year the Super Bowl was played in Cowboy's stadium in Arlington, Texas. That stadium opened in 2009, and cost $1.2 billion, of which the public paid at least $440 million, or 37 percent, in part, through a 5 percent increase in Arlington's car rental tax.

Several other arenas——

Mr. COBLE. Dr. Frederick, if you would suspend for a moment.

Mr. FREDERICK. Sure.

Mr. COBLE. I appreciate what you are saying, but this is not an NFL operation. Try to confine this to the—to the bill at hand.

Mr. FREDERICK. Absolutely. I am sorry, Mr. Chairman. My point was to give examples of how the public dollars were being pushed toward these particular NFL stadiums. I will say that in some situations, like in Kansas City, where Kansas City built a downtown arena, even though it didn't have a particular team, the public ended up spending $276 million, paid for entirely by hotel and car

rental fees. To this day, 5 years later, they still don't have a—a team.

So, how this plays out for the consumer like me, as—as the head of one of the largest sports fans organizations, and considering that sports fans are one of the biggest consumer groups, if I were to fly home to Kansas this weekend to watch the Jay Hawks and the Tigers, renting an economy car at Kansas City Airport at a base rate of $11 per day for 3 days, I would pay $33 for the car, and $42.84 in tax—taxes and fees. So, that is an increase of 129 percent, giving me a total bill of $75.84 for a—16 percent of that would be going toward the Sprint Center, even though I am not seeing a game there, nor are there any actual teams that play there. As a result, I no longer rent cars when I return home to Kansas City.

So, these excise taxes and car rentals enable local politicians and stadium supporters to claim the costs of building a new—new stadium will be born by out-of-town visitors. Indeed, these taxes are often referred to as tourism taxes. But while hotel rooms are primarily rented by out-of-towners, a June 2010 study, conducted by the Brattle Group, found that 54 percent of the total revenues generated from car—rental cars were from home city rentals. In other words, just over half the cars were rented by local residents.

As Representative Cohen pointed out, while car rental excise taxes may seem like an attractive option for shifting the burden of paying for a stadium onto non-residents, in truth, residents bear the majority of the burden. So, because sports fans are often manipulated into paying for stadiums in order to keep their favorite teams in town, and often wind up paying these costs through rental car taxes, Sports Fans Coalition is pleased to offer our support for H.R. 269. It is legislation that is long overdue, and we urge you to support it.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Frederick follows:]

Testimony of Sports Fans Coalition Before the

House Judiciary Subcommittee on Courts, Commercial and Administrative Law

"End Discriminatory State Taxes for Automobile Reuters Act of 2011"

Brian Frederick, Ph.D,

Executive Director, Sports Fans Coalition

February 1, 2012

Good morning, Chairman Coble, Ranking Member Cohen and Members of the Subcommittee. Thank you for the opportunity to appear before you in support of H.R. 2469, the "End Discriminatory State Taxes for Automobile Renters Act of 2011."

My name is Brian Frederick and I am the Executive Director of Sports Fans Coalition, the largest nonprofit fan advocacy organization in the country. We are a bipartisan organization founded by members of the Clinton and Bush White Houses to give sports fans a voice on public policy issues.

I'm here on behalf of the members of Sports Fans Coalition around the country to urge you to support this bill because rental car taxes are one of the primary ways sports team owners are able to manipulate public dollars into private profit. Experts across the political spectrum agree that these stadiums provide little to no economic benefit for the community and only serve to increase the value of the franchise. The rental car taxes that help finance stadiums are assumed to be paid by non-residents, but, in fact, more residents rent cars than non-residents. Eliminating these excise taxes will help shift the responsibility back toward sports team owners to privately finance stadiums.

STADIUM SCHEMES

Mr. Chairman, there are numerous stadiums around the country that have been paid for, in part, with rental car taxes, but I'd like to focus on Lucas Oil Stadium in Indianapolis, where the Super Bowl is being held this weekend. The stadium opened in 2008 and cost $720 million, of which the public paid around 87% through taxes on hotels and food and

a tax on rental cars. (Incidentally, the "nonprofit" National Football League will avoid paying those same taxes while in Indianapolis this week.) For his part, Indianapolis Colts owner Jim Irsay kicked in $100 million, although $48 million of that came from the public buying out the Colts' lease on the RCA Dome, so the public's share was actually more like 92%. Irsay and the Colts also receive around $14 million per year for advertising in the stadium, $25 million for luxury seating, and $6 million per year for the naming rights to the stadium, all while paying nothing in rent.[1]

Only one year after it opened, Lucas Oil Stadium was in danger of closing because its operating authority, the Capital Improvement Board, faced a $47.4 million operating deficit. This deficit was primarily because the costs of running Lucas Oil Stadium were higher than estimated. Irsay and the Colts refused to help out, even though the team receives $3.5 million annually from non-Colts related events. But Irsay was willing to raise the cost of the cheapest Colts ticket after only one season in the new stadium by 42%.[2]

This situation is not unique to Indianapolis. Last year, the Super Bowl was played in Cowboys Stadium in Arlington, Texas. That stadium opened in 2009 and cost $1.2 billion, of which the public paid at least $444 million (37%), despite Cowboys owner Jerry Jones' frequent references to the stadium "I" built. Part of the public financing also came through a 5% increase in Arlington's car rental tax. In Phoenix, the public paid at least 68% of the cost of the $455 million University of Phoenix Stadium, which included

[1] Ted Evanoff, "New Deal Lets Colts Rake In Cash," *Indianapolis Star*, (August 24, 2008)
[2] Phillip B. Wilson, "Colts Upper End Zone Seats to Cost More," *Indianapolis Star*, (February 14, 2009)

a 3.25% increase on car rentals. And in Houston, the public paid at least 61% of the $474 million Reliant stadium in part through a 5% increase in the county's rental car tax.[3]

And these are just NFL stadiums. Several other arenas and ballparks around the country for major professional sports teams have been financed using car rental fees, including the FedEx Forum in Ranking Member Cohen's district, which was financed in part using a county car rental tax.

Kansas City built a downtown arena hoping to lure a professional basketball or hockey team. In 2005, the city broke ground on the Sprint Center, which cost the public $276 million and is to be paid for entirely from hotel and car rental fees. Consumers renting cars in Kansas City now pay an extra 4 dollars per day to fund the arena, but five years after it opened, there still is no anchor tenant.

POLITICAL FOOTBALL

When the public is asked to vote on funding new stadiums for professional sports teams, they almost invariably vote no. What happens next is a game of political football. The owners threaten to leave town without a new stadium. They launch massive public relations campaigns, hyping the purported economic benefits of a new stadium and easily overspending the grassroots campaigns of concerned citizens. Local and state politicians are brought into the game, and far too often, support building these new stadiums because they can claim they helped build a brand new arena and created construction jobs for

[3] See Report "NFL Stadium Funding Information" prepared for Minneapolis' Metropolitan Sports Facilities Commission, December 2, 2011.

their constituents. They're also able to steer contracts toward donors and get free game tickets for their support. Further, if an owner is threatening to leave town without a new stadium, local politicians realize it's best to avoid being held responsible by an angry public if the team and the owner do leave. Ultimately, either the public eventually caves and passes another referendum or the state legislature intervenes, passing a funding bill against the wishes of the public.

Seattle knows this all too well. As Neil de Maus explains in *Field of Schemes*, "In five years [during the mid-1990s] the city's two professional sports franchises went up for sale, threatened to leave town, and wrangled huge public deals for new stadiums from a concerned populace…When the dust cleared and the bonds were issued, the lawsuits thrown out of court and the public referenda ignored, King County taxpayers would be left with one of the most enormous sports debts in recent history – close to $1 billion and counting for new homes for baseball's Mariners and football's Seahawks."[4]

Both of these stadiums were financed in part through a tax on car rentals. And that didn't even count the $75 million the public agreed to pay in 1995 for renovations to Key Arena, the home of the SuperSonics. Less than 10 years after Key Arena renovations, SuperSonics ownership sought an additional $200 million to expand Key Arena. After it became clear that the public was not willing to shoulder any more stadium debt, owner Clay Bennett uprooted the SuperSonics and took them to Oklahoma City, despite the 41-year history and tremendous following in Seattle. Even more absurdly, Seattle residents

[4] Neil de Mause & Joanna Cagan, *Field of Schemes*, 2008, p. 160.

are still paying off the debt from the Seahawks previous stadium, the Kingdome, which was demolished in 2000.

Excise taxes on car rentals and hotel rooms enable local politicians and stadium supporters to claim the costs of building a new stadium will be borne by out-of-town visitors. Indeed, these taxes are often referred to as "tourism taxes." But while hotel rooms are primarily rented by out-of-towners, a June 2010 study conducted by the Brattle Group for the car industry found that 54% of the total revenues generated from rental cars were from home-city rentals.[5] In other words, just over half of the cars rented were by local residents. So while car rental excise taxes may seem like an attractive option for shifting the burden of paying for a stadium onto non-residents, in truth, residents bear the majority of the burden.

SPORTS FANS AS CONSUMERS

As a sports fan who travels frequently for games and sporting events, I am regularly hit with outrageous fees when renting a car. If I were to go home this weekend to see the Kansas Jayhawks take on the Missouri Tigers, I'd rent an economy car in Kansas City for three days at a base rate of $11 per day. That's $33 dollars for the car, but the taxes and fees alone are $42.84, which is an increase of 129%! I would wind up paying $75.84 instead of $33. That means 16% of my bill will go to fund the Sprint Center, even though I am not attending any games there. Nor is there an actual team that plays there!

[5] Dr. Kevin Neels. "Effects of Discriminatory Excise Taxes on Car Rentals: Unintentional Impacts on Minorities, Low Income Households, and Auto Purchases." (June, 10 2010)

Sports fans are one of the largest consumer groups in America. A 2011 Washington Post poll found that "75 percent of Americans call themselves sports fans, with 38 percent saying they're more than casual fans."[6] Obviously, many of those fans spend money on game tickets, merchandise and on travelling to games. According to the Center for Sports Business and Research in the Smeal College of Business at Penn State University, the $200-billion-plus sports industry is twice the size of the U.S. auto industry and seven times the movie industry. While this massive consumer spending on sports has enabled team owners and leagues to make massive profits and thus, wield tremendous political influence, no group is more underrepresented in the public policy arena than sports fans.

Mr. Chairman, unfortunately, professional sports in America has become a glorified real estate scam, where individual owners prey on fan loyalty in order to manipulate massive public subsidies toward private coffers using tools such as car rental excise taxes. These team owners play cities off one another, threatening to uproot teams from their fan bases and move them to a new city in order to get the public to approve hundreds of millions of dollars for new stadiums. Once the stadiums are built, owners raise ticket prices and black out the games if fans don't buy tickets. This continues to happen even though economists across the political spectrum agree that these stadiums provide little to no economic benefit to the community and are a tremendous waste of public money. These stadiums simply serve to increase the value of the sports franchise. (There is perhaps no more lucrative investment in the world than owning a professional sports team.)

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6 Dan Steinberg, "Washington's sports identity reflects D.C. region's population makeup and growth," *Washington Post*, October 22, 2011.

Because sports fans and taxpayers are often blackmailed into paying for new stadiums in order to keep their favorite teams in town and often wind up paying these costs using rental car taxes, Sports Fans Coalition is please to offer our support for H.R. 2469. This legislation is long overdue and we urge you to support it.

Mr. COBLE. Thank you, Mr. Frederick.
Mr. Warren?

TESTIMONY OF RAYMOND A. WARREN, DEPUTY COMMISSIONER OF REVENUE AND LEGAL COUNSEL, ARLINGTON, VA, ON BEHALF OF NATIONAL ASSOCIATION OF COUNTIES, THE NATIONAL LEAGUE OF CITIES, THE UNITED STATES CONFERENCE OF MAYORS, AND THE GOVERNMENT FINANCE OFFICERS ASSOCIATION

Mr. WARREN. Good afternoon, Chairman Coble. Good to see you again. Mr. Cohen. Representative Cohen. Representative Polis. Thank you for having us here today.

My name is Ray Warren. I am a Deputy Commissioner of Revenue, and legal counsel to the elected commissioner of revenue in Arlington, Virginia. She is, in essence, the tax assessor.

I am pleased to submit testimony on behalf of the National Association of Counties, the National League of Cities, the United States Conference of Mayors, and the Government Finance Officers Association. The above organizations respectfully oppose H.R. 2469, the "End Discriminatory State Taxes for Automobile Renters Act of 2011," for several reasons.

First, the operative part of the proposed legislation provides that no State or locality may levy or collect a discriminatory tax on the rental of motor vehicles, the business of renting motor vehicles, or motor vehicle rental property. The determination that a tax is discriminatory is made without any reference to the factors that State and local policymakers use to evaluate the local needs and best manner to distribute the tax burden. Nor does the determination that the tax is discriminatory take into account offsetting exemptions.

For example, in Virginia, we exempt the inventory of rental vehicle companies from what is a fairly significant vehicle property tax. As a result, rental car companies do not pay the property tax. They are also exempt from the sales tax in Virginia. These tradeoffs are not accounted for in the bill, and in our case, they are actually sort of favorable to the industry.

The congressional mandate determines that discrimination exists by reference to other items of business subject to the tax, without evidence of the differences that may exist in those items or businesses.

For example, the bill attempts to compare taxes levied on all other commercial and industrial taxpayers, instead of other retailers. Yet, common sense dictates that different taxes are imposed on retail sales than on manufacturing. Indeed, it is unclear if the ordinary sales tax, a mainstay of local finance, would be held discriminatory if a similar apples-to-orange test was applied to it.

Second, the vague language of the preemption proposal and the lack of an administrative agency that can issue interpretative rulings leaves it to the courts to determine what the law means. This would lead to expensive litigation and result in fiscal and budget uncertainty, at a significant cost to taxpayers. It is a very cumbersome process that may result in different definitions in different jurisdictions. It will be virtually impossible for a uniform set of

rules to be developed in a reasonable period of time, because of the nature of trial court and appellate litigation.

Thirdly, over the past year, States and local governments have witnessed a parade of various industries coming forward to request that Congress preempt State and local government taxing authority for their particular industry. First, the telecommunications industry, the hotel industry, and today, the rental car industry.

The members of the organizations for which I speak have always maintained that any industry's plea for Federally mandated tax favoritism would open the door to other industries asking Congress for similar exemptions. This is what we are now witnessing.

H.R. 2469 and other legislation of its kind pose a dire threat not merely to State and local tax revenues, but to the entire existence of independent State and local taxing authority in our system of federalism.

Finally, the fundamental principle of federalism vests States and local governments with the responsibility for providing services and raising funds needed to pay for these services. Fees may be placed on cars rented for airport locations that are used for capital improvements and tourism campaigns that directly benefit rental car companies themselves.

Rental car taxes are also imposed throughout this country by cities, counties, and states, with the proceeds used to pay for a variety of governmental services and programs.

For example, Revere, Massachusetts, uses the rental—the revenue from rental car taxes to build police and fire stations. Cleveland, Ohio, and Schaumburg, Illinois, divert their tax dollars to their general fund, to assist with a host of operating expenses. Kenosha, Racine, and Milwaukee Counties, in Wisconsin, have used their revenue to expand their commuter rail system.

King County, Washington, uses its revenue to fund sports—sports programs that keep youth focused on positive activities and off the streets. And finally, my county, Arlington County, Virginia, allocates its rental car tax revenue to the general fund. Among the services funded by the revenue are street maintenance and the provision of police, firefighter, and emergency services to Reagan National Airport, the Pentagon, Arlington National Cemetery, and other venues frequented by rental car users.

For the above reasons—the above examples illustrate the longstanding principle of federalism. And for the above reasons, we urge Congress not to encroach upon this important principle. So, once again——

And I see my time is up, and I do want to honor that, Mr. Chairman.

So, once again, I would say, based on federalism, and the use of these taxes, and the opportunity for local governments to make local decisions, we urge you to oppose this legislation.

[The prepared statement of Mr. Warren follows:]

Testimony of

Ray Warren
Deputy Commissioner
Office of the Commissioner of Revenue, Arlington County, Virginia

On Behalf Of

National Association of Counties
National League of Cities
United States Conference of Mayors
Government Finance Officers Association

Before the
U.S. House of Representatives
Committee on the Judiciary
Subcommittee on Courts, Commercial and Administrative Law

On
"End Discriminatory State Taxes for Automobile Renters Act of 2011"
(H.R. 2469)
February 1, 2012

2141 Rayburn House Office Building
Washington, DC

Good morning, Chairman Coble, Ranking Member Cohen and other members of the Subcommittee on Courts, Commercial and Administrative Law. My name is Ray Warren, Deputy Commissioner of Revenue and legal counsel to the elected Commissioner of Revenue in Arlington County, VA. I am pleased to submit testimony on behalf of the National Association of Counties, the National League of Cities, the United States Conference of Mayors and the Government Finance Officers Association.

The above organizations respectfully oppose H.R. 2469, *End Discriminatory State Taxes for Automobile Renters Act of 2011*, for several reasons. First, the operative part of the proposed legislation provides that "No State or locality may levy or collect a discriminatory tax on the rental of motor vehicles, the business of renting motor vehicles or motor vehicle rental property." The determination that a tax is *"discriminatory"* is made without any reference to the factors that state and local policymakers use to evaluate local needs and the best manner to distribute the local tax burden. Nor does the determination that a tax is *"discriminatory"* take into account offsetting exemptions. For example, in Virginia, we exempt the inventory of rental vehicle companies from a fairly significant property tax, as well as the rental of vehicles from the state's sales and use tax. But the bill makes no allowance for this trade off, which is actually rather favorable to the industry.

The Congressional mandate determines that discrimination exists by reference to other items or businesses subject to tax, without evidence of the differences that may exist in those items or businesses. For example, the bill attempts to compare taxes levied on all

"other commercial and industrial taxpayers" instead of other retailers. Yet common sense dictates that different taxes are imposed on retail sales than on manufacturing. Indeed, it is unclear if the ordinary sales tax, a mainstay of local finance, would be held discriminatory if a similar apples to oranges test was applied to it.

Secondly, the vague language of this preemption proposal and the lack of an administrative agency that can issue interpretative rulings leave the courts to determine what terms actually mean. This will lead to expensive litigation and result in fiscal and budgetary uncertainty at a significant cost to taxpayers. It is also a cumbersome process that may result in different definitions in different jurisdictions. It will be virtually impossible for a uniform set of rules to be developed in a reasonable period of time because of the nature of trial court and appellate litigation.

Thirdly, over the past year, states and local governments have witnessed a parade of various industries coming forward to request that Congress preempt state and local government taxing authority of their particular industry; first the telecommunications industry, then the hotel industry, and today the rental car industry. The members of the organizations for which I speak have always maintained that any industry's plea for federally mandated tax favoritism would open the door to other industries asking Congress for similar special exemptions or protections from state and local taxing authority. That is what we are now witnessing. H.R. 2469 and other legislation of its kind pose a dire threat not merely to state and local tax revenues, but to the entire existence of independent state and local taxation authority in our system of federalism.

Finally, the fundamental principle of federalism vests states and local governments with the responsibility of providing services and raising funds needed to be able to pay for those services. Fees may be placed on cars rented from airport locations that are used for capital improvements and tourism campaigns that directly benefit the rental car companies themselves. Rental car taxes are also imposed throughout the United States by cities, counties and states, with the proceeds used to pay for a variety of government services and programs.

For example, Revere, Massachusetts used its revenue from rental car taxes to build police and fire stations; Cleveland, Ohio and Schaumburg, Illinois divert their tax dollars to their general fund to assist with a host of operating expenses and funding of essential services; Kenosha, Racine and Milwaukee counties in Wisconsin have used their revenue to expand their commuter rail system; King County, Washington uses its revenue to fund youth sport programs to keep young people focused on positive activities and off the streets; and finally, my own Arlington County, Virginia allocates its rental car tax revenue to the general fund. Among the services funded by the revenue are street maintenance and the provision of police, firefighter and emergency medical services to Reagan National Airport, the Pentagon, Arlington National Cemetery, and other venues frequented by rental vehicle users.

The above examples, again, are illustrative of the long-standing principle of federalism that allows all levels of governments to work in partnership to provide for all constituents. We urge Congress not to encroach on this important principle. The

implications of passing legislation like H.R. 2469, particularly in these tight budgetary times, would not necessarily be to lower the tax burden on consumers, but rather to shift the burden onto other taxpayers. Thus, while the tax burden on some consumers might be relieved, the burden on others would surely be exacerbated as states and localities find ways to recoup lost revenue to fund essential services maintained, in part, by rental car taxes. These are the circumstances created at the state and local level when Congress decides it is appropriate to confer special privileges on certain favored industries.

For these reasons, we once again urge the members of the subcommittee to oppose H.R. 2469. Thank you for your time today.

Mr. COBLE. Thank you, Mr. Warren.

Mr. McCormick?

TESTIMONY OF MICHAEL W. McCORMICK, EXECUTIVE DIRECTOR, GLOBAL BUSINESS TRAVEL ASSOCIATION

Mr. MCCORMICK. Mr. Chairman, Members of the Committee, on behalf off the Global Business Travel Association, I appreciate the opportunity to testify in support of H.R. 2469. I also appear before you as a member of the Coalition Against Car Rental Excise Taxes, which includes consumers, unions, tax reformers, auto dealers, auto renters, and manufacturers.

For years, GBTA and its members have opposed discriminatory car rental taxes in their communities. Our members appreciate the Committee's willingness to consider an effective uniform remedy to discriminatory car taxes.

First, a snapshot of the industry. The business travel sector, which includes transportation, lodging, entertainment, meals, meetings, and conventions, is a significant component of the U.S. and world economies.

Domestically, 8 million Americans work and travel in tourism-related businesses. In 2011, U.S. spending on business travel topped $250 billion. Worldwide, over a trillion dollars was spent on business travel and meetings.

GBTA actively tracks and reports on business travel trends. Despite a steep decline during the recession, our latest projections show business travel maintaining upward trajectory in 2012. We expect corporations to increase their domestic travel spend, and increase international travel spend by almost 8 percent, to $34 billion. This followed a 9 percent growth in international travel spend in 2011.

So, in short, after these increases in the last 3 years, you can think of it that we just hit the reset button on business travel. We will finally climb our way back to pre-recession levels of business travel in 2012.

And because we know—now know that new jobs follow increases in business travel spend, this is good news. The reason is simple. When businesses are confident in a growing economy, they send their employees on the road to secure even more business. The result is increases in the travel sector and a positive ripple effect throughout the economy.

We project that domestic U.S. business travel sector, however, to lag international growth. Partly, this is due to continuing economic challenges in the United States. However, policy, tax, and funding decisions made by Congress can have major impacts on the growth of domestic business travel, an industry vital to the U.S. economic recovery.

So, in sort, it is all about creating headwinds, or tailwinds, for the economy. And an enactment of H.R. 2469 represents one of those policy decisions.

Currently, governments in 43 States and the District of Columbia levy 118 different excise taxes on car rentals in various jurisdictions. States, cities, and counties can often justify the fees by citing budgetary constraints. While sometimes true, this phenomenal eight times increase in taxes and fees began in 1990, which pre-

dates the current downturn. And these fees have nothing to do with travel, security, or core government operations. The fees are added by local politicians, because, as Mr. Cohen stated, they wrongly think it only impacts business travelers who are out-of-town voters.

Business travel buyers pay careful attention to discriminatory taxes. Congress does not need to pour over economic studies to know that travel demand is elastic. As prices increase, and in this case, artificially, travel demand decreases.

So, to be clear, GBTA is not opposed to reasonable taxes or service charges that finance the cost associated with travel. We understand that a safe efficient transportation infrastructure requires funding. But business travelers, already a significant driver of revenue, should not be the financing source for new sports stadiums, museums, or performing art centers, or an attempt to offset new unplanned deficits.

So, in conclusion, increasing business travel costs through unfair State and local car rental taxes hurts businesses, their travelers, and the economy as a whole.

Mr. Chairman, thank you for your time to speak in favor of the End of Discriminatory State Taxes for Automobile Renters Act of 2011. And thank you again for your time and your efforts. I look forward to answering any questions.

[The prepared statement of Mr. McCormick follows:]

Prepared Remarks of
Michael W. McCormick
Executive Director and Chief Operating Officer
Global Business Travel Association

United States House of Representatives Committee on Judiciary
Subcommittee on Courts, Commercial and Administrative Law

"End Discriminatory State Taxes for Automobile Renters Act of 2011"

February 1, 2012

Mr. Chairman and Members of the Committee: On behalf of the Global Business Travel Association (GBTA) and as a member of the Coalition Against Car Rental Excise Taxes, which includes consumers, unions, tax reformers, auto dealers, auto renters and manufacturers, I appreciate the opportunity to testify in support of H.R. 2469, **End Discriminatory State Taxes for Automobile Renters Act of 2011**.

GBTA is the world's leading travel and corporate meetings organization, including 40 local chapters across the nation. Collectively, GBTA's 5000-plus members represent a global industry with an annual $1 trillion in business travel and meetings expenditures. We provide our members with education and professional development, research, and advocacy. For more than 40 years, the association has been dedicated to the business travel industry.

For years, GBTA and its members have opposed discriminatory car rental taxes in their communities. Our members appreciate the Committee's willingness to consider an effective, uniform remedy to discriminatory car rental taxes.

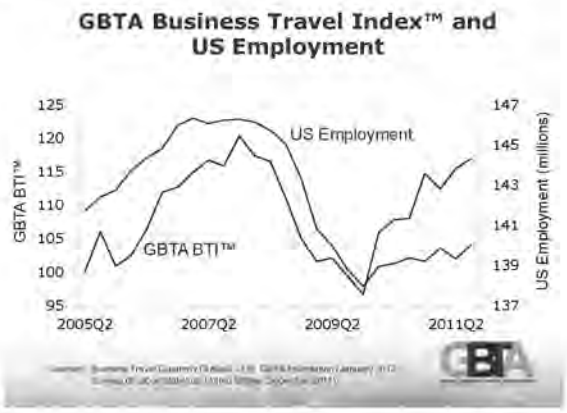
Business Travel – A Critical Sector of the Economy

The business travel sector—transportation, lodging, entertainment, meals, meetings and conventions—is a significant component of the United States and world economies. Domestically, 8 million Americans work in travel-and tourism-related businesses. In 2011, U.S. spending on *business travel* topped $250 billion. Worldwide, over $1 trillion was spent on *business travel and meetings.*

As part of its work, GBTA actively tracks business travel trends through the Business Travel Quarterly Outlook (BTQ). The latest projections show business travel maintaining an upward trajectory in 2012. This, despite the fact that the business travel sector, a key economic and employment engine in a number of states, suffered a steep decline during the recession. Today U.S. companies operating globally are enjoying export booms and gains in their overall competitiveness. Because of this, we expect corporations to book 3.3% more trips abroad in 2012 and increase their international travel spend 7.7% to $34.3 billion. This follows 2011 growth of 9.1% in international travel spend.

Our GBTA Business Travel Index™ is a leading indicator of U.S. employment. Put simply, increased *business travel equals increased jobs*. If the GBTA BTI™ increases during a

particular quarter, there is a very high likelihood U.S. employment will also increase during the following quarter.



The reason is simple: when businesses are confident in a growing economy, they send their employees on the road to secure even more business. This results in an increase in sales for companies, necessitating the hiring of more staff to fill those sales, more employees to accommodate the needs of business travelers and a positive ripple effect throughout the economy.

In 2012, however, GBTA projects that domestic business travel will lag to international. Policy, tax, and funding decisions made by Congress and Administration can have major impacts on the growth and success of domestic business travel - an industry vital to the United States recovery.

Enactment of H.R. 2469 represents one of those policy decisions.

Discriminatory Car Rental Fees – Impacting a Key Economic Sector

Currently, governments in 43 states and the District of Columbia levy 118 different excise taxes on car rentals in various jurisdictions. States, cities and counties often justify the fees by citing budgetary constraints. However, the phenomenal 800% increase in taxes and fees began in 1990, which predates the recent downturn. And these fees often have nothing to do with travel, security or core government operations. The fees are added by local politicians because they wrongly think it only impacts out of town business travelers.

Business travel buyers pay careful attention to state and local travel taxes. When combined with general sales taxes, these taxes and fees significantly increase travel costs. This is important because discriminatory taxes artificially alter the demand for car rentals. U.S. businesses do not need to pour over economic studies to know that travel and demand are elastic: as price increases, in this case artificially, demand decreases. With our analysis finding

the worst offenders indicated in the chart, business travel buyers understand where they are hit the hardest.

Worst 5
Central City General Sales Tax versus Discriminatory Travel Taxes Cities
Car Rental Taxes Top 50 Destinations

State	City Location Central City	General sales Tax if applied to $55.22rental	Actual taxes on $55.22 rental	Discriminatory increase over general sales tax
MN	Minneapolis	$4.02	$10.48	$6.46
NV	Las Vegas	$4.47	$11.10	$6.63
IL	Chicago	$5.38	$13.79	$8.41
OR	Portland	$0.00	$9.39	$9.39
MA	Boston	$3.45	$13.45	$10.00

To be clear, GBTA and its members are not opposed to reasonable taxes or service charges that finance the costs associated with travel. We understand that a safe, efficient transportation infrastructure requires funding. But business travelers – already a significant driver of revenue - should not be the financing source for sports stadiums, museums and performing arts centers unrelated to travel.

In the past, Congress has correctly exercised its authority to ensure that States and municipalities do not discriminate against interstate travel with selective, excessive taxes and fees. In this light, Congress should act quickly and prohibit new discriminatory taxes on car rentals.

Conclusion

In conclusion, increasing business travel costs through unfair state and local rental car taxes hurts businesses and their travelers, as well as the entire economy. In the past, Congress has provided airline, train, and bus passengers protections from discriminatory taxes. It is now time to extend that protection to car rentals.

Mr. Chairman, thank you for the time to speak in favor of the **End Discriminatory State Taxes for Automobile Renters Act of 2011**. Congressman Cohen, Chairman Graves, thank you for your efforts. I look forward to answering any questions.

Mr. COBLE. Thank you again for your attendance here. And since this is the gentleman from Tennessee's bill, I am going to give him the courtesy of kicking—kicking it off. Keep in mind, folks, we try to impose the 5-minute rule against us as well. So, if you can keep your responses terse, that would be appreciated.

The gentleman from Tennessee.

Mr. COHEN. Thank you, sir. I appreciate your courtesy.

Ms. Greenberg, Mr. Warren, in his testimony, concentrated on the definition of the word "discriminatory," in terms of taxes, but

never even got around to regressivity, and that this is a most serious regressive tax.

Would you talk to us a little bit about how regressivity affects Virginians?

Ms. GREENBERG. Well, so those who rent vehicles often do so, because, we have already pointed out, they are often in-state residents. And they do so, because they can't afford to own a—a vehicle. And they may be taking a child to a sports event, or they may visit an elderly parent in a nursing home.

Mr. COHEN. To the doctor. They could be——

Ms. GREENBERG [continuing]. Relative to the hospital.

Mr. COHEN. They could save their life.

Ms. GREENBERG. Right. And so there are multiple uses and consumers who can't afford a car have to rent a car for special occasions or emergencies. And as a result, those people end up paying these really onerous taxes. No, it is not a progressive tax, it is a very regressive tax, because it is not adjusted to the person's income.

One of the studies we quoted said that various groups, including African-Americans, rent a disproportionate number of cars, and they pay these high taxes, and the benefits doesn't necessarily come back to them.

So, yes, we do believe this is a very regressive tax. But the taxes on rental cars, and there are—as—as my testimony indicated, there are many, are very regressive, and we would much prefer to see States and localities—we don't oppose their—their raising—their imposing taxes. We would much prefer to see those being put in a—a progressive taxation system, rather than this very regressive tax.

Ms. COHEN. Thank you, Ms. Greenberg. Mr. McCormick, further in Mr. Warren's testimony, he talked about the fact that Virginia exempts an inventory of rental vehicle companies from a fairly significant property tax, as well as the rental of vehicles from the State's sales-and-use tax. He says the Bill makes no allowance for this tradeoff, which is rather favorable to the industry.

Does he make the—miss the point that what they are giving to the industry is the industry. What we are talking about here is the consumer, and that the individual traveler pays for this, and would get no benefit necessarily, even though there could be a pass-through, determined on the company, on these quote, unquote, tradeoffs.

Mr. MCCORMICK. Yes. Clearly, our focus is that the business traveler and the—and the consumer, and in this case, I mean you are right, the taxes that—that they are paying are artificially, you know, depressing business travel, having an impact on the consumer. People are paying exorbitant, you know, fees and taxes over and above what they are expecting. And it really is one, to me, has nothing to do with the other. It is not the issue.

Mr. COHEN. Thank you. Mr. Frederick, you—you are well aware of the fact, and I think—I think it was in your testimony as well, that—that most of these taxes are, in fact, paid by local folk, and they are regressive. But a lot of them are paid with the—and even though, as Mr. Warren said, some—they take it to the general fund

in Virginia, et cetera, et cetera, but that most of them are for stadia.

All the owners of these teams, and—and the people that build these stadiums, and they can be NBA, which they have in Memphis, or NFL, or whatever, they are all in favor of that, are they not, to let somebody else, don't tax me, don't tax thee, tax that guy behind that tree?

Mr. FREDERICK. Absolutely. The—the owners of any team are—are more than willing to let the public pay for the costs of building the stadium, while at the same time, reaping the profits from that stadium.

And as I said, you know, most the experts that have looked at this have said that all that these stadiums do is to move money around, and to increase the value of the franchise, but not to really degenerate any new economic revenue.

Mr. COHEN. And I see him at the yellow, but we hadn't gotten to the red, and I don't know—but he also says in his testimony the tax burden on some consumers might relieve the burden on others would surely be exacerbated, as States find ways to recoup lost revenue to fund these type programs.

Would it be so awful to exacerbate the tax burden on the multi-, multi-, multi-millionaires and billionaires who own these teams, none of whom seem to be missing any opportunity to go to Tiffany's, with maybe—and—and whatever they want, or whatever they want to do, and buy another team, or get a quarterback, or if they don't like Peyton, they might even trade and try to get Eli. [Laughter.]

Mr. FREDERICK. Absolutely, Rank—Representative Cohen. And I—I would say that one of the—one of the drawbacks to these taxes is that, because they are regressive, the very same people who can't afford tickets to go into the stadium are the same ones that pay more for—for the rental car taxes.

Mr. COHEN. Thank you, members of the panel. And thank you, Mr. Coble.

Mr. COBLE. Thank you, Mr. Cohen. Appreciate that. We have been joined by the distinguished gentleman from Georgia, Mr. Johnson. Good to have you with us.

Ms. Greenberg, do you believe it is unfair that automobile rental taxes go oftentimes to support or construct stadiums and other non—non-related tax matters or transit matters?

Ms. GREENBERG. Yes, we do. And I certainly said that in my testimony. One of the things we point out is that we don't object to States and localities raising taxes for critical services like building hospitals, or roads, or schools. But to ask the average consumer who rents a car to pay the cost of a stadium which he or she may never be able to use, people—even tourists coming in from out of state, may never have the opportunity to use those stadiums, I think is unfair, and it is regressive, and that is why we support this legislation.

Mr. COBLE. Thank you. Mr. Warren, if Mr. Graves, and Mr. Cohen's bill is enacted, would H.R. 2469 prohibit all taxes on rental cars or only new taxes?

Mr. WARREN. Well, Chairman Coble, two things. It—it—it is a prospective bill. So, in theory, a—a jurisdiction such as Arlington

would be able to keep its tax, but we could never change it. Moreover, the surrounding Northern Virginia communities, which may not have enacted one, would not be able to enact one.

Insofar as what could be enacted, and not be quote, unquote, discriminatory, I don't now the answer to that. We have a 1 percent in Virginia. Some locations have a 1 percent daily rental tax on things other than automobiles. Would it be—it would be allowed 1 percent. But then we also have the 5 percent sales tax. Would that be a comparable tax?

And one of the problems with this bill is, it is very difficult to know how a court is going to compare A with B to come up with is it or is it not discriminatory. And the problem is, without an administrative agency to—to rule on this, you may—and you and I practice in the same area, we are attorneys—you may have a different ruling in the fourth circuit, in the third circuit. It is going to be a mess for everybody.

Mr. COBLE. Thank you, Mr. Warren. Mr. McCormick, States have a Tenth Amendment right to set their own tax policies, presumably. And if that is the case, some will say, well, why should the Congress interfere with State tax policy in purely intrastate issues. What do you say to that?

Mr. MCCORMICK. Well, I really go back to my earlier statements, which is, I think when we look at the taxes that are being levied, and they are, you know, discriminatory, and—and just, you know, in some cases, outright ridiculous, in—in terms of their proportion to the cost of the rental, I think we need to take action. We can't leave it to the local jurisdictions to make those decisions.

There are plenty of opportunities to collect tax revenues. There are plenty of opportunities to collect appropriate tax revenues on car rental. But we are looking to just look at—at ways to protect the consumer and the business traveler from exorbitant ones.

Mr. COBLE. Dr. Frederick, do you want to add anything to that?

Mr. FREDERICK. I agree with him. Yes.

Mr. COBLE. Okay.

Mr. FREDERICK. Thank you.

Mr. COBLE. I want you all to take judicial notice. I am beating the red light before it illuminates. [Laughter.]

I am pleased to recognize the distinguished gentleman from Georgia for 5 minutes.

Mr. JOHNSON. Yes. I kind of like the title of this, the—we are—we are looking to protect consumers from discriminatory State taxes on motor vehicle rentals. And while we—when we invoke the specter of discrimination, we talk about people who live in the cities. And I think, for the most part, intercity residents are assumed to be African-Americans and other minorities. So, we get a picture of protection of minorities against taxes that discriminate against them.

This is just my perception of what we are dealing with. And—and so, those things being assumed as true, it—it kind of makes you want to protect those persons, particularly African-Americans, since I am African-American, you know, from being discriminated against.

And I guess what I want to know is, and, of course, the Act itself does not describe a discriminatory tax in that way, but that is my

perception, given what we have heard today, and the title of the Act, and the purpose of the Act.

Is there any—can anybody cite any evidence as to discrimination, in the classic sense of the word, that is directed at a particular class of individuals that this act is protecting?

Who is it really protecting, in other words? Is it protecting the car rental companies from having to charge a tax, thus pricing, perhaps, their product out of the means of—of people, or is it protecting people who have to pay the tax? What are we really trying to do here, so that we can make sure we understand the exact intent?

Mr. WARREN. Representative, if I could, this tax brings in $5.4 million to Arlington County. We do not have any rich sports moguls. Well, we may have them there, but I don't know how we are going to tax them, because their stadiums are not there. We tried for National Stadium. We didn't get it.

If we were to lose this money, we would have just two choices. Raise the personal property tax on—on vehicles of ordinary citizens, or raise their real estate property taxes.

Now, we have a historically Black community in Arlington, and people are losing their houses, because they cannot afford the taxes. So, when you get rid of this tax, you basically just shift the burden from some taxpayers. And I can guarantee you, the people in Crystal City, mostly renting these cars, are over here to lobby Congress to spend money on Federal contracts. They are not the poor people of Arlington. But a lot of middle class and poor people in Arlington do pay the real estate property tax, and they would be negatively impacted by the loss of this revenue.

Mr. JOHNSON. Well, what you are pretty much saying is that your car rental taxes don't go to pay for stadiums for millionaires and billionaires. They go for other purposes like roads, and hospitals, and schools, and—and whatnot. Is that what you are arguing?

Mr. WARREN. Yes, sir. It goes into our general fund. It—it pays for—for roads. It pays for the firefighters. If you remember, in 9/11, it was the Arlington County firefighters who responded to the Pentagon.

Mr. JOHNSON. Well, tell me this, in your jurisdiction, is it just minorities, intercity residents who are having to pay the tax—the car rental tax, or is it some other group of—or some other demographic?

Mr. WARREN. Frankly, Representative Johnson, it really does discriminate pretty heavily against lobbyists. They pay a lot of the taxes. But other than that, I certainly don't think in Arlington County, which is a very diverse community, that minorities pay a—a disproportionate fair—part of this tax. I do believe that the general fund contribution benefits minorities and others in Arlington County.

Mr. JOHNSON. Well, Mr. Warren, I have been accused—because I can deliver a—a humorous line without smiling, I have been accused of being stupid. And I am glad to know that I have a fellow stupendous individual sitting right in front of me that I have been talking to during this hearing, and has been responding to my

questions. So, thank you very much, sir, for your stupendous qualities.

Mr. WARREN. Thank you.

Mr. COBLE. And Mr. Johnson, I hope it won't erase that smile, but your red light has illuminated. [Laughter.]

Mr. JOHNSON. Well, that does cause me to smile.

Mr. COBLE. Very good. Folks, again, thank you all for being here. I appreciate very much your time and your testimony today.

Without objection, all Members will have 5 legislative days to submit to the Chair additional written questions for the witnesses, which we will forward, and ask the witnesses to respond as promptly as they can, so that their answers may be made a part of the record.

Without objection, all Members will have 5 legislative days to submit any additional materials for inclusion in the record.

With that, again, I thank the witnesses.

And this hearing stands adjourned.

[Whereupon, at 2:22 p.m., the Subcommittee was adjourned.]

APPENDIX

Material Submitted for the Hearing Record

Letter from Josh Nassar, Legislative Director, International Union, United Automobile, Aerospace & Agricultural Implement Workers of America (UAW)

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA - UAW

BOB KING, President DENNIS WILLIAMS, Secretary-Treasurer

VICE PRESIDENTS: JOE ASHTON • CINDY ESTRADA • GENERAL HOLIFIELD • JIMMY SETTLES

IN REPLY REFER TO

1757 N STREET, N.W.
WASHINGTON, D.C. 20036
TELEPHONE: (202) 828-8500
FAX (202) 293-3457

January 31, 2012

Hon. Howard Coble, Chair
Subcommittee on Courts, Commercial &
Administrative Law
House Judiciary Committee
Ford House Office Building, Room H2-362
Washington, D.C. 20515

Dear Chairman Coble:

We understand that the Subcommittee on Courts, Commercial & Administrative Law has scheduled a hearing for February 1, 2012 on "The End Discriminatory State Taxes for Automobile Renters Act of 2011 (EDSTAR) (H.R. 2469). This statement is submitted by the International Union, United Automobile, Aerospace & Agricultural Implement Workers of America (UAW) in connection with this hearing. We would appreciate it if you would include this in the record for this hearing.

The UAW supports EDSTAR, and urges Congress to give prompt, favorable consideration to this legislation. In recent years, state and local governments have increasingly been imposing taxes on car rentals in order to fund local projects. We are concerned that this trend is likely to intensify given the severe budgetary pressures facing many states and localities.

The UAW believes that these taxes on car rentals violate basic principles of interstate commerce, by discriminating against out-of-state consumers and businesses. They also impose a disproportionate burden on low -income persons, many of whom must rent because they do not own a car.

Most importantly, by placing a significant burden on car rentals, the UAW is concerned that these taxes have a negative impact on the volume of car rentals and thus have a depressing effect on new vehicle purchases by rental car companies. In 2009, 1,135,612 vehicles were purchased by the rental car industry from manufacturers. This represented 11 percent of all vehicles sold in 2009. It is estimated that a ten percent rise in car rental excise taxes results in a reduction of about 11 percent in auto purchases, or about 124,917 vehicles. This inevitably has a significant negative impact on auto production and employment in the United States.

The proposed EDSTAR (H.R. 2469) would address these problems by prospectively barring the imposition of discriminatory car rental taxes by states and localities. The legislation would grandfather existing taxes. It also would still allow states and localities to impose general taxes that are levied on all citizens or businesses.

In our judgment, this represents an appropriate, balanced solution to the problems posed by discriminatory car rental taxes. The UAW therefore supports EDSTAR (H.R. 2469) and urges Congress to move forward promptly to approve this legislation.

Sincerely,

Josh Nassar
Legislative Director

JN:sk
opeiu494
S0037

Letter from Thomas M. James, President and CEO, Truck Renting and Leasing Association (TRALA)

TRALA

TRUCK RENTING AND LEASING ASSOCIATION

Honorable Lamar Smith
Chairman
Committee on the Judiciary
United States House of Representatives
2409 Rayburn House Office Building
Washington, DC 20515

Honorable Howard Coble
Sub-Committee Chairman
Committee on the Judiciary
United States House of Representatives
2188 Rayburn House Office Building
Washington, DC 20515

Honorable John Conyers
Ranking Member
Committee on the Judiciary
United States House of Representatives
2426 Rayburn House Office Building
Washington, DC 20515

Honorable Steve Cohen
Sub-Committee Ranking Member
Committee on the Judiciary
United States House of Representatives
1005 Longworth House Office Building
Washington, DC 20515

January 31, 2012

Dear Chairmen and Ranking Members:

The Truck Renting and Leasing Association (TRALA) represents over 500 companies and serves as the unified voice for the industry – an industry that purchases approximately 35% of all new trucks and equipment in this country and that owns one in every five commercial trucks on the road. I am writing to you today to express strong support for H.R. 2469 that would curb discriminatory rental taxes that prey on customers travelling for business or personal necessity and utilizing our interstate highways.

TRALA, through its Industry Council for Vehicle Renting and Leasing, represents companies involved in commercial leasing and renting of cars and trucks, as well as the renting of cars and trucks to the general public. Although much of the focus of vehicle rental taxes is on cars, in fact these taxes often result in discrimination against the customers of all of TRALA's members – hurting local businesses that utilize rental trucks as well as local residents that cannot afford alternative property moving services.

TRALA members serve a vital role in our economy – never is this more obvious as now while our economy is so uncertain – because small businesses and retailers often turn to truck rentals to supplement their fleets. These businesses cannot spend the huge capital investments that purchasing new trucks can require so they instead lease or rent vehicles to preserve their capital for business growth and job creation. By creating more discriminatory taxes, many small businesses suffer and ultimately it is the consumer in the taxed jurisdiction that will face the burden of higher costs for all goods.

Local residents often turn to consumer truck rentals for moving their own personal property, especially prevalent among military personnel and individuals looking to relocate to secure employment. By forcing these discriminatory taxes on them, localities are punishing those least deserving and least able to bear increased costs.

675 N. WASHINGTON STREET, SUITE 410 • ALEXANDRIA, VA 22314
TEL (703) 299-9120 • (703) 299-9115 • www.trala.org

In addition to the prejudicial nature of these taxes is the fact that the revenue generated by these fees is most often used to fund non-transportation projects that are often unreasonable and unproductive. The heavily taxed truck transportation industry already pays fuel taxes, tire taxes, use taxes and a wide assortment of other taxes and fees used to fund the Highway Trust Fund or local infrastructure development funds. Having local rental taxes levied so that a community may pay for a new stadium or for a new convention center is inherently unfair and discriminates solely against those who would rent vehicles.

Lastly, the interstate nature of the rented and leased car and truck fleet demands a federal law that prohibits a patchwork of local and state taxes and fees targeted at one industry. As we have seen over the past few decades, the increasing number of these discriminatory taxes is alarming – 117 special rental taxes enacted in 43 states and the District of Columbia resulting in more than $7.5 billion in taxes collected to fund projects without any direct correlation to renting a vehicle. Unless Congress steps in as they have with other modes of transportation in the past, these taxes will continue to grow.

I respectfully request that you consider the merits of H.R. 2469 to rein in these unruly and burdensome discriminatory taxes and help grow our economy. If you would like to discuss further, I stand ready to help or answer any questions you may have.

Thank you.

Sincerely,

Thomas M. James
President and CEO

Prepared Statement of the Federation of Tax Administrators, and Government Finance Officers Association

Statement
of
Federation of Tax Administrators, and Government Finance Officers Association
on
Taxation of Car Rentals
before the
Subcommittee on Courts, Commercial and Administrative Law
of the
Committee on the Judiciary
February 1, 2011

The Federation of Tax Administrators (FTA) is an association of the tax agencies in all of the 50 states, the District of Columbia, and New York City. We welcome the opportunity to present our views on this proposed legislation that would, in the name of prohibiting "discriminatory taxes," unnecessarily preempt the ability of state and local lawmakers to determine the appropriate level of tax on automobile rentals and related property, or to establish their own tax policy based on local factors, including the level of state and local government services provided.

FTA opposes the "End Discriminatory State Taxes for Automobile Renters Act of 2011 (H.R. 2469)" because it would:

- Generate litigation over what is a "discriminatory tax" as well as other issues,
- Give unwarranted preferential treatment to businesses renting automobiles,
- Ignore the fact that state and local governments provide particular services and maintain infrastructure which supports those businesses, and
- Usurp state and local government authority over what is essentially a local tax.

Background

The operative part of H.R. 2469 provides that "No State or locality may levy or collect a discriminatory tax on the rental of motor vehicles, the business of renting motor vehicles or motor vehicle rental property." The determination that a tax is "discriminatory" is made for all state and local governments in a one-size-fits-all manner by Congress without any reference to the issues that state and local policy makers must consider, such as the cost of government services and who benefits from those services. This federal mandate instead determines that discrimination exists by reference to other items or businesses that are generally subject to tax, without recognition that there are differences that warrant different treatment. This substitution of Congress's judgment for that of state and local officials, without consideration of all relevant factors, is the kind of broad preemption that fundamentally undermines the constitutional position of state and local governments in our Federal system and makes interest groups believe that they can circumvent the normal political process at the state and local level by simply convincing Congress to go along with their proposals.

Congress Cannot and Should Not Micromanage State and Local Tax Policy

This legislation is just one example of the kind of proposals that different groups put forward every year in an attempt to enlist Congress in their efforts to change state and local tax policies. If Congress were to act on these proposals, there would likely be no end to the list of requests that might be put forward by business and other taxpayer groups. But Congress is simply not in a position to be able to determine state and local tax policy for all the different state and local governments, given how diverse they are and all the issues that must be considered in formulating tax policy at the state and local level.

Like Federal Lawmakers, State and Local Lawmakers Must Consider Multiple Factors in Setting Tax Policy

The preemption of state and local government authority over local tax matters ignores the role that these governments must exercise within their jurisdictions. Tax policy decisions must be made that reflect the needs and capability of the communities. For example, tourist communities not only have expenses related to non-residents that should be shouldered by those non-residents, they may have fewer types of other industries from which to draw needed revenues. When it comes to supporting the needs of tourist communities, there are limited methods by which that can be done. Taxes on automobile rentals is one such method that helps to fairly distribute tax liabilities to the parties that ultimately benefit from development of a tourism infrastructure like convention centers, transportation systems, sports arenas and other larger venues. There is nothing unfair or discriminatory about a policy that taxes automobile rentals in order to provide for these types of services and infrastructure. Nor is there any reason why rentals of medical equipment, industrial equipment, or lawn mowers should be basis for determining the rate of tax that applies to automobile rentals.

The Complexity Created by this Bill is Significant and Cannot be Relieved by Administrative Guidance

While this legislation may appear simple, any such appearance is deceptive. The bill requires a comparison of the tax burden placed on automobile renters with the burden placed on all other businesses, something that is so complex it almost defies comprehension and which will vary from place to place and over time, even if no changes are made to taxes imposed on automobile rentals. And like all tax measures, whether federal or state, there is always the potential for near-endless complexity and controversy in interpreting and applying the various terms and provisions. But the problem that preemption bills have that other tax law does not, is that there is no administrative agency, state or federal, that can step in and relieve the complexity and controversy by filling in the gaps left in statute and explaining how the law will apply in different circumstances.

Unavoidable Complexity Will Increase Litigation Costs and the Grant of Federal Jurisdiction Amounts to Congressional Rejection of the Role of State Courts

The lack of an administrative agency to perform the function of issuing authoritative guidance leaves only the courts to determine what the law actually means and how it should be applied in the literally thousands of different circumstances in which it would have to be applied. In addition, this legislation grants the federal courts, relative strangers to state tax matters, the jurisdiction to decide the intricacies of the law's prohibition. Not only will this add substantially to the cost of tax administration but it amounts to outright rejection of the traditional role of state courts in handling state tax matters and appears to imply that state judges cannot rule fairly in these cases. But also note, the granting of federal court jurisdiction will not make interpretation of the law more uniform since federal courts often differ in their interpretations, as do the circuit courts. Moreover, federal courts look to state court interpretations of specific state laws, and since one aspect of this bill requires interpretation of other state tax laws, this is something that will be a significant factor in the outcome of each case.

The Principles of Federalism are Too Important to Sacrifice

The fundamental principle of Federalism vests states and local governments with the responsibility for providing local services. Dictating a level of tax those governments can impose undercuts the ability of state and local governments to effectively determine their own fiscal policies and sets Congress up as the arbiter of which businesses will occupy a privileged class of state taxpayers. We urge Congress against taking any steps in this direction. Not only is this bill fundamentally unworkable, but it will inevitably cause a shift in tax burdens to other not-so-privileged taxpayers.

Letter from Bob Barton, President,
the American Car Rental Association (ACRA)

www.acraorg.com
888-200-2795

February 1, 2012

Honorable Howard Coble
Chairman, Subcommittee on Courts, Commercial &
Administrative Law
517 Cannon House Office Building
Washington, DC 20515

Honorable Steve Cohen
Ranking Member, Subcommittee on Courts, Commercial &
Administrative Law
1005 Longworth House Office Building
Washington, DC 20515

Dear Representatives Coble and Cohen:

Our industry has been unduly burdened by unfair discriminatory excise taxes and we need your help to pass HR 2469, the "End Discriminatory State Taxes for Automobile Renters Act of 2011."

On behalf of the American Car Rental Association (ACRA), which represents the majority of car rental operators and the thousands of their employees throughout the U.S., I respectfully request that you support HR 2469.

The continued rise of car rental taxes has been motivated by a general need for states and localities to raise revenue and the specific need to finance the construction of professional sports facilities and other civic projects. More than 100 car rental excise taxes have been enacted across 43 states and the District of Columbia, draining consumer's wallets to the tune of more than $7.5 billion since 1990. Although local politicians routinely market these initiatives as so-called travel or hospitality taxes on out-of-towners, more than half of car rentals are actually local.

The legislation's moratorium is prospective only. The bill "grandfathers" existing car rental excise taxes to prevent a cut-off of funding for projects financed through these taxes that are already underway, as long as the state or local authorization for the existing taxes does not expire or governments do not try to increase the rate of the tax. And the bill would not restrict in any way the ability of local governments to enact nondiscriminatory general taxes such as sales and income taxes, or any airport-related fees. HR 2469 is very similar to HR 1002, the "Wireless Tax Fairness Act of 2011, which this committee supported.

Broad-based taxes are the simplest, fairest and easiest way to fund worthwhile projects. We could support a general sales tax increase or another broad-based tax; but on behalf of our customers, we strongly oppose the continuation of unfair car rental excise taxes.

American Car Rental Association—P. O. Box 1225—Clifton Park, NY 12065

Despite the growing popularity of car rental excise taxes as a solution for municipal funding needs, all evidence points to the fact that these taxes are arbitrary, inequitable, and interfere with interstate commerce.

Sincerely,

Bob Barton
President

cc: ACRA Board of Directors

American Car Rental Association—P. O. Box 1225—Clifton Park, NY 12065

Prepared Statement of Matt Blunt,
President of the American Automotive Policy Council (AAPC)

AMERICAN AUTOMOTIVE POLICY COUNCIL

American Auto Policy Council

Matt Blunt

President of the American Automotive Policy Council (AAPC)

Submission for the House Judiciary Subcommittee on Commercial and Administrative Law Hearing on H.R. 2469, the "End Discriminatory State Taxes for Automobile Renters Act of 20011"

February 1, 2012 1:30 PM

(Written Submission)

The American Automotive Policy Council (AAPC), on behalf of its member companies – Chrysler Group LLC, Ford Motor Company and General Motors Company – wishes to express its support for H.R. 2469, the "End Discriminatory State Taxes for Automobile Renters Act of 2011." Thank you for this opportunity.

In 2010, American rental companies purchased about one million vehicles from Chrysler, Ford and GM – about 16 percent of their sales. Car rental companies provide certainty and predictability for automakers facing complex and costly plant scheduling and utilization concerns. The purchases of cars and trucks by rental car companies have formed a sturdy baseline of sales.

Discriminatory taxes[1] on rental car companies have a serious and damaging impact on auto sales, production and ultimately jobs. What's worse, there have been more than 100 new taxes on the industry. There are now 118 special auto rental taxes have been enacted in 43 states and the District of Columbia, up from 14 in 1990.

As these taxes accumulate and rental costs rise, fewer cars are rented. This leads to rental car companies purchasing fewer cars to support the diminished demand, and the result is a decrease in the number of vehicles sold.

The primary argument used to support these special discriminatory taxes on rental cars is that tourists, who are incorrectly presumed to be affluent, are paying them. But this is not the case. The reality is that the annual household income of one in five car renters is less than $50,000, and about one in two is less than $100,000.[2] Furthermore, not only tourists rent cars, as more than half of all cars rented are from neighborhood-based locations, not airport sites.[3]

An equitable resolution of this issue is available in H.R. 2469, "The End Discriminatory State Taxes for Automobile Renters Act." It provides that Congress should prohibit state and local governments from enacting future discriminatory taxes on rental vehicles. All existing rental car taxes will be grandfathered, ensuring that no existing state or local project dependent on revenue from existing car rental revenues compromised. The proposal will not impact standard state or local sale taxes or airport-related fees, nor does it apply to any car rental taxes enacted prior to the bill's effective date.

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[1] Defined as a tax not imposed on at least 50% of other transactions in the jurisdiction
[2] The Brattle Group, February 23, 2010, Effects of Discriminatory Excise Taxes on Rental Cars, Table 1
[3] The Brattle Group, February 23, 2010, Effects of Discriminatory Excise Taxes on Rental Cars, Page 2

The American Automotive Policy Council, on behalf of its member companies – Chrysler Group LLC, Ford Motor Company and General Motors Company – offers our strong support for this legislation to both end a pattern of misdirected and clearly discriminatory taxation that hurts consumers of all income levels and negatively impacts jobs. We ask the Committee to consider this matter seriously and favorably report out this important legislation for passage by the full Congress.

We thank you for the opportunity to provide comments.

Prepared Statement of the Interactive Travel Services Association (ITSA), and the Business Travel Coalition (BTC)

Interactive Travel Services Association

Statement for the Record
Hearing on H.R. 2469,
The End Discriminatory State Taxes for Automobile Renters Act of 2011
Before the House Judiciary Subcommittee on Courts, Commercial and Administrative Law
February 2, 2012

The Interactive Travel Services Association (ITSA) represents the major online travel sites and global distribution systems that power electronic travel commerce. The Business Travel Coalition, founded in 1994, interprets industry and government policies and practices so that the managed travel community can influence issues of strategic importance to their organizations.

Together, we submit this statement in strong snpport of H.R. 2469, "The End Discriminatory State Taxes for Automobile Renters Act of 2011."

This bipartisan legislation will help to stop the practice of imposing higher costs and taxes on out-of-state companies and travellers to fund state and local spending, and we believe that it is a good first step in halting such practices.

States and localities often attempt to impose discriminatory taxes on travellers, frequently using methods of calculation and at rates that are much higher than those imposed on local businesses, and we support your efforts to stop that practice. We support the efforts to stop these discriminatory taxes not only in the car-rental space, but in other areas, as well, such as hotel taxes imposed on on-line travel companies.

While not singling out Texas, let us use a traveller's experience renting a car at Dallas/Ft. Worth International Airport as one such example. Attached is an example of a recent booking for a two-day rental. One major car rental company had a weekend special for a compact car at $15 per day. The taxes and fees on the transaction nearly doubled the total customer price from $30 to $55.92 – essentially a tax rate of 86 percent.

Travel is an interstate activity, and we support efforts by Congress to step in and stop localities from seeking to impose costs, and balance their local budgets, on the backs of travellers who have no voting rights in their jurisdictions, and on travel service providers who have no nexus to the state or local jurisdiction. Further, we support the efforts in this legislation to carefully define when these discriminatory taxes are triggered – localities often seek to impose taxes in creative ways in order to force out-of-state interests to finance their local spending in ways that may not be transparent or fair.

Such discriminatory taxes not only harm the tourists and business travellers that bring much needed business and economic support to many different regions across the country, as well as travel promoters and other out-of-state businesses the help support travel, but they also potentially discourage travel to those destinations, imposing an economic cost on the locality itself.

For instance, with the rise of consumer-ratings for travel destinations, travellers can see reviews of travel experiences, and paying a high, hidden tax on a rental car at the end of a vacation is certain to leave a bad taste in a potential reviewers mouth, discouraging future travel to that destination by other consumers.

The online travel companies and our travel partners spend millions of dollars promoting travel destinations around the world to consumers around the world, and business travellers are significant users of these services. However, when higher taxes are imposed on travellers and travel service providers to certain destinations, it is not only unfair, but dampens consumer travel to those destinations and may discourage companies like our members from promoting those destinations as vigorously as they otherwise might.

Sincerely,

Joseph Rubin,

President

ITSA

Kevin Mitchell,

Chairman

Business Travel Coalition

Your Car

Compact
2 or 4-Door/Automatic/Air

Nissan Versa
or similar

<< EDIT CAR SELECTION

Pickup:
Dallas Ft Worth Airport/Shuttle
(DFWT71)
2424 E.38th Street Ave
Dallas , TX 75261
US
Friday, February 3, 2012
12:00 PM

Dropoff:
Dallas Ft Worth Airport/Shuttle
(DFWT71)
2424 E.38th Street Ave
Dallas , TX 75261
US
Sunday, February 5, 2012
12:00 PM

<< EDIT TRIP INFORMATION

Estimated Total = $55.92 USD

Need more information? Click on individual items for details or the **?** icon for details by section.

VeriSign Trusted VERIFY

Step 3: Select rental options and calculate total

Base Rate - Compact (USD)

(2) Time & Distance ($15.00/Day)	$30.00
Contract I.D. XX	
Inclusive Rate Items	
Guaranteed Base Rate	Included
Unlimited Miles	Included

For information on coverage products, ex:Collision Damage Waiver(CDW) click here

Subtotal $30.00

Primary Driver ?

- (●) Of age primary driver (25 or older)
- ( ) Underage primary driver (age 21 - 24) ($25.00/day) $0.00

For information on age requirements and exceptions, click here.

Subtotal $0.00

Additional Drivers ?

Rentals that require Additional Drivers must be completed at the Alamo counter, or via Online Check-In or Save Time.

Additional Items ?

0	Greenhouse Gas Emissions Offset ($1.25/Rental)	$0.00
0	Infant Seat ($9.99/Day; $60.00/Max Amt)	$0.00
0	Child/toddler Seat ($9.99/Day; $60.00/Max Amt)	$0.00
0	Gps Navigation Device ($11.99/Day; $69.65/Week; $179.99/Max Amt)	$0.00
☐	Collision Damage Waiver Full ($22.99/Day)	$0.00
☐	Extended Protection ($13.99/Day)	$0.00
☐	Personal Accident Insurance/persone ($5.50/Day)	$0.00
☐	Roadside Plus ($4.99/Day)	$0.00
☐	Return Fuel at any level ($3.20/gal)	$0.00

No refund will be given for unused fuel.

The total upfront fuel charge reflected is an estimate based on the current prices and average tank size for the car class reserved. This charge may change at time of rental.

Subtotal $0.00

Taxes, Surcharges and Fees ?

Facility Charge 4.00/day	$8.00
Customer Transportation Charge	$4.40
Concession Fee Recovery 11.11 %	$3.33
Euless Sports Venue Tax 5 %	$2.43
Veh License Cost Recov 1.45/day	$2.90
Motor Veh Rental Tax (10.0%)	$4.86

Subtotal $25.92

Calculate Estimated Total

>> CALCULATE **Estimated Total $55.92**

Estimated charges are confirmed based on the information you have provided; only taxes, fees, and surcharges are subject to change.

Policy Information

Important Policy Information: All renters and additional drivers must meet th requirements for the renting location. A major credit card or debit card and license both in the name of the renter will be required at the time of rental. I cards, considered to be any non-credit card bearing the VISA or MasterCard gift/prepaid cards) may only be used in conjunction with proof of round trip tick ship and the like). Without proof of roundtrip ticket, debit or check cards are o return. Any other non-credit card without the VISA or MasterCard logo is Customers planning to rent with cash must bring the following documentati counter: valid Driver's License, a return ticket from an airline, cruise ship or

employment, verifiable home phone number or a current verifiable gas or ele
renter's name and address. All documentation must be in the renter's name.
will be required in addition to the cost of rental.

If you or any driver operate the rental vehicle in Northern California, Florida, Co
Texas, and generate an unpaid toll, you will be charged our Toll Pass Convenii
$2.00 for each day you use a toll road or bridge plus the cost of all unpaid tolls
Toll Pass Convenience Charge for the rental period is $6.00, plus the cost of a
For information call (877) 860-1284. If you or any driver operate the rental vehi
served by TollPass and generate any unpaid toll(s) then you will be charged fo
and an administrative charge of up to $25.00 per rental.

Toll Road Usage Program: www.htallc.com/alamo.

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Would you like to receive our Hot Deals on Wheels e-mail?

Yes, sign me up **No, not at this time**

Personal Information

First Name * **Last Name** *

Email *

Confirm Email *

Your information is secure. View our privacy policy.

Complete your Reservation

Your reservation request will be cancelled in 30 minutes if you do not confi

Need technical help? Call 1-877-252-6600.

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Letter from Richard D. Broome, Senior Vice President, Corporate Affairs & Communications, The Hertz Corporation

THE HERTZ CORPORATION
225 Brae Boulevard
Park Ridge, NJ 07656-0713

Honorable Lamar Smith
Chairman
Committee on the Judiciary
United States House of Representatives
2409 Rayburn House Office Building
Washington, DC 20515

Honorable Howard Coble
Sub-Committee Chairman
Committee on the Judiciary
United States House of Representatives
2188 Rayburn House Office Building
Washington, DC 20515

Honorable John Conyers
Ranking Member
Committee on the Judiciary
United States House of Representatives
2426 Rayburn House Office Building
Washington, DC 20515

Honorable Steve Cohen
Sub-Committee Ranking Member
Committee on the Judiciary
United State House of Representatives
1005 Longworth House Office Building
Washington, DC 20515

February 8, 2012

Dear Chairmen and Ranking Members:

On behalf of The Hertz Corporation, I am writing in support of HR 2469. Hertz supports this legislation because the explosion of unfair, discriminatory state and local rental car excise taxes is a problem that must be addressed.

State and local governments have unfairly targeted car rental customers to fund a host of public projects. Car rental customers have been singled out to pay for stadiums and other endeavors such as baseball spring training facilities, a culinary institute, police radios, even a sewage treatment plant. None of these taxes have any nexus to the car rental industry. Over the last twenty years, over 100 special car rental taxes have been enacted in 43 states and the District of Columbia. Car rental customers have paid over $7 billion in taxes for projects that do not have any connection to renting a car. And there is no relief in sight.

Car rental taxes not only impact interstate travelers to states and localities but they also have an adverse impact on local residents as well, many of whom rent for a variety of reasons such as their car is in the shop, they need a bigger car for vacation, or because they do not own a car.

In addition, car rental taxes may have a detrimental impact on the broader national economy. In fact, the coalition in support of this legislation includes organizations representing consumers, auto manufacturers, auto workers, the travel industry, taxpayers and the car rental industry. These organizations are concerned about the ripple effects that these taxes have on the economy and the industries and people they represent.

Hertz

H.R. 2469 addresses the aforementioned concerns by prohibiting state and local governments from imposing discriminatory car rental excise taxes in the future. Existing car rental taxes would be grandfathered, thus protecting projects that rely on such taxes for funding. The legislation will not impact state or local sales taxes or airport fees and will not apply to any car rental taxes enacted prior to the effective date of the bill.

Disproportionately imposing taxes on one group of consumers to fund public programs is bad tax policy. Hertz respectfully requests that you support HR 2469.

Sincerely,

Richard D. Broome
Senior Vice President
Corporate Affairs & Communications

Letter from Charles M. Loveless, Director of Legislation, the American Federation of State, County and Municipal Employees (AFSCME)

Gerald W. McEntee
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Harrisburg, PA

Michael Fox
Harrisburg, PA

Albert Garrett
Detroit, MI

Raphael George Jr.
New York, NY

Sherryl A. Gordon
Trenton, NJ

Lakesha Harrison
Oakland, CA

Danny J. Homan
Des Moines, IA

Salvatore Luciano
New Britain, CT

John A. Lyall
Worthington, OH

Roberta Lynch
Chicago, IL

Clement S. Middleton Sr.
Baltimore, MD

Gary Mitchell
Madison, WI

Douglas Moore Jr.
San Diego, CA

Henry Nicholas
Philadelphia, PA

Eddie L. Parks
Westerville, OH

Randy Perreira
Honolulu, HI

George E. Popyack
Oakland, CA

Greg Powell
Austin, TX

Laura Reyes
San Diego, CA

Lillian Roberts
New York, NY

Eddie Rodriguez
New York, NY

Lawrence A. Roehrig
Lansing, MI

Joseph P. Rugola
Columbus, OH

Kathy J. Sackman
Portland, OR

Eliot Seide
South St. Paul, MN

Mary E. Sullivan
Albany, NY

Braulio Torres
San Juan, PR

David Warrick
Indianapolis, IN

Jeanette D. Wynn
Tallahassee, FL

February 13, 2012

Dear Representative:

On behalf of the 1.6 million members of the American Federation of State, County and Municipal Employees (AFSCME), I urge you to oppose the "End Discriminatory State Taxes for Automobile Renters Act of 2011" (H.R. 2469). This troubling bill would restrict the taxing authority of state and local governments, establish a harmful and potentially costly precedent of federal preemption over state and local fiscal decision-making, and encourage further attempts by more industries and financial interests to seek their own additional restrictions to avoid paying state and local taxes. While these concerns are always important, given continuing severe state and local budget problems, now is a terrible time for Congress to preempt state and local tax authority.

H.R. 2469 would prohibit state and local governments from imposing their own taxes on the rental of motor vehicles at a higher tax rate than imposed on commercial and industrial property. This prohibition preempts the autonomy of state and local government decision-making. It confers an unfair advantage on one industry, picks winners and losers, and moves us down the slippery slope of congressional interference with all state and local tax policy.

We oppose H.R. 2469 because it ignores that state and local government tax systems differ across states and localities. Different jurisdictions impose their own taxes on goods and services, at varied rates, to meet varied revenue needs. Jurisdictions design their own tax rates and tax base to meet specific policy purposes, and to accommodate local voter preferences, history and economics. Every jurisdiction should be free to set a budget and tax policy to reflect its own constituencies.

We urge you to oppose H.R. 2469 because it would restrict state and local government taxing authority, set a harmful costly precedent, and limit opportunities to raise the revenues required to deliver vitally-needed public services and infrastructure.

Sincerely,

Charles M. Loveless
Director of Legislation

CML:mgb

American Federation of State, County and Municipal Employees, AFL-CIO
TEL (202) 429-1000 FAX (202) 429-1293 TDD (202) 659-0446 WEB www.afscme.org 1625 L Street, NW, Washington, DC 20036-5687

Prepared Statement of Jeffrey Friedman, Sutherland, Asbill & Brennan LLP

Testimony of

Jeffrey Friedman
Sutherland, Asbill & Brennan LLP

On Behalf of

The Coalition Against Discriminatory Car Rental Excise Taxes

Before the
U.S. House of Representatives
Committee on the Judiciary
Subcommittee on Commercial and Administrative Law

On
"The End Discriminatory State Taxes on Automobile Renters Act of 2011 (EDSTAR)"
(H.R. 2469)

February 1, 2012

2141 Rayburn House Office Building
Washington, D.C.

I am Jeffrey Friedman and I am a partner at Sutherland, Asbill & Brennan LLP, where I specialize in state and local tax. I am writing in support of HR 2469 entitled, "End Discriminatory State Taxes for Automobile Renters Act of 2011." States and localities have enacted numerous taxes on the rental of automobiles. These taxes often are discriminatory for two reasons: (1) they are imposed at rates higher than taxes imposed on general business transactions; and (2) the burden of these taxes are designed to be exported to out-of-state residents. States and localities have shown an unwillingness to resist the temptation to enact these taxes. Congress should preempt such future impositions.

I. Overview of the End Discriminatory State Taxes for Automobile Renters Act of 2011

This legislation would preempt states and localities from imposing discriminatory taxes on the rental of automobiles. The number of states and localities imposing taxes at rates that are two to three hundred percent higher than the general sales tax rate on the rental of automobiles has been growing in recent years. When justifying the imposition of these taxes to their constituents, legislators regularly acknowledge that the burden of the taxes will be borne primarily by out-of-state visitors to the jurisdiction. For instance, in 2006 the Mayor of Sandy Springs stated that a new car rental tax would primarily affect visitors, as the Atlanta-Journal Constitution reported on March 5, 2006: "We're not raising any tax . . . I didn't think it would be a big deal - most rentals are to visitors anyway."

Discriminatory taxes impede the flow of interstate commerce. In addition to all of the policy reasons that justify preempting discriminatory state and local taxes on automobile rentals, there

are legal issues as well. The dormant Commerce Clause has been consistently applied as a limit on states' and localities' taxing powers. A chief component of the dormant Commerce Clause set of protections is the ban on discriminatory taxes. The U.S. Supreme Court consistently has held that states and localities cannot favor in-state persons over out-of-state persons through tax policies. Discriminatory automobile rental taxes are targeted to do just that – foist a high tax burden on out-of-state persons. While the car rental industry, and its customers, have resisted costly litigation to challenge discriminatory taxes, constitutional challenges to discriminatory state and local taxes is inevitable without Congress' intervention.

States and localities have provided various justifications for establishing discriminatory tax regimes, including the replacement of an existing tax with a new discriminatory car rental tax. For instance, some states and localities have enacted legislation which serves to replace a business personal property tax on rental vehicle inventories paid by the rental companies with some form of discriminatory gross receipts tax. Doing so shifts the tax burden almost entirely from local businesses to out-of-state rental car customers. While state and local governments have an obligation to determine the most efficient distribution of revenues to meet their needs, they are not free to enact taxes which discriminate. The proposed bill would prevent states and localities from imposing new discriminatory taxes on rentals of automobiles and ensure that automobile rental companies and their customers are treated fairly by states and localities.

II. Congress' Authority under the Commerce Clause

A well established constitutional principle is that Congress may use its authority under the Commerce Clause to prohibit discriminatory taxation that burdens interstate commerce. In fact, Congress has exercised its Commerce Clause authority to prohibit discriminatory and illegal taxes on several industries that were vulnerable to such exactions and critical to healthy interstate commerce. Examples of Congressional preemption of burdensome state and local taxes include plimitations on the airline industry, the railroad industry, the interstate generation and transmission of electricity, and electronic commerce.

Transportation Industries: Prohibition on Discriminatory State Taxes

- The Railroad Revitalization and Regulatory Reform Act (4-R Act). In 1976, Congress enacted legislation to rehabilitate the railroad industry. Included in the 4-R Act is a section that prohibits discriminatory taxes on rail carriers, currently codified at 49 U.S.C. § 11501. Specifically, states and localities are prohibited from imposing a tax "that discriminates against a rail carrier providing transportation" because those taxes would "unreasonably burden and discriminate against interstate commerce."[1]

- The Motor Carrier Regulatory Reform and Modernization. In 1980, Congress prohibited discriminatory taxes on motor carriers, similar to the protection it had

[1] The full text of the applicable provisions is appended in Exhibit A.

already extended to rail carriers. The statute, codified at 49 U.S.C. § 14502, prohibits states and the political subdivisions of states from taxing motor carriers using a property valuation method that has a higher ratio than the true market value of the property, or by imposing tax on motor carrier transportation property at a higher rate than on similar property.[2]

- The Bus Regulatory Reform Act. In 1982, Congress granted the Interstate Commerce Commission (ICC) the authority to prescribe a state's tax if the ICC determined that the tax "causes unreasonable discrimination against or imposes an unreasonable burden on interstate or foreign commerce." Congress terminated the ICC and this provision in 1995, but preserved the protection against discriminatory taxes as described below.

Transportation Industries: Prohibition on All State Taxes

- Airport and Airway Improvement Act. In the 1970s, Congress passed legislation that would help states and localities develop and build a national infrastructure for air travel. As states' need grew for funding these projects, they imposed taxes on air travel. Some of these taxes were discriminatorily imposed against out-of-state passengers and cargo. In reaction to the discriminatory taxation, in 1982 Congress passed legislation preempting *all* state and local taxes imposed on the sale of air transportation or on the gross receipts derived from air transportation.

[2] The full text of the statute is appended in Exhibit B.

The statute, amended in 1994 and currently codified at 49 U.S.C. § 40116, also prohibits states and localities from imposing taxes on property and commerce related to air carrier transportation because those taxes "unreasonably burden and discriminate against interstate commerce."[3]

- The Interstate Commerce Commission Termination Act (ICC Termination Act). In *Oklahoma State Tax Commission v. Jefferson Lines, Inc.*, 115 S. Ct. 1331 (1995), the Supreme Court held that Oklahoma could impose a tax on the sale of a bus ticket used for interstate transportation. Eight months later, Congress overturned the *Jefferson Lines* decision with a provision in the ICC Termination Act, currently codified at 49 U.S.C. § 14505. States and their political subdivisions may not impose taxes on passengers, transportation, the sale of transportation, or gross receipts from transportation of passengers in interstate commerce by motor carrier.[4]

Other Industries: Prohibition on Discriminatory State Taxes

- The Tax Reform Act of 1976. Congress has used its authority to limit state and local taxes under the Commerce Clause to prohibit discriminatory taxes on the generation or transmission of electricity, currently codified at 15 U.S.C. § 391. The Act prohibited states and localities from imposing "a tax on or with respect to

[3] The full text of the applicable provisions is in attached Exhibit C.

[4] The full text of the applicable provisions is in attached Exhibit D.

the generation or transmission of electricity which discriminates against out-of-State manufacturers, producers, wholesalers, retailers, or consumers of that electricity." The legislation was important to ensure that the nation's power grid was able to use energy from various states and localities without restriction from state governments.

- Internet Tax Freedom Act. In 1998, Congress passed the Internet Tax Freedom Act (ITFA), currently codified at 47 U.S.C. § 151. ITFA was enacted to ensure that the Internet was not encumbered by burdensome and discriminatory state and local taxes. Among other provisions, ITFA prohibits states and their political subdivisions from imposing "multiple or discriminatory taxes on electronic commerce." Under ITFA, discriminatory taxes include taxes that are imposed on electronic or internet commerce but not generally imposed on similar transactions; taxes that are imposed at a different rate than taxes generally imposed on similar transactions; and taxes that are imposed on a different person or entity than in the case of similar transactions. ITFA was originally effective for three years, but has been extended several times, most recently in 2007. It is now effective through 2014.

Enactment of federal legislation to preempt harmful and discriminatory taxation is far from unprecedented. In fact, the United States Constitution rests this important role solely with the Congress. Travel is vital to the growth of the U.S. economy. Currently, discriminatory taxes imposed on automobile renters are enacted without consequence as these taxes are paid by out-

of-state residents who cannot affect local policies. The End Discriminatory State Taxes for Automobile Renters Act of 2011 is a logical extension of Congress' pre-emption of other burdensome state and local taxes and is an appropriate exercise of Congress' authority under the Commerce Clause.

EXHIBIT A

- The Four R Act of 1976 was re-codified into the Revised Interstate Commerce Act in 1982, and re-codified again into the Interstate Commerce Commission Termination Act of 1995, codified at 49 U.S.C. § 11501:

(b) The following acts unreasonably burden and discriminate against interstate commerce, and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

(1) Assess rail transportation property at a value that has a higher ratio to the true market value of the rail transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

(2) Levy or collect a tax on an assessment that may not be made under paragraph (1) of this subsection.

(3) Levy or collect an ad valorem property tax on rail transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(4) Impose another tax that discriminates against a rail carrier providing transportation subject to the jurisdiction of the Board under this part.

EXHIBIT B

- The Motor Carrier Regulatory Reform and Modernization Act of 1980, codified at 49 U.S.C. § 14502:

(b) Acts burdening interstate commerce - The following acts unreasonably burden and discriminate against interstate commerce and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

(1) Excessive valuation of property.— Assess motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

(2) Tax on assessment.— Levy or collect a tax on an assessment that may not be made under paragraph (1).

(3) Ad valorem tax.— Levy or collect an ad valorem property tax on motor carrier transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(c) Jurisdiction - . . . .

(4) Violation.— If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), the court shall find, as a violation of this section—

(A) an assessment of the motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the assessment value of all other property subject to a property tax levy in the assessment jurisdiction has to the true market value of all such other property; and

(B) the collection of ad valorem property tax on the motor carrier transportation property at a tax rate that exceeds the tax ratio rate applicable to taxable property in the taxing district.

EXHIBIT C

- The Airport and Airway Improvement Act of 1982; amended by the Anti-Head Tax Act of 1994, codified at 49 USC § 40116:

(b) Prohibitions.--Except as provided in subsection (c) of this section and section 40117 of this title, a State, a political subdivision of a State, and any person that has purchased or leased an airport under section 47134 of this title, may not levy or collect a tax, fee, head charge, or other charge on--

(1) an individual traveling in air commerce;
(2) the transportation of an individual traveling in air commerce;
(3) the sale of air transportation; or
(4) the gross receipts from that air commerce or transportation.

(d)(2)(A) A State, political subdivision of a State, or authority acting for a State or political subdivision may not do any of the following acts because those acts unreasonably burden and discriminate against interstate commerce:

(i) assess air carrier transportation property at a value that has a higher ratio to the true market value of the property than the ratio that the assessed value of other commercial and industrial property of the same type in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.
(ii) levy or collect a tax on an assessment that may not be made under clause (i) of this subparagraph.
(iii) levy or collect an ad valorem property tax on air carrier transportation property at a tax rate greater than the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.
(iv) levy or collect a tax, fee, or charge, first taking effect after August 23, 1994, exclusively upon any business located at a commercial service airport or operating as a permittee of such an airport other than a tax, fee, or charge wholly utilized for airport or aeronautical purposes.

EXHIBIT D

- The Interstate Commerce Commission Termination Act, codified at 49 U.S.C. § 14505:

A State or political subdivision thereof may not collect or levy a tax, fee, head charge, or other charge on—

(1) a passenger traveling in interstate commerce by motor carrier;
(2) the transportation of a passenger traveling in interstate commerce by motor carrier;
(3) the sale of passenger transportation in interstate commerce by motor carrier; or
(4) the gross receipts derived from such transportation