

1 FLORIDA DEPARTMENT OF REVENUE  
2 COMMUNICATIONS SERVICES TAX WORKING GROUP  
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10 PROCEEDINGS: Public Meeting  
Vol. 1, Pages 1 - 126  
11 LOCATION: 2450 Shumard Oaks  
Boulevard, Bldg. 1  
12 Tallahassee, Florida  
13 DATE: December 7, 2012  
14 TIME: Commenced: 8:30 a.m.  
Concluded: 2:36 p.m.  
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16 REPORTED BY: ANDREA KOMARIDIS  
Notary Public in and  
17 for the State of  
Florida at Large  
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A P P E A R A N C E S

Committee Members:

MARSHALL STRANBURG, Chair

GARY RESNICK

SHARON R. FOX

DAVIN SUGGS

ALAN ROSENZWEIG

KATHLEEN KITTRICK

CHARLIE DUDLEY

GARY S. LINDSEY

BRIAN D. SMITH

Also appearing:

ANDREA MORELAND

\* \* \* \* \*

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P R O C E E D I N G S

MR. STRANBURG: Good morning, everyone. I would like to convene the sixth meeting of the Communication Services Tax Working Group. My name is Marshall Stranburg. I'm the interim executive director for the Department of Revenue. I will be chairing this meeting.

At this time, I would like Andrea to call the role.

MS. MORELAND: Marshall Stranburg.

MR. STRANBURG: Here.

MS. MORELAND: Charlie Dudley.

MR. DUDLEY: Here.

MS. MORELAND: Sharon Fox.

MS. FOX: Here.

MS. MORELAND: Kathleen Kittrick.

MS. KITTRICK: Here.

MS. MORELAND: Gary Lindsey.

MR. LINDSEY: Here.

MS. MORELAND: Mayor Resnick.

Alan Rosenzweig.

MR. ROSENZWEIG: Here.

MS. MORELAND: Brian Smith.

MR. SMITH: Here.

MS. MORELAND: Davin Suggs.

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1 MR. SUGGS: I was here earlier.

2 (Technical difficulties.)

3 MR. SUGGS: Everybody can hear me, too.

4 But I was here early.

5 (Laughter.)

6 MR. STRANBURG: Before we get started, I  
7 would like to address some of the administrative  
8 and housekeeping details of the meeting.

9 This is a non-rule public meeting. It is  
10 held under Section 120.525 of the Florida  
11 statutes. A notice of the meeting was published  
12 in the Florida Administrative Weekly on  
13 November 16th, 2012, in Volume 38, No. 73. The  
14 meeting agenda and materials are posted on the  
15 Department's website.

16 We have a court reporter who is creating a  
17 transcript of the meeting today. The transcript  
18 will be posted on the working group's web page.

19 If you wish to speak today and you are  
20 present in this room, please provide a completed  
21 speaker card to Lynne Moeller and Jamie Peate.  
22 Lynne and Jamie have identified themselves.  
23 Speaker cards are located on the side counter.  
24 Before speaking, please state your name and the  
25 organization you represent.

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1           We have created a web page on the  
2           Department of Revenue's website for the working  
3           group. Agendas, meeting materials, transcripts  
4           and other information relevant to the working  
5           group will be posted to the website. We do have  
6           hard copies of today's meeting materials  
7           available on the side counter.

8           If you would like to receive updates about  
9           the working group by e-mail, please provide us  
10          with your e-mail address. A sign-up sheet is  
11          located on the side counter. Please be aware  
12          that your e-mail will be considered a public  
13          record and subject to disclosure, if requested.

14          If you are participating in today's  
15          session using WebEx, please do not mute or  
16          unmute your phone using the instructions given  
17          by WebEx's automated system. To ensure today's  
18          session goes as smoothly as possible, our staff  
19          is managing the WebEx mute and unmute feature.

20          For those using WebEx, you should see a  
21          telephone icon next to your name on your  
22          computer screen. If you wish to make a public  
23          comment, please click on the hand icon located  
24          below the participant panel list. Our staff  
25          will let the facilitator know that you have your

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1 hand raised so you can be called on to comment.

2 Those not using WebEx can make a public  
3 comment by sending an e-mail to  
4 cstworkinggroup@dor.state.fl.us. Again, that's  
5 one word, cstworkinggroup@dor.state.fl.us. In  
6 the subject line use "CST working group."  
7 Please keep your comments brief. Your e-mail  
8 will be printed and read into the record.

9 We ask that you please turn off your  
10 cellphones or place them on vibrate.

11 The meeting is scheduled for all day.  
12 We'll be taking breaks throughout the day and a  
13 lunch break around noon.

14 Restrooms are located in the hallway that  
15 runs directly behind this room. The men's room  
16 is located at the west end of the hallway and  
17 the ladies' room is at the east end. Vending  
18 machines are located in the west end of the  
19 hallway right after the double doors.

20 Areas that are closed off to the public  
21 should be designated. This is a secure  
22 facility, so please stay in the main areas.

23 If you cannot stay for the entire meeting,  
24 please remember when you leave, we need to have  
25 you return your visitor's badge. You can either

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1 leave them on the side counter or turn them in  
2 to the security desk.

3 Does anyone have any questions before we  
4 get started?

5 And welcome, Mayor Resnick.

6 MAYOR RESNICK: Morning.

7 MR. STRANBURG: Good morning.

8 Okay. Our next agenda item is approval of  
9 the minutes of the October 16th, 2012, meeting.  
10 Does anyone have questions or comments about  
11 those minutes?

12 MR. LINDSEY: Move for adoption.

13 MR. STRANBURG: Okay. We have a motion  
14 for adoption. And if no one has any objection,  
15 we'll consider the minutes approved.

16 MAYOR RESNICK: Move to approve.

17 MR. STRANBURG: Thank you.

18 Our next item is we have some follow-up  
19 materials from our previous meeting. In your  
20 notebook, you will find, first, there is  
21 information from Visit Florida regarding sales-  
22 tax collections that are related to tourism.  
23 There is an e-mail message with respect to that.

24 There is information that was provided by  
25 Gary Lindsey regarding the State of Virginia's

1 law on public right-of-way user fees.

2 And we've also included the materials  
3 again, the information from the previous  
4 meeting. That was the data put together by our  
5 Office of Tax Research regarding the imposition  
6 of a flat 50-cent rate on prepaid transactions,  
7 an estimate of the rate of the discretionary  
8 sales surge tax necessary to replace local-  
9 communications tax amounts, and an estimate of  
10 the rate of sales tax necessary to replace  
11 communications services tax revenues.

12 We also received late yesterday a  
13 submission from MetroPCS, which has been added  
14 to your notebooks. And also, we have some  
15 copies available to the public at the side  
16 counter.

17 At the previous meeting, Mayor Resnick  
18 asked for some financial information about local  
19 governments. We noted at that time that there  
20 was some information available online from the  
21 Office of Economic and Demographic Research. We  
22 followed up with staff from EDR and we were able  
23 to obtain hard copies of the local government  
24 financial information handbook, which you've  
25 been provided today.



1           And we have also included in the meeting  
2 materials information submitted by Gary Lindsey  
3 on the holistic approach that we discussed at  
4 the last meeting and also information submitted  
5 by Sharon Fox on options, which takes us to our  
6 next agenda item, the discussion of options.

7           So, with that, let me ask Gary, is there  
8 something you would like to add with respect to  
9 the submission you made with regard to the  
10 holistic approach?

11           MR. LINDSEY: No, I -- well, I wanted to  
12 make sure that I was in complete understanding  
13 of what we had proposed after we left. I just  
14 had some questions. So, I just wanted to  
15 document to be sure I understood.

16           And then also, I wanted to add to the  
17 consideration for the options that, you know, as  
18 we're talking about having the State and local  
19 tax, that we need to also consider that the tax  
20 on DBS satellite would be the equivalent,  
21 similar to what we already have on the CST  
22 structure. So, I just wanted to point that out.

23           MR. STRANBURG: Sharon, is there anything  
24 that you would like to say regarding the  
25 information piece of it?

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1 MS. FOX: There is. We seem to spend a  
2 lot of time on the sales-tax options. And there  
3 are some concerns that local governments have,  
4 particularly for sales-tax options because sales  
5 tax is traditionally not a city revenue source.

6 CST is a very major municipal revenue  
7 source. So, it's not our first option. And if  
8 such an option were to be an option, there would  
9 need to be some guarantees and criteria set in  
10 place.

11 Because of the nuances of local government  
12 and, in particular, because it's a bonded  
13 revenue stream, it's something that we really  
14 have to have. And it needs to be a stable  
15 source of revenue that's ours, not something  
16 that we have to fight with another jurisdiction  
17 or another agency in order to --

18 MR. ROSENZWEIG: We would never fight with  
19 you, Sharon.

20 MS. FOX: And as long as you're in  
21 office...

22 (Laughter.)

23 So, that's why I presented some of the  
24 elements that would need to be addressed in the  
25 body of the language.

1           The other thing that really concerns me is  
2           that we kind of skipped over all of the other  
3           options with regard to broadening the base. We  
4           don't have a lot of options as far as broadening  
5           the base because internet seems to be becoming  
6           the base.

7           But I think that we need to spend a little  
8           bit more time or focus a little bit more on what  
9           the intent was, which was to stabilize the  
10          revenue stream.

11          And broadening the base, to the extent  
12          that we can, means also not raising the rate  
13          and, perhaps, giving us the ability to lower the  
14          rate, which I have heard has been a concern for  
15          some people among the working group. So, I  
16          would like a little bit more attention focused  
17          on those items that might help broaden the base.

18          I think that's enough said for the moment.  
19          But I would like to weigh in on further  
20          discussion.

21          MR. STRANBURG: Do any of the other  
22          members have any comments they want to talk  
23          about with respect to the discussion of options?

24          MR. LINDSEY: Do we have the option of the  
25          white board that we had last time? Can we see

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1           that? I just wanted to look back at what we  
2           did. I guess that's what we would be --

3           MR. STRANBURG: Right. That's what we  
4           anticipated doing. If you remember from the  
5           last time, the group had decided to focus in on  
6           one particular approach with respect to an  
7           option to put forward. And we've collected some  
8           information on that.

9           I guess what you're saying is you don't  
10          have that material that we sent out in front of  
11          you. You didn't bring it back with you?

12          MR. LINDSEY: No, that's fine. I just  
13          wanted to clarify. So, we're going to go back  
14          to the option that we all kind of reached  
15          consensus on and start talking about how that  
16          would meet -- how we might need to tweak it to  
17          ensure it addresses everyone's needs.

18          MR. STRANBURG: Correct. And if there are  
19          any of the other options that were discussed at  
20          previous meetings, too, that the group would  
21          like to have further discussion on those  
22          options, that's also something that we can do as  
23          well.

24          Okay. Do we need to recap where we were?  
25          Why don't we get you all a copy of the white-

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1 board materials that you mentioned. That might  
2 help refresh everyone's memory as to where we  
3 were in case you didn't happen to bring those  
4 with you this time.

5 Just give us one second. We'll have those  
6 available.

7 MR. SUGGS: Marshall, can I ask or put a  
8 question out there? As we kind of move forward,  
9 sort of wrapping up, we've got viable options  
10 here. I'm just curious, in everybody's mindset,  
11 are we focused -- part of our mission in doing  
12 this -- is it what should happen or are we  
13 focused on, like, political reality? Where are  
14 we? I mean, just in everybody's opinion.  
15 Because I mean, two may be different.

16 I know what we're talking about with the  
17 holistic option, I think, is we put our minds  
18 together and get some consensus on it. If we  
19 really want the best for this arena, I think  
20 this is what should happen. I guess we can talk  
21 later about being committed to working towards  
22 that.

23 But does anybody have any concerns about  
24 reality or expectations for a timeframe? It's  
25 not that there is a cap at all, but if anybody

1 has any questions.

2 MS. KITTRICK: I think there is always a  
3 concern about what's good tax policy and what we  
4 think is the right thing to do versus what the  
5 options are.

6 You know, even in Virginia when we were  
7 working on the reform there, it didn't happen  
8 overnight. It took a very concerted effort to  
9 get it done.

10 You know, my feeling is that we keep  
11 pushing for what we think is right. And if we  
12 work together to address the concerns that the  
13 local governments have, then I think, you know,  
14 standing together, we're a lot better off. I  
15 think we push for what's right, not just what's  
16 expedient in the past that we might not like.

17 That's just my opinion.

18 MR. ROSENZWEIG: And I'm thinking -- if  
19 it's not sales tax -- even if the message is  
20 sent that ultimately a replacement revenue is  
21 probably what's needed, I'm just concerned that  
22 this revenue, as we talked before, as much as  
23 the work we're putting in now, we continue to  
24 refine it, refine it, refine it, four or five  
25 years from now, the sands are going to shift, or

1 two years from now. We don't know. It's not a  
2 reliable, stable revenue stream.

3 As much as we want to make it that, we  
4 can't predict the future. You all are over  
5 there making things bigger and better and ways  
6 to get the things kids all want for the holidays  
7 now. It's making it very challenging to figure  
8 out how to properly tax that.

9 So, if sales tax ultimately isn't it,  
10 we'll at least send a message, potentially, that  
11 a replacement revenue in the long run is  
12 appropriate. I'm very supportive of that.

13 MR. LINDSEY: I agree, Alan. And I think  
14 the point that we're -- I think we're going to  
15 produce something that represents good policy  
16 and is a well-thought-out consensus proposal or  
17 option. Then a lot of it -- we'll have a lot of  
18 merits that will stand on their own.

19 So, I think we'll produce something that  
20 can be looked at and there can be discussions in  
21 the Legislature about what might be done. But I  
22 think the product that will come out of here is  
23 something that will deserve to be looked at and  
24 seriously considered.

25 Again, to Alan's point, it needs to -- we

1           need to have something that will be a stable  
2           revenue base going forward that doesn't need to  
3           be constantly looked at and tweaked over and  
4           over, something that's really forward-looking.  
5           I think we've come about as close as we can with  
6           this holistic approach, at least the concept of  
7           it.

8                     MR. SUGGS: I guess to add, we had our  
9           final policy conference last week. And we had a  
10          hundred newly-elected officials out of our body  
11          of 400. We adopted our statement that was  
12          presented from last time. The five basic  
13          principals would, then, support moving forward  
14          with this holistic option.

15                    But my guys were concerned that people be  
16          committed to the right thing. You know, a lot  
17          of stuff might not be a one-year issue, but  
18          staying on that track and being committed --  
19          like Alan said, sending the right message and  
20          then eventually working between staying  
21          committed and working at it.

22                    And I think technology would prove our  
23          point. I mean, the further we go, it will  
24          become clearer and clearer, I think, what we  
25          recognized over the past couple of months.



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1           And Sharon, I agree, even going forward,  
2           there are a lot of little details when we get  
3           down to implementing that have to be covered  
4           because I think everybody wants everybody to  
5           be whole. They want us to be whole. And we  
6           want them to have a competitive and equitable  
7           environment for them to conduct business.

8           At the end -- I think what we said last  
9           week is that we think this is a win for  
10          consumers, too. I think we've got all three  
11          bases covered. It's just how long will it take  
12          us to convince the people down there in the big  
13          white building.

14          But the counties are officially -- our  
15          final position adopted the same ones that I read  
16          into the record, I think, two weeks ago, the  
17          support. That will be mailed to all of the  
18          legislators and everything. So, we're  
19          officially where we've been sort of represented.

20          MR. STRANBURG: One thing I do want to  
21          bring up, too, for the consideration of the  
22          group is even if we consense that the option we  
23          want -- the preferred option we want to move  
24          forward is this holistic approach, might there  
25          be some other issues that we also want to put

1           some options out there separate and apart from  
2           that holistic solution for the reasons that  
3           Davin points out? It might not be something  
4           that's adopted immediately by the Legislature.

5                     Are there some other things, such as the  
6           prepaid issue, that the group feels there ought  
7           to be some options for consideration, that, if  
8           this holistic approach is not enacted right  
9           away, that the Legislature ought to consider as  
10          areas that need attention immediately rather  
11          than somewhere down the line?

12                    MR. SUGGS: Here is the thing, Marshall.  
13           I think we all agree, whether it's for PECO or  
14           whatever, we know the prepaid is the missing  
15           piece, whether we look at a flat fee or apply a  
16           percentage to it.

17                    But we learned from property taxes -- and  
18           how many painful bandaids have we tried to put  
19           on that we can't pull off now. You know, they  
20           were suggested as bandaids and now they are sort  
21           of permanent bandaids.

22                    The property tax system now compared to  
23           ten years ago before four or five bandaids is a  
24           complete -- you know, how complex -- I mean, you  
25           guys have the oversight and implementation of

1 all of it.

2 So, I'm cautious of a bandaid that moves  
3 us further away or makes getting to the holistic  
4 approach more complex. I think that's sort of  
5 why we're talking about it.

6 That could be the piecemeal approach or  
7 bandaid approach. But I think if it makes  
8 getting to the end game more complex, I think,  
9 my guys -- whether we spend our time speaking  
10 the same message of where we need to be and  
11 continue to work that message, then a bandaid  
12 making everything complex and moving us further  
13 away from our goal -- you know, the unintended  
14 consequences of the bandaid.

15 And what little capital we have -- I think  
16 we would prefer to spend it on a solution that  
17 has -- or a more long-term solution that you  
18 have with technology.

19 MR. STRANBURG: Sharon?

20 MS. FOX: I have a little bit different  
21 position than Mr. Suggs only because I don't  
22 think that the alternate revenue source or the  
23 holistic approach is likely to occur  
24 immediately. I think there are so many details  
25 about how something like that can work that I

1 don't think that that's going to plug the hole  
2 in the dike.

3 I do believe there are some things we can  
4 do in the interim to stem the hemorrhage. And I  
5 put those in my paper, one of them being adding  
6 the surcharge to the prepaid just for the  
7 interim until the alternate revenue source can  
8 be identified and until the whole program can be  
9 fleshed out because that is a hole in the dike  
10 that's getting larger by the day.

11 The other thing is broadening the base, to  
12 the extent that we can. My interpretation of  
13 the unbundling provision that was passed last  
14 year made that hole in the dike a little bit  
15 bigger. In fact, I think it's going to become  
16 painfully obvious that it's getting larger again  
17 by the day. And to reverse that in the interim  
18 until we're able to come up with a holistic  
19 source, a holistic plan, I think will help.

20 Any time that we can eliminate disparate  
21 treatment between services and service  
22 providers, I think that stabilizes the revenue  
23 source. So, I'm all for anything that gets rid  
24 of the loopholes and broadens the base a little  
25 bit so that we have stopped some of the erosion

1           until we can fix this on a bigger level.

2           MS. KITTRICK: So, from my perspective, I  
3           would have to sort of agree with Davin. In  
4           terms of the prepaid issue, I do think we  
5           probably need to get that cleaned up this year.  
6           If we can't get the holistic approach moving in  
7           the right direction as quickly as we like, from  
8           our perspective, we need to get that definition  
9           cleaned up. We need to get rid of the  
10          uncertainty of it.

11          And in my mind, it's not trying to fit the  
12          prepaid, you know, product into the square peg  
13          of the CST. That doesn't get us down the road  
14          where we want to be in a year with the holistic  
15          approach either. That just creates a bigger  
16          revenue score.

17          I would like to just clean it up to make  
18          sure -- make it very clear that the prepaid is  
19          under the sales tax; that the definition is  
20          clear; that we get rid of that argument. And I  
21          think it sets us up better for moving towards a  
22          holistic approach.

23          I mean, that is something that is a  
24          priority of my company. And I think it's a  
25          priority of the wireless industry, as you've

1           seen in MetroPCS's submission. We need that  
2           clarification.

3           The reality of the situation -- if we have  
4           a hard time -- and I'm not just saying that we  
5           will. But if we do have a hard time with  
6           eliminating the CST and moving to a sales tax  
7           and, you know, increasing the sales tax a small  
8           amount, I think we're going to have just a hard  
9           time moving the prepaid product to the CST. If  
10          you're looking at political realities of  
11          increasing a tax on someone like a prepaid  
12          customer, I think you're going to have the same  
13          reality.

14          So, I think we just really need to focus  
15          on the holistic approach and making it as  
16          beneficial to local governments and to the  
17          industry as possible. But in the meantime, if  
18          we can't get that ball down the road, we have to  
19          clarify the CST definition.

20                 MR. STRANBURG: Gary?

21                 MR. LINDSEY: What I would like to suggest  
22                 is that we spend time today focusing on the  
23                 holistic option that we had all reached a  
24                 consensus on looking at, looking at things that  
25                 we need to add to it to be sure that we've

1 addressed all of the concerns like the local-  
2 government distribution and all of that.

3 The other issues that will -- that I know  
4 we said would be included as either addendum or  
5 as, you know, other options -- I think we can  
6 outline those. I mean, there is an option that  
7 was put forth for adding the surcharge to  
8 prepaid. That's an option.

9 I think we look at those as saying, you  
10 know, these are other options. We've already  
11 pretty much outlined those. So, I don't see  
12 that being an issue to really, you know, debate  
13 whether or not that should be in there. Those  
14 are things that have been presented.

15 So, I think -- I'm thinking the end  
16 product that we produce will be, here is this  
17 holistic option, which there was, you know,  
18 support of all members that thought that it had  
19 very good attributes and presents a very good  
20 story for the revenue side, for the retail -- I  
21 mean, the provider side and the taxpayer's side.  
22 Here this is.

23 Here are the other options that were  
24 looked at that. And that can include all of the  
25 others, I think, without any real controversy

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1 for the legislators to have as information.

2 So, I would think we could maybe revisit  
3 and say, okay, this is one of the options that  
4 we looked at. That will be included in the  
5 report, et cetera, et cetera. We might have --  
6 of all of the options that were submitted, those  
7 would be additional options that are there for  
8 information.

9 MR. STRANBURG: In going along with that,  
10 I think maybe that might be a good approach. If  
11 you would like to spend some time further  
12 discussing the holistic approach, then once  
13 we've wrapped that up, we can move on to some of  
14 the other things that, again, we want to  
15 identify what the working group had considered  
16 as other possible options. There may be some  
17 things that they wish to highlight.

18 But I think everyone seems to have  
19 consense-ed earlier on the holistic approach  
20 being the one that everyone is interested in  
21 moving forward on collectively.

22 So, again, I think we ought to spend a  
23 little more time making sure everybody is  
24 comfortable with that approach, bring forth any  
25 issues they see, any things they believe need to



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1 be dealt -- issues that need to be dealt with,  
2 which we attempted to identify some of those in  
3 a previous meeting on the white-board  
4 discussion.

5 If there are some additional items or any  
6 other discussion on the things that we've  
7 identified, let's start working through that.

8 MR. ROSENZWEIG: I think one thing -- it's  
9 more high level. I raised it last time and Bob  
10 kind of -- I don't think Bob is here today --  
11 kind of bristled a little about DOR doing that.

12 But I think it's really important that we  
13 convey to the Legislature that we didn't do this  
14 in a vacuum; that we acknowledge -- and I think  
15 Gary just said it -- that the fiscal impact to  
16 their constituents and our constituents --  
17 ultimately, the deal will be better.

18 You have data in there that says  
19 23 percent of the sales tax is collected from  
20 the tourists. Obviously, I think, the tourism  
21 industry doesn't want to be marking,  
22 necessarily, a higher sales tax.

23 But overall to the State of Florida and  
24 the residents who live here, this solution,  
25 hopefully, on a monthly basis will reduce their

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1 overall bill, presumably in cable or satellite  
2 or whatever.

3 I just think that that acknowledgment  
4 needs to be in the report somehow for the  
5 Legislature that we didn't just say, oh, this is  
6 what we want to do and there is some recognition  
7 of that fact.

8 And Bob kind of bristled that I was  
9 requesting examples and illustrative things. I  
10 think he said DOR doesn't do those types of  
11 things.

12 MR. STRANBURG: Well, we don't have that  
13 kind of data to be able to say that whatever an  
14 average household might be --

15 MR. ROSENZWEIG: Correct.

16 MR. STRANBURG: -- pays this much in sales  
17 tax in given a year versus this much in a  
18 communication services tax. Again, that  
19 information just isn't available to us.

20 MR. ROSENZWEIG: Right.

21 MR. STRANBURG: And Bob was trying to  
22 reflect that back to you.

23 MR. ROSENZWEIG: Right. But it's broader  
24 statements we can make, at least in terms of the  
25 total amount of sales tax that's paid outside of

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1 the State. We can probably make some pretty  
2 good leaps that most of the CST is paid by the  
3 residents of the State.

4 If we can make those types of statements,  
5 at least if we're balanced, more money -- less  
6 money will be paid by the residents under this  
7 scenario than they are paying now.

8 MR. STRANBURG: I understand. You're  
9 talking about the replacement revenue; where is  
10 the replacement revenue.

11 MR. ROSENZWEIG: That's all I would like  
12 acknowledged in the report.

13 MR. STRANBURG: I understand.

14 MS. FOX: Mr. Chairman, I would like to go  
15 on record that while the holistic approach, I  
16 think, is a viable option, I don't want that to  
17 be assumed that the holistic approach  
18 automatically equals sales tax because there are  
19 alternate -- there are alternate revenue streams  
20 that, I think, can be studied or created.

21 We created the CST. So, I just don't want  
22 the assumption to be sales tax. Because you say  
23 sales tax and it automatically goes in one  
24 direction. And I think that's not necessarily a  
25 good direction for the cities.

1           But an alternate revenue source, whatever  
2           it may be, I don't have an objection to.

3           MR. LINDSEY: It seems to me that as we  
4           discuss the holistic approach, an integral part  
5           of it was the fact that we were looking at the  
6           trend that more and more telecom services are  
7           kind of ubiquitous and may not be as easy to  
8           grab hold of as a pure telecom service.

9           And we were really acknowledging that, by  
10          increasing the sales-tax rate slightly, we were  
11          going to expand the basis for that means so that  
12          whatever is out there in the future could be  
13          captured in a more general sense and would  
14          follow -- I think we had talked about borrowing  
15          definitions from the streamline sales-tax  
16          language that would do that.

17          So, I think an integral part of the  
18          holistic replacement option we all looked at  
19          last time did include the sales tax. However, I  
20          do think, to the points that were made, we can  
21          say in here that, as an alternative in  
22          considering this holistic option, that some  
23          other tax vehicle could be looked at. However,  
24          this does kind of focus on broadening the base  
25          by the use of the sales tax.

1           We're talking about expanding already-  
2           expanding telecom communication services to the  
3           extent possible so that any and all future types  
4           of products that might be out there that can be  
5           taxable would be subject to the sales tax.

6           But again, I agree. We can add something  
7           in there that some other vehicle could also be  
8           considered.

9           MR. SUGGS: And I think to help you all  
10          understand, like with sharing -- and Sharon,  
11          correct me if I'm wrong -- in our revenue  
12          sharing -- some of our revenue-sharing vehicles  
13          right now that share the half-cent or sales tax  
14          from the State to the locals -- I think  
15          historically, that's been a little bit of a  
16          better program or stronger in terms of revenue  
17          production towards the counties, presently.

18          And what Sharon is saying, that CST -- if  
19          you look at the CST, the majority of the local-  
20          government revenue is stronger for the cities.

21          And like in our notes, however we do it --  
22          and we asked Bob about this -- but guaranteeing  
23          that everybody -- revenue neutrality, but also  
24          taking into account the cities annex on  
25          incorporated lands all the time. And the

1 current CST, the way it works is that the  
2 revenue would move to the appropriate  
3 jurisdiction.

4 But I think we need to take heed to moving  
5 forward on the holistic approach. I think  
6 Sharon laid out some stuff very clear in her  
7 document as to what the concerns with the  
8 statewide sales tax would lead to, just like we  
9 need to discuss satellite, too, and make sure  
10 that everything is equal.

11 But as we go through -- and then, I mean,  
12 we have Sharon and we have the Mayor here. If  
13 we're going to discuss it, let's make sure we  
14 pay heed to them.

15 Everybody needs to be -- I mean, everybody  
16 needs to be comfortable even -- I know we can't  
17 get into the weeds weeds here, but at a certain  
18 level, make sure that that stuff is addressed so  
19 there is a comfort level.

20 MR. LINDSEY: And Davin, the last time we  
21 talked, you seemed to know -- is there anything  
22 constitutional that you can recommend? Or is  
23 this something that can be done in statute as  
24 far as local distribution?

25 MR. SUGGS: Right now, it's sort of

1 statutory in the stuff. Like in our current  
2 revenue-sharing streams, it's statutory. The  
3 last CST -- you've got to remember -- I mean, I  
4 wasn't here. Sharon was here. She can tell  
5 you.

6 But when looking in the statutes, when  
7 they went in 2000 -- I mean, they pretty much  
8 put a spreadsheet and said here is what is  
9 happening for every jurisdiction. It's in the  
10 general laws. It's in the statutes.

11 So, right now, I think everything -- in  
12 terms of even getting to details, to try to  
13 guarantee or ensure in the beginning -- let's  
14 say everybody said, okay, let's do this. What  
15 does everybody get tomorrow. I think we can get  
16 as detailed as we would want to get by statute  
17 by putting it in a piece of legislation.

18 MR. STRANBURG: I do have to say, Gary,  
19 while I agree with Davin about the local issue,  
20 there is a potential constitutional issue with  
21 respect to the public education capital outlook  
22 funding. There was some reference made to  
23 Chapter 203.

24 I believe Bob McKee talked about this a  
25 little bit at our last meeting that would have

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1 to be considered and looked at and how to handle  
2 that specific reference to the Chapter 203 levy.

3 And if we are consolidating the CST into  
4 sales tax and eliminating the proportions of the  
5 communications services tax that we have now,  
6 there has to be some way of potentially dealing  
7 with that issue.

8 But again, that's something that can be  
9 put as an issue that needs to be handled as part  
10 of any holistic approach as an option.

11 Mayor Resnick.

12 MAYOR RESNICK: Not directly relevant, but  
13 our bond counsel advised that if the State  
14 eliminated the CST and adopted something else  
15 that impaired local government's ability to  
16 meet its debt obligations, that would be an  
17 impairment of our rights under the constitution.

18 The State, constitutionally, would be  
19 prohibited from removing the CST and not  
20 replacing it with something that allowed us to  
21 meet our debt obligations.

22 MR. STRANBURG: Why don't we just start  
23 with --

24 MR. ROSENZWEIG: Can I just --

25 MR. STRANBURG: Sure.



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1 MR. ROSENZWEIG: So, the concern, if we  
2 replace it --

3 MAYOR RESNICK: It has to be --

4 MR. ROSENZWEIG: -- equal to --

5 MAYOR RESNICK: -- equal or greater.

6 MR. ROSENZWEIG: That's what Davin was  
7 saying, that if the spreadsheet got adopted into  
8 law or something comparable, then we could all  
9 swap out our coverages and our bonds,  
10 ultimately.

11 MAYOR RESNICK: Well, ultimately, it's  
12 really up to the financial institutions that  
13 have --

14 MR. ROSENZWEIG: They like sales tax,  
15 generally, the bondholders.

16 MAYOR RESNICK: They like CST, also.

17 MR. ROSENZWEIG: Yeah, they used to.

18 MR. STRANBURG: Okay. Why don't we turn  
19 our attention to what we got from the white  
20 board from the previous meeting, go through that  
21 and see if there is any additional discussion  
22 that needs to be had from the items that were  
23 identified, and if there are some additional  
24 issues or considerations that we want to include  
25 as part of the option that goes forward under

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1 this holistic approach.

2 Y'all are going to have to help me  
3 remember what some of these may have referred  
4 to. So, the first one was an end-user policy  
5 analysis.

6 MR. SUGGS: I think that piece is what  
7 Alan was talking about; that if I've got to  
8 spend so much in general money versus how much  
9 I'm saving or not paying in CST when you convert  
10 it to a sales tax, then the end user wins in  
11 terms of saving somebody's personal --

12 MR. STRANBURG: I think we've covered  
13 that, talked about that. We understand.  
14 Anything else about that item?

15 MR. SUGGS: And Marshall, just -- I think  
16 Charlie is around enough -- one of the major  
17 concerns is a big umbrella -- even if we're  
18 doing -- we call this a swap. To the guys and  
19 ladies that we have to convince -- they are in  
20 fear of being tagged as a tax increase on the  
21 citizens; whether they've taken the Norquist  
22 pledge or whatever, everybody who just got  
23 elected. It makes clear sense to us. You've  
24 just got to translate it.

25 Even though -- because a lot of them --

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1 the initial shock and awe is the State sales tax  
2 is going up. They've got to make sense that CST  
3 is going away.

4 And part of the problem -- I had  
5 conversations with some of the folks -- is that  
6 part of our challenge is they believe CST is a  
7 hidden tax. People don't really see it, don't  
8 understand what they are paying. They look at  
9 the front of the phone bill or they rip it off  
10 at the perforated part or it's deducted  
11 automatically, however their payment is made.  
12 CST is more of a hidden tax than regular State  
13 sales tax.

14 So, if you get past the first minute of  
15 we're going to raise the State sales tax and get  
16 rid of -- I mean, I got that one. Nobody knows  
17 what they pay in CST. They're just going to  
18 know the sales tax is going up. But that's just  
19 part of the -- I don't know how we do it in DOR.

20 Marshall, I know you guys don't want to  
21 produce it. But at some point, there has got to  
22 be the analysis that shows our point that this  
23 is better for all parties -- this has the  
24 potential to benefit all parties including the  
25 end user, which is the citizen, the voter, the

1 customer.

2 At some point, I think we all have  
3 technical assets, whether the industry -- we  
4 have technical assets. And we have access to  
5 technical assets, too.

6 MS. KITTRICK: Charlie said he can get me  
7 some information on the average cable bill. And  
8 I can work with the wireless industry to get the  
9 information on the wireless bill. And Verizon  
10 can get information on our average bill.

11 We can work with an economist who has  
12 done work for the telecom industry, Scott  
13 Mackey, and see if he can run some things.  
14 Scott, if you're listening, we're putting you to  
15 work.

16 (Laughter.)

17 MR. STRANBURG: So, we will look for all  
18 of you to give us some information on that.

19 MS. KITTRICK: Yeah, maybe, an average  
20 telecom consumer who has four wireless lines and  
21 a land line and cable bill.

22 MR. ROSENZWEIG: And you can do samples.

23 MS. KITTRICK: Right. Right.

24 MR. ROSENZWEIG: One, two, three, four --  
25 you have different packages of the cable.

1 Here's your total. Here is a range. And if  
2 your income is "X" to "Y," this is how much  
3 sales tax you generally spend, taxable  
4 transactions you have.

5 The Federal Government has it for income  
6 tax purposes. So, the tables are out there.

7 MAYOR RESNICK: We should add to that,  
8 too, I'm sure the Legislature and other interest  
9 groups are going to want to be comfortable that  
10 whatever increase in sales tax is proposed, that  
11 it's not going to have a negative impact on  
12 tourism and economic development from outside  
13 entities entering the State.

14 That's wireless's biggest industry. And  
15 that's why the legislature is very committed to  
16 economic development and encouraging other  
17 businesses to enter the State. So, that  
18 analysis has to be done as well.

19 I have no idea whether this would put us  
20 in the higher realm with respect to the  
21 taxation, generally, compared to others. Those  
22 are kind of competitive disadvantages.

23 MR. SUGGS: I think there are reports out  
24 there. I think the senate FNT last year, summer  
25 before last year, did an internal report,

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1 especially, like, on sales-tax rates. I know  
2 they looked at the southeast region. They  
3 prepared a State rate, local rates. What does  
4 that do in terms of competition between Georgia,  
5 Alabama so that other --

6 MAYOR RESNICK: Well, Texas is up for  
7 economic development. We're always competing  
8 with Texas, it seems like. I don't know what  
9 their sales tax is, but apparently, it's  
10 considered a very low-tax state.

11 MR. STRANBURG: The next item is neutral  
12 fiscal impact for all parties. We've been  
13 talking a little bit about that already. Is  
14 there anything more that --

15 MAYOR RESNICK: It cannot be just a  
16 neutral impact. The revenue each jurisdiction  
17 receives must be equal to or greater than the  
18 revenue they are currently receiving. It has to  
19 be very specific. Otherwise, we're in violation  
20 of our debt covenants.

21 MS. FOX: I think that it also needs to  
22 take into consideration the taxes that we're  
23 currently not getting on prepaid that we should  
24 be getting.

25 And it has to have some type of

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1 recognition that growth needs to be incorporated  
2 because if you don't have some kind of growth  
3 incorporated, then you're automatically headed  
4 down the other direction.

5 MAYOR RESNICK: There is only one way to  
6 go.

7 MS. FOX: Then we're in the same position  
8 that we're in now. So, it's not a long-term  
9 solution. It's just more work for the current  
10 time.

11 MR. STRANBURG: Anything else on that  
12 item? Davin?

13 MR. SUGGS: Just a couple of things. The  
14 growth part, I agree. And right now, I think  
15 the State -- Bob knows that the REC is going to  
16 do the general revenue, if not next week, very,  
17 very soon. I don't know if they are going to do  
18 it in the month of December.

19 But one thing to think about -- when I  
20 told my guys, if you look at the future, the  
21 previous-established future growth rate for CST  
22 is relatively flat or negative.

23 Right now, I think general statewide sales  
24 tax -- we're looking at about 5 percent per year  
25 in terms of growth. And if you look, I think,

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1 over the last 20, 30 years -- we had a couple of  
2 years -- that was the first time, like, in 20 or  
3 30 years where sales tax actually went flat or  
4 negative.

5 But right now, everybody I talked to at  
6 the Capitol that's involved in REC -- sales tax  
7 looks pretty good -- good and robust and healthy  
8 again in terms of the State of Florida.

9 That's one of the things that my  
10 commissioners looked at is without raising my  
11 rate or anything, making this source healthy  
12 again so that it grows naturally.

13 So, right now -- I mean, with this  
14 option -- I mean if this option is statewide  
15 sales tax, I would take 5 percent a year in  
16 terms of growth. And looking over the last  
17 30-year period of the statewide sales tax --  
18 that's looking like a better option than what we  
19 currently have on that one.

20 The only thing I caution us on our side is  
21 part of our statement is revenue neutrality,  
22 which includes what we're already getting, and  
23 consideration for capacity, which to me, also --  
24 the absence of prepaid or what we should have  
25 been getting will be the tricky part because for



1 us as a group, we have to be careful of anything  
2 that smells like we're trying to increase our  
3 pockets or increase -- I think it's different --  
4 conversation for unused capacity is real.

5 More money to the people we're trying to  
6 convince -- this will sort of make things a  
7 little bit more difficult. So, we need to work  
8 on defining that because I think the unused  
9 capacity -- because we're moving from sort of a  
10 local option discretionary thing to where it's  
11 sort of general. We have to work on that one  
12 because it's important for us because we don't  
13 want to put an anchor on this boat and have it  
14 stuck in the sand, too.

15 We circle that unused capacity -- I think  
16 growth -- we look at what we've got versus  
17 general sales-tax growth. And as long as we  
18 structure this for city and county relationships  
19 as populations shift between unincorporated and  
20 incorporated as sort of -- the money moves how  
21 it should move. Just we've got to circle  
22 absence of prepaid and capacity. We have to do  
23 that the right way so we don't weigh this thing  
24 down.

25 MS. FOX: I think that's real easy for the

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1           counties to say because they have unused  
2           capacity. There are a lot of cities that don't  
3           have any unused capacity because we started out  
4           at the beginning at max because it was a swap of  
5           several taxes in cities that we already had.  
6           The counties did not have that option. So, they  
7           have the entire tax, for the most part, to tap  
8           into. So, I disagree.

9           I think as the market is shifting more  
10          volume to prepaid, the complexity that the  
11          disparate services has created has shown a  
12          decline in the revenues. And DOR has presented  
13          how prepaid is not being administered as the  
14          law -- as was written.

15          So, I respectfully disagree with Davin on  
16          that one.

17          MR. LINDSEY: A couple of things I would  
18          like to add. I believe that -- I think Bob  
19          McKee -- we can probably look at the transcript  
20          or we may recall. I think he observed that the  
21          sales tax is a more stable source of revenue  
22          than the CST. I think he said something to that  
23          effect. Might want to look at that and make use  
24          of that in our commentary.

25          With regard to the prepaid issue -- I know

1 we've had a lot of discussion about that. And  
2 there are those who think that, due to the fact  
3 that the State never updated the definition,  
4 that there is kind of found money out there.  
5 There are those that think it should have been  
6 taxed all along.

7 I think we can address that by saying that  
8 part of looking at fiscal impact, that there  
9 could be a determination. You know, it could be  
10 considered whether -- you know, look at the  
11 impact of what the tax rate would be.

12 There are those of us who don't agree with  
13 that. We think it always has been subject to  
14 sales tax and that's the way it was intended.  
15 And there was no intent to subject it to the  
16 CST. So, I think we can put that out there as a  
17 sidebar and say, you know, that that is  
18 something that can be considered, that the  
19 Legislature could look at.

20 But there is still a lot of conversation  
21 going on that even might be legal conversation,  
22 for all I know.

23 MAYOR RESNICK: But this is a bigger issue  
24 than what's existing now. Technology is always  
25 ahead of the law. So, prepaid may be the issue

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1 that's causing the problem now, but in three  
2 years, it will be -- you know, whatever. Call  
3 it something else. And it won't be something  
4 that is defined easily under the current  
5 definitions of communications services.

6 So, we need a general policy statement  
7 that all communication services should or should  
8 not be subject to whatever replacement or  
9 alternative revenue we're going to come up with.  
10 We can't be doing this every two years to deal  
11 with the next technology that comes forward  
12 that's unclear as to how it's treated.

13 And it needs to be consistent treatment.  
14 If something is going to be subject to some kind  
15 of special regulatory treatment because of the  
16 determination that it's a communication service,  
17 then it needs to be subject to the same tax  
18 treatment as other communication services.

19 MR. LINDSEY: I agree. And I think -- I  
20 don't know if we're done with two. That sounded  
21 like a good segue to three because we're talking  
22 about how we're going to use as-broad-as-  
23 possible definitions.

24 MS. FOX: And along those lines, I think  
25 exemptions, which I think is really another way

1 of saying it, need to be kept at a minimum  
2 because, in order to keep a stable base, we have  
3 to eliminate as many exemptions as possible  
4 because exemptions create disparities.

5 And like services being taxed the same  
6 take a hit every time there is an exemption; or  
7 whether it's an administrative-ease issue or  
8 whether it's for one particular segment of the  
9 industry issue. Every time that there is a  
10 special carve out, it diminishes the base. If  
11 you diminish the base, you increase the  
12 necessary recapture rate.

13 So, someone else has to pay for it if  
14 you're not going to or your industry or your  
15 reason, then somebody else has to take the  
16 burden of that. So, I think keeping exemptions  
17 at a minimum is an item that needs to be stated.

18 MR. STRANBURG: I believe we had talked a  
19 little bit in the group about what are the  
20 options out there for some definitions. I think  
21 references were made to the streamline-sales-  
22 tax-project definitions. Are there other  
23 examples of definitions or other sources or  
24 resources that could be looked at to come up  
25 with a good, broad definitional structure?

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1 MR. SUGGS: Well, I thought we agreed --  
2 like, with prepaid and the definition -- the  
3 reason why the streamlining came up was because  
4 we know that the internet sales tax is going to  
5 be the issue. The State is trying to move in  
6 that direction anyway.

7 Instead of changing that definition twice  
8 in the next five years, we know that, I mean,  
9 we're trying to move in that direction with Main  
10 Street Fairness and visibility as to go ahead  
11 and sort of get in that slot already.

12 And I think in that same nature and just  
13 going back -- I know we discussed this before,  
14 especially when the auditor was here. I think  
15 we really have to circle this one. I think my  
16 guys -- we're looking forward. Okay.

17 And it's an issue of unused capacity. And  
18 it's important because if we redo this, you're  
19 setting a base for everybody from which it can  
20 grow. And naturally, you want that base to be  
21 healthy and want your needs to be in there.

22 I know I've said this before. We dealt  
23 with sort of this issue last year. There is a  
24 hanging chad out there for some of you because  
25 of ambiguity in the definition. It's not

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1           like -- at least I'm speaking for myself. I  
2           mean, I'm not looking at it saying, hey, you owe  
3           me "X" amount, whatever. I want my piece of  
4           that.

5                        Clearing up ambiguity moving forward to  
6           something -- so, there is the discussion of  
7           unused capacity and what's in there and what's  
8           not -- I'm trying to say two different things  
9           versus I know there is stuff that needs to be  
10          cleared up so everybody can move forward and not  
11          have to continue to look over your shoulder on  
12          some issues. It's just they are looking for --  
13          they want everything to be properly considered  
14          as we move forward.

15                      So, to me, I understand the issue hanging  
16          out there for some of you, but just -- I mean,  
17          before we get done, at some point -- I don't  
18          want it to stop. We need to talk about a whole  
19          bunch of other issues. But I understand your  
20          guys' point. Just if we circle that one and get  
21          it clear so that everybody is comfortable -- it  
22          may not be able to be done.

23                      We may have to satisfy the hanging-chad  
24          thing for you guys and clearing up the  
25          definition. But we have to see how that affects

1 us as unused -- as what should have been  
2 happening with prepaid, how that affects unused  
3 capacity. That one might be a give-or-take at  
4 the end. I don't know how big it is. But I  
5 definitely understand your guys' issues.

6 If we need to talk about that at the end  
7 of the day and leave that at the bottom and hash  
8 it out later, I'm willing to do that because, I  
9 think, again, Sharon has legitimate issues in  
10 terms of local government. But I understand  
11 your issues.

12 I don't think that part needs to stop us  
13 from going forward. I think it can be worked  
14 out.

15 MS. KITTRICK: Yeah, I don't know that  
16 anybody has any strong disagreements to the  
17 definitions. They certainly aren't clear.  
18 They've been vetted. They've been debated for a  
19 number of years. I know when a communications  
20 definition -- it's very, very broad. It's very,  
21 very broad. So, more all-encompassing, I think,  
22 than anything else and forward-thinking. So,  
23 hopefully, we won't have to, you know, come back  
24 and clarify anything after a few years.

25 MR. SMITH: Well, along the line of



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1 definitions, I think, as I listen to what people  
2 are saying, where we have problems are where  
3 definitions stray away from what the person is  
4 purchasing and start to focus on how they are  
5 purchasing it.

6 So, you know, if they are buying it in  
7 prepaid mode, now we have an issue, you know,  
8 that developed -- I mean, I'm not even sure what  
9 we sold prepaid back in 2000 -- if it was  
10 anything beyond this phone.

11 MR. DUDLEY: It was the card.

12 MR. SMITH: Right. Right. It was a card,  
13 but the technology that you're buying, you  
14 know -- let's not talk about how you market the  
15 product, but the rule of taxation based on how  
16 the transaction happens with the customer.  
17 Let's stick with the definition as far as what  
18 subject happens.

19 Because we start getting into how you  
20 market it -- I mean, great, I'll switch my boxes  
21 to prepaid cards and we'll be off to the races.

22 I'm just joking.

23 (Laughter.)

24 MR. SUGGS: Sort of.

25 MR. LINDSEY: I agree with what Mayor

1 Resnick said that we want -- as we look  
2 through -- I think the recommendation would be  
3 that we certainly look to the streamline-sales-  
4 tax definitions, but that we want to include in  
5 there that we want language that, you know,  
6 covers communications as broadly as possible,  
7 that anticipates whatever -- to the extent we  
8 can anticipate whatever is out there, that it  
9 would be covered so we don't need to do this in  
10 the future.

11 MR. STRANBURG: Okay.

12 MAYOR RESNICK: In terms of neutrality,  
13 too, how would you deal with, you know, getting  
14 to the total capacity with audits and  
15 outstanding issues that DOR still has on the  
16 table?

17 I mean, if there is still a lot of CST  
18 that's not been obtained yet by DOR because of  
19 the outstanding industries that haven't been  
20 audited or outstanding providers that haven't  
21 been audited, whatever -- how do you come up  
22 with the idea of total capacity?

23 MR. STRANBURG: I'm not sure I've got an  
24 answer for that, Mayor. I understand what  
25 you're saying. That's always part of the

1 challenge.

2 I think if you look at the way in which  
3 revenues are estimated, we're trying to  
4 determine what is the actual revenue stream  
5 versus what is an uncollected portion of that  
6 revenue stream, for whatever that would be.

7 MAYOR RESNICK: I think we have to  
8 identify that as part of the revenue-neutrality  
9 challenge as well -- not neutrality, but  
10 equality, I would say --

11 MR. STRANBURG: And that's something that  
12 I think the folks that do the revenue estimates  
13 for the State of Florida have a method of  
14 dealing with. I'm just not that familiar with  
15 how that works to be able to tell you and give  
16 you an answer.

17 MR. LINDSEY: So, if there is some  
18 material amount out there that -- we could just  
19 acknowledge there is some material amount that  
20 the Revenue Estimating Committee should be  
21 taking into consideration.

22 MR. STRANBURG: You know, you can look at  
23 the Federal level. You see tax-gap studies done  
24 at the Federal level. And they attempt to break  
25 down in those studies the level of uncollected

1 revenues that are either due to taxpayers not  
2 wanting to pay, the so-called underground  
3 economy.

4 I think there is also a chunk of that that  
5 you see is based upon things in controversy,  
6 differing points of view about whether something  
7 is subject to tax, not subject to tax. I think  
8 if you look at those Federal studies, you will  
9 see they have some type of breakdown there, how  
10 they come to it.

11 Again, I just don't know how -- I've never  
12 seen anything done in Florida to roll that down  
13 to the Florida level to be able to say we know  
14 there should be this amount of tax being  
15 collected. We have this amount that is  
16 collected -- that the gap, that difference, is  
17 due to this reason or whatever reason it might  
18 be.

19 MAYOR RESNICK: I think we just have to  
20 identify that so that we're sure that we're --  
21 you know, whenever they take that snapshot, that  
22 it's as accurate as possible.

23 MR. STRANBURG: Right. And again, I think  
24 that the professionals that do this for a living  
25 in the Economic and Demographic Research Unit

1 and then the Revenue Estimating Conference that  
2 ropes in principals from the Legislature as well  
3 as from the Governor's office -- I think they  
4 are well aware of how you have to do that and  
5 what they can do in order to capture that.

6 Anything else on the definition issue?

7 The next one is simplify audit-  
8 administration issues. Anybody have any  
9 additional comment? I think that one is rather  
10 self-explanatory.

11 MAYOR RESNICK: What was the -- I mean, we  
12 had talked about a lot of things with respect to  
13 that. One is increase audits, allow external  
14 contractors to audit, things of that nature. I  
15 didn't know where we were going with that.

16 MR. DUDLEY: I think this is a reference  
17 to the fact that sales tax is a much simpler tax  
18 to administer. People are more familiar with  
19 it. It's not a specialized tax like CST. There  
20 is no situsing involved because we're dealing  
21 with one rate. There is distribution involved,  
22 but there is nothing about the administrative  
23 situsing.

24 Plus, if you improve the definitions in  
25 order to streamline, you should have more

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1 clarity in the tax code. You don't have the  
2 legal dispute that's sitting out there with  
3 prepaid, for example, and other things like  
4 that.

5 MR. STRANBURG: I think what you're  
6 talking about, Mayor, is something separate from  
7 the holistic option. That is the whole issue of  
8 is there a better way to ensure there is  
9 compliance with the communication-services-tax  
10 laws, or if you move to the holistic approach,  
11 the sales-tax laws.

12 Or if you're looking at another revenue  
13 stream, that revenue stream is going to be  
14 committed to local governments; that there is  
15 the level of compliance there that should be  
16 there to ensure that that revenue stream is  
17 sufficient enough to cover those needs.

18 Again, I would think that's something that  
19 we can discuss as another option to put forth as  
20 something that doesn't have to necessarily go  
21 into this particular option.

22 Local-government distributions. I think  
23 we're also hearing what you've said, Mayor, and  
24 others, that there needs to be the assurance  
25 that there is at least the current level of

1 revenue to cover your obligations. If not, you  
2 know, I think -- as you seem to be indicating,  
3 give your bondholders some level of comfort to  
4 go beyond that. But we understand their needs.

5 There would need to be some way to  
6 determine how those revenue streams are  
7 allocated to the local jurisdictions, whether  
8 it's by formula -- whatever methodology that  
9 comes up -- to be sure that we know that you're  
10 receiving what you need so we don't put you in a  
11 bad situation.

12 MS. FOX: And I think that I've enumerated  
13 several issues. And just to keep from having to  
14 read them all, I think that they should be  
15 incorporated.

16 MR. SUGGS: I'm looking at six issues  
17 here -- I mean, I don't care if we go through  
18 them. I'm glad -- I've been trying to go  
19 through them. I think, for the most part, we've  
20 covered them or I think they are doable.

21 In terms of -- I agree with Sharon. This  
22 goes a long way because, I mean, we sort of have  
23 to get this part right for us. But I think  
24 she's outlined them very well, at least to  
25 categorize the buckets of detail that we need to

1 get to for the comfort level for the 470 local  
2 jurisdictions that will receive something from  
3 this.

4 MR. STRANBURG: Just to be sure, Davin,  
5 what you're talking about are Points 1 through 6  
6 that are --

7 MR. SUGGS: Yeah, on Page 4.

8 MR. STRANBURG: -- at the top of Page 4 of  
9 Sharon's submission, which is Page 34.

10 MS. KITTRICK: From my perspective, I  
11 mean, I think -- I think that they are fine. I  
12 agree that No. 5 -- as long as we're not talking  
13 about -- unused capacity, yes. But going back  
14 and saying whatever they should have been  
15 calculated was prepaid -- that's the only issue  
16 I have.

17 But as this is stated one through six, I'm  
18 okay.

19 MR. STRANBURG: Anything else on the  
20 distribution issue?

21 MR. ROSENZWEIG: Can you give us a second  
22 to look at it?

23 MR. STRANBURG: Certainly.

24 MR. SUGGS: Marshall, if we can just --  
25 the time is not -- I don't think anybody would



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1 have a problem if we just take them one by one  
2 and talk about them and just talk about --

3 MR. STRANBURG: Yeah, because some of  
4 these -- we've already talked about some today.

5 MR. SUGGS: Right.

6 MR. STRANBURG: Do you want to go through  
7 them real quickly, then, please, Sharon?

8 MS. FOX: The first one is the initial  
9 rate for each -- and I had initially put this  
10 under the State-imposed local-option sales-tax  
11 proposal that was discussed.

12 So, I said that each individual county --  
13 because that's the way the system is set up. It  
14 would have to be a composite calculated from the  
15 amounts all jurisdictions received within the  
16 county plus the percentage to cover lost  
17 revenues from prepaid services to date.

18 In order to produce sufficient revenue to  
19 hold each local jurisdiction in the county  
20 harmless, each jurisdiction must be guaranteed  
21 what it was getting prior to the date of the  
22 swap in order to accommodate any bond  
23 stipulations for currently-pledged CST funds.

24 That's, in essence, what has already been  
25 discussed.

1 MR. STRANBURG: Just to clarify, you're  
2 talking about -- I think what I understand your  
3 heading to be about -- if there was going to be  
4 a local option versus a State replacement,  
5 correct? That's on Page 3 of your submission.  
6 Page 4 was the statewide replacement?

7 MS. FOX: Right. And I did that because  
8 of the way that the State option is handled  
9 versus the way the State sales tax is handled.  
10 Frankly, I would rather see the local  
11 jurisdictions get their own check, as it were.

12 But as an example of incorporating this  
13 into current structure, that's what I suggested  
14 only because we don't want to be in a position  
15 where we're having to fight with anyone else to  
16 get our funding.

17 Our funding needs to be readily  
18 identifiable. It needs to be ours. The CST  
19 money is ours. That might sound like a  
20 playground argument, but because we're held  
21 accountable to our bondholders, it's critical to  
22 us. And I think on the bigger-picture  
23 perspective, we have to go back to the original  
24 sources of revenue that went into the CST.

25 I know that everyone talks about going

1 forward, but we're talking about our livelihood.  
2 We're talking about the way that the structure  
3 was set up back in the 1940s with regard to  
4 utility taxes and franchise fees. Those were  
5 provided to support local government way back  
6 then.

7 So, we have to understand that there is a  
8 support issue that was incorporated into those  
9 taxes, which, then, morphed into the CST.

10 So, we're not wanting to be at the mercy  
11 of some other entity or agency for our  
12 livelihood. And I think that that's an  
13 important concept that needs to be incorporated  
14 into this.

15 MR. SUGGS: And Sharon, on behalf of  
16 counties -- and the green book --

17 MR. ROSENZWEIG: Are you paid to speak?

18 MR. SUGGS: No -- well, yeah, actually,  
19 I'm paid to speak -- but today, on behalf of me,  
20 Sharon, and the example -- if you go through  
21 this green book -- and there are some revenue-  
22 sharing streams, whatever formulas, that govern  
23 the basis of distribution, whether it be sales  
24 and unincorporated and incorporated or weighted  
25 by popular -- the formula or the basis for

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1 distribution, I understand. I hear what you're  
2 saying, Sharon.

3 So, there is not -- there are also other  
4 ways we may share gas taxes or something where  
5 that may be dictated by local agreement,  
6 dictated by previous expenditures where that  
7 might favor county versus city or the two are  
8 tied together based on cities may be getting  
9 what we've agreed to let them have or something.

10 Right now, CST -- the city CST is  
11 independent regardless of -- it's based on users  
12 and their jurisdiction and the generators, not  
13 based on an agreement between the counties.

14 So, in terms of that distribution formula,  
15 I think retaining some of that independence and  
16 autonomy and making sure that you get what is  
17 yours -- I hear that.

18 I think that comes down to whatever  
19 distribution formula -- at a higher level, what  
20 you guys are concerned about is total local-  
21 government revenue. If it's still 749, 800  
22 million of what is coming out now, whatever we  
23 do, if we go to statewide sales tax, 800 million  
24 still needs to be set aside. Whatever the  
25 number is that represents total local-

1 government -- distribution of local-government  
2 revenue.

3 I understand that that distribution  
4 formula needs to be -- we both have to have  
5 agreement on that where there is comfort level  
6 that reiterates and captures everything that you  
7 just said is your concern in terms of cities.

8 So, because there is more than one  
9 formula, we need to come to that formula of how  
10 that 800 is split up between us. So, me at the  
11 association level -- I understand that. I don't  
12 think that's something that cannot be worked  
13 out.

14 I think that's doable to represent -- I  
15 mean, not only the amount of money folks have  
16 been getting between the city and county, but in  
17 the autonomy and that yours is yours is not  
18 dependent on action or future agreement or  
19 whatever of the counties like a gas tax or  
20 something else like that. So, I get that.

21 But I think they are concerned -- their  
22 concern is when you structure this thing, that  
23 800 gets over here for Sharon and me to split up  
24 appropriately.

25 But if you go through this book, there are

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1 several different formulas of how -- different  
2 revenue-sharing distribution formulas that come  
3 from the statutes. We just have to get that  
4 right to where everybody is open.

5 MAYOR RESNICK: I think what we're saying  
6 is -- we don't have to have a whole debate about  
7 this now. We don't want our share of that  
8 \$800 million to flow through the counties.

9 MR. SUGGS: No, I think that's --

10 MAYOR RESNICK: It's not a distribution  
11 formula where the counties obtain the bulk sum  
12 and then distribute it to the municipalities  
13 rather than county. It goes directly to the  
14 municipalities.

15 And I think it actually needs to be that  
16 way under our covenants, under our debts.

17 MR. SUGGS: But I think the half-cent is  
18 like that now where it comes --

19 MAYOR RESNICK: Some of it does, some of  
20 it doesn't. I mean, it just depends on which --  
21 right. We would have to look at if there is an  
22 existing State formula that allows for that,  
23 other than CST, which does -- our funds, I'm  
24 assuming, would still come from DOR. Maybe not.  
25 I don't know.

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1           MR. SUGGS: Right. Not only half-cent,  
2           but municipal revenue sharing -- there is a  
3           municipal revenue sharing and the county  
4           revenue-sharing stream set up where that money  
5           flows from DOR directly to you guys.

6           MAYOR RESNICK: But there has to be also,  
7           with respect to that distribution -- maybe this  
8           was covered in your auditing section. Local  
9           governments have to have the ability to go back  
10          into whoever is distributing that to us, whether  
11          it's DOR or whoever, to audit that amount and  
12          have some way of being comfortable that that's  
13          an accurate amount.

14          MR. SUGGS: I think that stuff is set up  
15          through current sales tax. I mean, that's one  
16          of the things, going back to -- we're going into  
17          a system that already exists. There is already  
18          a collected sales tax. You already distribute  
19          the half-cent county-municipal revenue sharing.  
20          You already account for whether it's county only  
21          or shared local-option taxes, but the State  
22          already accounts for what's owed.

23          A lot of things -- and Sharon, I know you  
24          probably -- you guys get stuff wired directly  
25          from DOR regardless of what's coming to the

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1 counties already.

2 So, there is no way that we want to get  
3 all the money and say -- I don't Hillsborough to  
4 get everything and then say, you have to have an  
5 agreement with Hillsborough that, here is your  
6 share. No, I want everyone to get their share  
7 directly from DOR --

8 MAYOR RESNICK: They recorded that, right?

9 MR. SUGGS: I don't --

10 MR. ROSENZWEIG: He was just speaking for  
11 us.

12 (Simultaneous speakers.)

13 (Laughter.)

14 MAYOR RESNICK: The City of Tallahassee --  
15 I think you're, like, the distributor for  
16 Tallahassee, right? They get it first and then  
17 they distribute --

18 MR. ROSENZWEIG: We actually get Tampa's,  
19 too.

20 MAYOR RESNICK: Oh, okay.

21 MR. STRANBURG: I think we we're getting a  
22 little into the weeds now.

23 MR. ROSENZWEIG: We're way into the weeds.

24 MAYOR RESNICK: Regarding the  
25 distribution, though, too, obviously there are a



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1 lot of other entities that get a percentage of  
2 sales-tax revenue other than just the local  
3 governments and the State.

4 So, we just have to be cautious that this  
5 not get put in the pie that's distributed to  
6 other entities that don't currently get CST  
7 revenue.

8 MR. STRANBURG: I understand. I think we  
9 hear what you're saying. And I think, again,  
10 Sharon's points are pretty self-explanatory  
11 emphasizing that.

12 MR. SUGGS: And again, maybe the only  
13 piece -- I'll say this again. I really want to  
14 move -- like, when you're talking about unused  
15 capacity -- but I know in here, she has lost  
16 prepaid revenues. I want to move that to the  
17 end because, No. 1, we're a technical group, but  
18 I know this has come out of legislation. And  
19 that's more political, I think.

20 But I don't want to hamper anything  
21 because -- again, I'm speaking for me only.  
22 Looking in the past where it's three, four, five  
23 years -- that's not No. 1, 2 or 3 on the list.

24 I'm really trying to make sure that it's  
25 health and stability going forward. And so, I

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1 just want to make that -- in terms of me talking  
2 to my county commissioners.

3 MR. STRANBURG: We understand. We  
4 understand that.

5 MS. FOX: The next one was the Legislature  
6 must enact replacement revenue stream as a  
7 direct substitute for the CST without any  
8 required action by a local-government entity.

9 That is necessary in order to make sure  
10 that our funding levels stay the same before and  
11 after the switch, the transition. And that way,  
12 it is recognized as a transition or a  
13 substitution versus a new tax because it's not a  
14 new tax. It's just a replacement source or  
15 another revenue stream.

16 And it's not -- because this is something  
17 that has to be done on the State level, it's not  
18 something that we want laid at every city  
19 counsel member's or county commission member's  
20 feet to take responsibility for and, in the  
21 process, potentially harm our bond.

22 And the third one is there has to be a  
23 plan about how to distribute growth. I suggest  
24 that it's based on the proportion of the  
25 guaranteed portion to each jurisdiction. And

1           there must be a guaranteed portion to each  
2           jurisdiction in order to hold our bondholders  
3           harmless.

4                     The fourth one has to do with the replaced  
5           revenue must hold current bondholders -- do you  
6           see a theme here? The replaced revenue must  
7           hold current bondholders of CST pledges secure.  
8           And there must be clear authority and express  
9           authorization for local governments to pledge  
10          the revenues.

11                    The revenue stream must be 100 percent  
12          accessible for local-government bond pledging,  
13          if that's the will of the local government.  
14          That's the way the CST is now.

15                    There tends to be a pension for favorite  
16          issues, maybe community development or business  
17          development, that local governments have their  
18          revenues tied to, some favorite project of some  
19          current officeholder. And when we have those  
20          bonds pledged, we cannot convert revenues to  
21          another issue.

22                    Currently, CSTs are used to cover pledges  
23          on utilities' tax bonds because this was once --  
24          a portion of this was utility taxes,  
25          communication-service tax bonds because those

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1 have come into play through the CST.

2 Other people have used -- or other  
3 agencies have used it to pledge for loan  
4 payments, covenants to bond and appropriate -- I  
5 mean, budget and appropriate, otherwise known  
6 as, "CB" and "A" bond issues.

7 As I mentioned before, CST is allowed to  
8 be used by local governments as each local  
9 government sees fit. And the replacement  
10 revenue stream is to be the same.

11 MAYOR RESNICK: Can I just say one thing?  
12 In addition to the bond ability of the  
13 revenue -- whatever it is -- it also has to just  
14 go in to the general fund. It's used for  
15 general operations of local governments and  
16 can't be restricted to any particular type of  
17 utility fund.

18 MS. FOX: Question on your face, Charlie?

19 MR. DUDLEY: Well, I guess the question  
20 for the Mayor is: What are y'all doing  
21 currently with your bond-default hearings?  
22 Because in some jurisdictions, CST is down 8 to  
23 10 percent in the last couple of years because  
24 it's not growing. It's actually going in the  
25 reverse. The State has seen -- it's under

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1 12 percent.

2 So, if what your advisers are telling you  
3 is that, oh, if you don't get dollar for dollar,  
4 or we don't get a dollar plus a penny, we're  
5 going to have to bond default -- what are you  
6 doing now? Right now --

7 MAYOR RESNICK: We're not defaulting on  
8 the bonds. CST is pledged as the collateral.  
9 We're not in default. That doesn't mean we have  
10 to pay those debts solely out of CST.

11 MR. DUDLEY: Right. So, I'm not sure I  
12 understand --

13 MAYOR RESNICK: Our CST -- well, it's gone  
14 up or down, particularly in our city. We did  
15 specifically pledge CST as collateral for our  
16 debt. Next year, I understand it's going up.  
17 So, we'll see.

18 But we're paying our debt. It's just CST  
19 is the pledged collateral.

20 MR. DUDLEY: I don't have a lot of issues  
21 with what Sharon is raising. I don't quite  
22 understand how you include a growth factor. I  
23 don't know how you guarantee that consumption  
24 patterns and pricing in a free market -- that  
25 the Legislature is going to guarantee or can

1           guarantee or that anyone can guarantee that  
2           someone is going to get a hundred dollars this  
3           year and a hundred dollars next year.

4                     If there is a price war in the marketplace  
5           and/or the consumption drops off, you may only  
6           get \$80. The Legislature sees this every year.  
7           That's why they do revenue estimating to figure  
8           out sales taxes and what they are going to  
9           generate.

10                    My view of this holistic approach was  
11           we're going to have a sales-tax rate that is  
12           going to be enough -- increased enough to  
13           replace CST. And then within that world, you're  
14           going to have really three pieces of the pie  
15           that are subsets of that.

16                    You're going to have a guaranteed PECO  
17           piece and some magic language that we have in  
18           the current CST that sends some sliver of the  
19           money or some segment of the money into the PECO  
20           fund for gross receipts, but that's to service  
21           those bonds or to issue those bonds.

22                    You're going to have some slice of it that  
23           goes into the State general-revenue fund like we  
24           currently have with a portion of the State CST,  
25           which obviously, the Legislature has probably

1 the most flexibility with that, in my opinion.

2 Then you've got to have some final slice  
3 of the pie that's going to be put into, like,  
4 the current half-cent sales-tax distribution for  
5 the sake of a mechanism that's going to, then,  
6 go in to replace that 800 million State and  
7 local piece that's going to go in to some trust  
8 fund or trust funds, as Sharon suggested, or  
9 separate trust funds for distribution.

10 And I guess my point is: If the  
11 Legislature went down this road of setting a new  
12 sales-tax rate, it's not like you could have a  
13 city call up and say, oh, well, our distribution  
14 is down 10 percent this month because everyone's  
15 distributions are down 10 percent because the  
16 sales-tax consumption is down that month or that  
17 quarter for 10 percent. So, the State has to  
18 raise it from 6.34 to 6.4 to make up for it  
19 because we're going to default on bonds.

20 And I understand that CST is not what you  
21 necessarily pledge for the bond. It is part of  
22 a basket of revenues that may include revenue or  
23 may not. I know it's tricky. And I want this  
24 to be fully pledged, fully flexible just like  
25 you have now. I think those are points that we

1 all agree with.

2 So, I just want to make sure that I'm  
3 understanding. I don't know how you guarantee a  
4 growth. We thought the CST would produce  
5 predictable end growth for State and local  
6 governments over time. It hasn't.

7 Maybe it hasn't because of the services  
8 that have been exempt, whether it's prepaid or  
9 whether it's internet or something else. And I  
10 think we also talked about maybe it's also  
11 because prices are down and/or consumption  
12 patterns may be varying.

13 So, I just want to be clear. I think the  
14 holistic approach has those three subsets to it.  
15 I don't know how you guarantee anyone -- I don't  
16 know how the Legislature or anyone can guarantee  
17 growth. It's just we go to the most predictable  
18 stable tax that we have knowledge of. And  
19 that's sales tax.

20 So, that's just a thought. I don't  
21 disagree with anything here. I just don't know  
22 how you would include the growth factor.

23 MS. FOX: Well, I think one way is to not  
24 always consider it that the cities get the money  
25 last after everybody else has their piece of the



1 pie. And the way that you described it is  
2 exactly what happens a lot of times. Everybody  
3 gets their piece and then the cities gets what's  
4 left over. If you take the cities' guarantee  
5 out first, then that doesn't happen.

6 MR. DUDLEY: Well, I think the way you  
7 have to approach this is you actually have to  
8 start with probably the PECO portion for a lot  
9 of legal and political and policy reasons. And  
10 then I think you do the local-government  
11 portion. And then what's left over is the  
12 State's GR.

13 I think that's why stuff like eliminating  
14 the residential exemptions is important because  
15 I think you will stabilize the base a little  
16 more by doing that.

17 You'll be able to figure out what the rate  
18 needs to be to make all of those buckets at  
19 least revenue-neutral from the snapshot in time  
20 that you take and the Revenue Estimating  
21 Conference would take in January or February or  
22 March of 2013.

23 When you take that snapshot, you say,  
24 okay, we need 2.- "X" billion dollars to replace  
25 the revenues that are going into these three

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1 main segments, these three subsets. And that's  
2 about the best you can do.

3 MS. FOX: That's the answer to the  
4 question that you pose.

5 MAYOR RESNICK: I mean, actually, I don't  
6 know what happens if tomorrow everyone stops  
7 buying cable or purchasing a telephone line and  
8 just does everything via the internet. I have  
9 no idea what happens with respect to local  
10 governments in the State in terms of the  
11 revenue.

12 It's obviously going to be either the  
13 State is going to have to look at increasing  
14 other sources of revenue because, obviously,  
15 they spend money on something, apparently,  
16 because they have, what, a 60, \$70 billion -- I  
17 don't know what the State's budget is anymore.

18 We're going to have to look at alternative  
19 revenue sources, either increasing property  
20 taxes or increasing other fees because we spend  
21 money as well.

22 So, yes, if all of the revenue we're  
23 getting as a result of taxability on these  
24 services goes away, we'll look at other revenue  
25 resources. But hopefully that's not happening

1 tomorrow.

2 MS. FOX: Well, and the whole point of the  
3 holistic approach is that.

4 The next item -- I don't think we need to  
5 talk more about capacity because it's already  
6 been stated several times. But also  
7 accommodation should be made for when  
8 annexations occur.

9 MAYOR RESNICK: Or not just annexations,  
10 but also just changes in boundary.

11 MS. FOX: Right.

12 MAYOR RESNICK: It could be one city to  
13 another or whatever.

14 MS. FOX: And as Charlie mentions,  
15 separate trust funds for local-government  
16 entities between cities and counties.

17 And No. 6, the holistic option is intended  
18 to include the State-imposed DBS rate. And  
19 based on Federal law, I think that that still  
20 needs to be a stated position.

21 I think that we won't necessarily need  
22 something like a prepaid surcharge under the  
23 holistic approach because the holistic approach  
24 applies to everything.

25 So, it's the same tax rate no matter

1           what's being -- no matter what service, no  
2           matter what provider. That's really the  
3           intent -- that was the intent of the CST when it  
4           was first started. And I think it's the intent  
5           of the holistic approach that it eliminates  
6           distinctions between providers and services so  
7           that we don't have disparate treatment.

8           MR. STRANBURG: Okay. All right. Thank  
9           you, Sharon.

10           Why don't we take a morning break now and  
11           come back in 15 minutes.

12           (Brief recess from 10:06 a.m. to  
13           10:30 a.m.)

14           MR. STRANBURG: The next item we have on  
15           our list is, I think, one that we, again,  
16           touched on briefly a little bit this morning,  
17           the technical legal issue and, in particular,  
18           identifying the PECO situation with the  
19           constitutional reference to Chapter 203.

20           Are there any other issues of that anyone  
21           wants to bring up or wants to be sure that we've  
22           not missed as part of the discussion?

23           MR. SUGGS: Marshall, how big an obstacle  
24           do you think that is?

25           MR. STRANBURG: I can't say for sure,

1 Davin. We haven't had anyone look at it from a  
2 legal perspective. I'm sure if we put our great  
3 thinkers together, they could come up with a way  
4 of dealing with that.

5 MR. SUGGS: I think we would agree that  
6 PECO has to be taken care of. We would sort of  
7 get everybody on board or whoever we're pitching  
8 to. Regardless of the plans, to do more bonding  
9 or whatever, existing PECO -- that issue is  
10 going to be at the forefront. We need to get  
11 that part taken care of.

12 And I think we asked earlier -- I think  
13 Gary asked earlier, not only does it have to be  
14 taken care of, but I think we have to be able to  
15 do it statutorily.

16 We have to figure out what's statutory and  
17 what's constitutional. And we've got to wait  
18 until '14? That will determine if some of this  
19 stuff has to wait until '14 or if we can start  
20 addressing it in the upcoming session.

21 MS. FOX: Is it possible to incorporate a  
22 provision that once the -- if the moratorium on  
23 internet goes away, that internet is included in  
24 the base? Because that moratorium might be  
25 around forever, but then again, might not.

1           We're not the only ones that are seeing a  
2           diminution of revenues that are being caused by  
3           more and more services being placed or provided  
4           over the internet.

5           So, it seems to me that if we included  
6           some language that indicated that, based on  
7           applicability of Federal law, that we're able to  
8           include that in the base, then it should be  
9           included in the base.

10          MR. STRANBURG: The only thing I can say  
11          about that, Sharon -- because I think we've  
12          talked a little bit about it in previous  
13          meetings; that is, charges for internet access  
14          are a current exemption in the communication  
15          services tax.

16          That would seem to be, again, one of those  
17          policy decisions that the Legislature would have  
18          to weigh in on and decide. Obviously, that is  
19          something that we could put forth for as an  
20          option for them to consider, that if, as you're  
21          pointing out, the Federal moratorium is not  
22          renewed -- I believe it expires sometime in the  
23          next couple of years. I don't remember the  
24          exact date.

25          Again, that is a possibility for

1 consideration. But just understand there is a  
2 second step that would have to take place after  
3 the Federal action -- or inaction I guess you  
4 would say, Federally.

5 MAYOR RESNICK: Well, the whole idea of  
6 scrapping the CST and replacing it with the  
7 sales tax and raising the sales tax is a policy  
8 issue. So, if that's going to be an option  
9 that's put forth by this committee, I think we  
10 can also raise, as you just indicated, the  
11 option of ensuring that Florida taxes internet-  
12 access transactions to the extent that the  
13 Federal law allows.

14 I would also -- there are going to be  
15 other changes with respect to Federal law and  
16 taxation of these services. There are bills all  
17 the time that are introduced in Congress.

18 If Florida currently taxes a service that  
19 is eventually prohibited from taxation by  
20 Federal law -- do you know how that works in  
21 terms of -- for example, I think there is a  
22 bill, I think, the cell-tower industry is  
23 pushing to ban taxes on cell service. I'm not  
24 sure if CTA's bill --

25 MS. KITTRICK: It's not to ban taxes.

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1 It's to ban increases in discriminatory taxes,  
2 the newer increase in taxes. So, to the extent  
3 that you have a CST, if you will, that is higher  
4 than the sales tax, that would be preempted by  
5 Federal law.

6 MAYOR RESNICK: So, CST would be  
7 preempted.

8 MR. LINDSEY: It would be frozen.

9 MS. KITTRICK: It would be frozen. You  
10 could never increase it. If it was already in  
11 place, you could keep it.

12 MAYOR RESNICK: It's grandfathered.

13 MS. KITTRICK: It's grandfathered. But  
14 State or local governments couldn't have a  
15 discriminatory tax that was higher than a  
16 general tax, sales tax.

17 MAYOR RESNICK: So, if Florida eliminated  
18 the CST and adopted something else, like a  
19 surcharge on certain wireless services, would  
20 that be allowed?

21 MS. KITTRICK: If it's for 911 purposes,  
22 it's allowed. But if it's just a discriminatory  
23 tax that doesn't apply to any other general  
24 business, then, no, it wouldn't be.

25 MAYOR RESNICK: Even if they did it before



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1 the Federal bill was enacted, would it be  
2 grandfathered?

3 MR. LINDSEY: It would be. It would just  
4 freeze whatever rate, whatever was in place.

5 MAYOR RESNICK: So, we should note that in  
6 our discussion of options that we urge Florida  
7 to move forward with is something that they're  
8 going to consider with respect to wireless  
9 services sooner rather than later because there  
10 is Federal discussion about prohibiting that  
11 down the road.

12 MS. KITTRICK: But putting --

13 MR. LINDSEY: One of those --

14 MS. KITTRICK: I was just going to say,  
15 the reform that we're trying to do that we're  
16 talking about wouldn't be preempted because it  
17 would be moving it into the general sales-tax  
18 base.

19 MAYOR RESNICK: Well, that's one option.  
20 There is another option that Sharon and the  
21 others talked about extensively. And for some  
22 reason, it's not getting a lot of focus.

23 The surcharge on prepaid services, I  
24 actually think, is a better option than  
25 switching everything to a sales tax. And I

1 would like for the Legislature to consider that  
2 as an option. If they do, I think it would have  
3 to be enacted this coming session because, who  
4 knows -- well, Congress isn't doing much of  
5 anything, but you never know when that might  
6 stop.

7 MS. FOX: And that goes to the point of  
8 making sure that all like services are kind of  
9 the same or similar so that we don't carve out  
10 different pieces and make disparate treatment  
11 based on who is providing a like service.

12 MAYOR RESNICK: Right.

13 MS. FOX: It preserves the viability of  
14 the base and it -- we shouldn't have, just from  
15 a good tax-policy perspective, two different  
16 services that, because of the way they are  
17 marketed, one is taxed and one is not because  
18 then it's the tax that's driving up the sales.

19 MS. KITTRICK: But you have to remember,  
20 prepaid has always been taxed under the sales  
21 tax. It's not that it's not taxed. It's taxed  
22 under the sales tax.

23 MS. FOX: Just because it's called prepaid  
24 doesn't mean that those services were always  
25 taxed that way. Those services, before they

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1 became prepaid, because of the nature of the  
2 technology and the type of services being sold  
3 as prepaid, is different now than it was in  
4 2001.

5 In 2001, prepaid meant one of those little  
6 cards that you bought at Sam's Club or at Kmart.  
7 That is not what prepaid means now. So, you  
8 cannot say that prepaid has always been exempt  
9 because it has not. Those two things do not  
10 mean the same thing now as they meant in 2001.  
11 I think that's what DOR acknowledges in their  
12 definition now.

13 MAYOR RESNICK: My understanding -- and I  
14 thought that Marshall already explained that.  
15 While the industry may not be -- some of the  
16 industry may not be charging and collecting and  
17 paying the CST, DOR, I thought, has issued an  
18 opinion that it's supposed to. Maybe I'm  
19 misstating that.

20 MR. STRANBURG: We had issued an  
21 information publication earlier this year  
22 indicating what we believe was plain language of  
23 the statute, what it meant.

24 MAYOR RESNICK: Okay.

25 MR. STRANBURG: And then we knew, given

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1 that, that we would have some discussion of that  
2 issue as part of this working group. I think  
3 that was another impetus for putting together  
4 this working group. That is the apparent --

5 MAYOR RESNICK: -- the difficulty in  
6 collecting the CST with respect to prepaid,  
7 which I get.

8 You know, there was a compelling  
9 presentation earlier by you and T-Mobile --  
10 which I guess is being bought by Crown. But we  
11 get how difficult it is -- or Crown is buying  
12 the towers. I'm not sure.

13 We get how difficult it is to administer  
14 the CST with respect to prepaid services because  
15 of the situsing issues. But there are other  
16 alternatives as opposed to just scrapping CST  
17 for all communication services because of one  
18 product's difficulty in administering it.

19 MS. KITTRICK: But I think, again, the  
20 question -- and what we've been debating over  
21 and over and over again -- is you're never going  
22 to be able to capture all of the new technology  
23 under the CST and all of the new products and  
24 all of the new services and all of the new  
25 competitors. So, you're always going to have

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1           like services being taxed under a sales tax or  
2           not taxed at all and then the CST.

3           MAYOR RESNICK: Right.

4           MS. KITTRICK: That was the whole focus  
5           and the whole reason why we talked about moving  
6           to the sales tax because, you know, with the  
7           data, voice and video becoming an application on  
8           the internet, there are different providers who  
9           will never be under the CST, so...

10          MR. DUDLEY: I thought where we were kind  
11          of headed here, big picture, was that we were  
12          going to have some findings like CST is broken.  
13          It needs to be updated. We need to treat like  
14          services the same way.

15          We can't allow technology to interrupt  
16          predictable base and the revenues that State and  
17          local governments depend on that are, you  
18          know -- and then we need to have a transparent  
19          tax system for customers that's easy for them to  
20          understand and be straightforward with them as  
21          to what is taxable and not taxable.

22          But I thought we had developed consensus  
23          that, of all of the options, the one that had  
24          the most support or almost all of the support  
25          was moving to a sales-tax replacement holistic

1 approach with these caveats that we've been  
2 going through; Sharon's five or six caveats and  
3 some of the other issues that we've raised.  
4 You've got to have magic PECO language -- you  
5 know, some of this stuff we've sat here and gone  
6 through.

7 And then I guess I envisioned after that,  
8 that we would have either other options, which  
9 are not necessarily going to be consensus items;  
10 whether it's to move back to a franchise fee or  
11 whether it's to move to a single rate like in  
12 the satellite system with distribution, which  
13 would not be a sales tax, it would stay CST.  
14 But it would be moving to that perspective.

15 And we would, then, have issue areas like  
16 prepaid where we might say, well, if you  
17 adopt -- Legislature, if you adopt the holistic  
18 approach, the one that has the most consensus,  
19 you solve prepaid. It becomes part of the  
20 sales-tax base, which is how it is currently  
21 administered. Whether that administration is  
22 illegal or not, I guess, is an issue that people  
23 don't necessarily agree on.

24 There are some advantages because you  
25 maintain prepaid at a similar tax rate. You're

1 not going to double -- MetroPCS says you'll be  
2 doubling it if you put it in the CST as it is  
3 today.

4 Then you would have different issues under  
5 prepaid that would, you know, have to be  
6 outlined. Whether they are positions that all  
7 of us support or whether it's positions that two  
8 or four of us support, you want to just bullet-  
9 point those as issues that have been raised.

10 I don't agree with Sharon's position that  
11 while we're doing this or that next year,  
12 immediately, the Legislature should wipe out the  
13 bundling provision. But that's Sharon's  
14 position and some people may agree with Sharon  
15 on this and some people are going to disagree  
16 with Sharon on that.

17 So, I think we've created a little bit of  
18 a catalog. And that's kind of how I anticipated  
19 the report looking. I can't speak to other  
20 conversations that people up here have had with  
21 legislative staff and the Governor's office.  
22 But that's what I've been told they expect out  
23 of this group.

24 They expect that if we think the sales-tax  
25 replacement is the best policy and we want to

1           lay out the reasons that we think it is and some  
2           of the issues involved in it, whether that's  
3           politically feasible or not to raise the general  
4           sales tax to replace CST, which some people have  
5           voiced some concern about, so be it. That's  
6           their job to work through that.

7                     We're trying to present to them what we  
8           think is the most stable system going forward.  
9           If they don't want to do that, they can look at  
10          the report and look at other options for CST,  
11          some of which are consensus items, some of which  
12          are contentious items. I guess that's kind of  
13          how I anticipated that.

14                    MAYOR RESNICK: I don't disagree with  
15          that, but I think there are short- or  
16          immediate-term, basically, options that can be  
17          considered and then there are the longer-term  
18          options.

19                    I think the elimination of the CST and  
20          replacing it with a sales-tax increase is  
21          something that can't get accomplished in a  
22          two-month session that's about to start in two  
23          months. I don't think that's doable for this  
24          coming session.

25                    I don't think it would be prudent for this



1           committee to recommend that as an option because  
2           I think there is further study that needs to be  
3           done. The distribution mechanism is not as  
4           simple as we have sort of made it seem to be.  
5           And that's a huge portion of it.

6                     And it has to be done right. Otherwise,  
7           we're just going to create more problems for the  
8           State than exist currently. So, I don't think  
9           that's an option that we can recommend for this  
10          coming session.

11                    I think the prepaid surcharge and  
12          eliminating CST on prepaid might be a solution  
13          that the industry said would work and retail  
14          industry said would work and could be something  
15          that could be implemented sooner rather than  
16          later.

17                    And if that is ultimately transitioned  
18          down the road, if everything is moved to a  
19          different tax form, then that's something that  
20          the Legislature could consider as well. But it  
21          ultimately comes up with a new tax structure for  
22          all of those services.

23                    MR. SMITH: Marshall, one thing that Mayor  
24          Resnick brought up is, when you have, as we  
25          have, the Federal preemption -- right now, if

1           our Federal preemption went away, if they  
2           revisit the Telecom Act, which is not unfeasible  
3           in the next five years, and our Federal  
4           preemption went away, there is nothing in the  
5           current statute that would lower our rate. So,  
6           we would be stuck at a differentiated rate,  
7           which we don't necessarily agree with.

8                        So, as far as technical issues, we would  
9           like to see something that says, as long as this  
10          Federal matter exists and this rate is, in  
11          effect, that way, should that go away, we're not  
12          just kind of hanging in the wind, collecting a  
13          higher rate than Redbox in front of a local  
14          convenience store.

15                      MAYOR RESNICK: So, the idea would be if  
16          the Federal law allowed Florida's taxation of  
17          services that are not currently allowed to be  
18          taxed, that they would all be taxed at the same  
19          rate, regardless of the service.

20                      MR. SMITH: Right. So, if all of a  
21          sudden, there is no preemption of local  
22          taxation, Federal law goes away, we would be  
23          subject to collect the local tax. And then we  
24          would also have the onus of collecting the  
25          higher State rate as it's currently written,

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1           where some states have been codified that, as  
2           long as this exists, you know, this is the way  
3           our law runs.

4           MAYOR RESNICK: So, if we talk a little  
5           hypothetical, if CST goes away, it's replaced  
6           with an increase of the sales tax, which would  
7           apply to DBS service as well -- is that part of  
8           the bucket that's contributed to local  
9           governments? Because now, it's somewhat  
10          distributed to local governments, but not  
11          really. And how is that distribution handled?

12          MR. DUDLEY: Currently 4 percent of it is  
13          distributed to local governments. Now, I --

14          MAYOR RESNICK: But not equally.

15          MR. DUDLEY: Right. I think it was  
16          originally designed around the half-cent formula  
17          and then the Legislature came in and took a  
18          chunk of it to certain counties critical -- I  
19          apologize. There is a term.

20          MAYOR RESNICK: Fiscally constrained.

21          MR. DUDLEY: They took a portion of that  
22          4 percent, right?

23          MAYOR RESNICK: The ones that don't pay  
24          Davin's --

25                 (Laughter.)

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1 MR. SUGGS: They all pay that. I  
2 represent all of them -- all 67 counties; large,  
3 small, rich, poor.

4 MR. DUDLEY: But there is nothing that  
5 would prevent the Legislature right now from  
6 going in to the formula for that and saying  
7 instead of transferring 4 percent to that trust  
8 fund, we're going to transfer 5.5 percent. And  
9 we're going to take the loss on the GR side of  
10 the State -- back to my point of there being  
11 three buckets. There is nothing that says they  
12 can't do that.

13 There is nothing that says they couldn't  
14 adopt a 13.17 across the board, take the current  
15 DBS rate and say we're going to take 6 percent  
16 of that and put it in the local-government-  
17 distribution pot -- however that's going to be  
18 distributed. We're going to continue the  
19 gross-receipts allocation portion at this  
20 percent. And we're going to take away the  
21 residents' exemption, which creates 80, \$90  
22 million in revenue, and we're going to backfill  
23 the State GR side of the bucket with that money.

24 MAYOR RESNICK: When DOR did the analysis  
25 to come up with the 6.34 and the total pie being

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1 the same and then how that would be distributed,  
2 how did it figure the DBS portion of that? Do  
3 you know how that was --

4 MR. STRANBURG: I don't, but maybe Matt  
5 might be able to explain -- Matt Moore with our  
6 Tax Research office.

7 MR. MOORE: My name is Matthew Moore. I  
8 work for the Office of Tax Research.

9 The analysis that was done to find the  
10 corrected State rate took the dollars that were  
11 collected under the DBS and made it part of the  
12 total CST. So, the monies are replaced with  
13 that rate. And it's assumed that that rate  
14 would be the rate that DBS would be subject to.

15 MAYOR RESNICK: Was there a portion that  
16 was attributable to local government in that?

17 MR. MOORE: We didn't take into account  
18 the specific satellite distribution piece as  
19 it's distributed through the three pieces as is  
20 done now. We just took the dollar value as it  
21 was and made it part of the total CST that we  
22 were trying to create the replacement.

23 MAYOR RESNICK: Just another issue to  
24 raise that needs to be figured out.

25 MR. SUGGS: So, if I heard correct, you

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1           took into account total money. And we have to  
2           make sure -- we're trying to recreate neutral  
3           impact, recreate all of the distributions,  
4           including the piece shaved off for fiscal  
5           restraint.

6                     MR. MOORE: (Nodding head affirmatively.)

7                     MR. SUGGS: Okay.

8                     MS. FOX: And just to comment on Brian's  
9           recommendation, I think that it's critical, no  
10          matter what service, that there is no disparate  
11          treatment. So, I think that's something that is  
12          a valid point that needs to be included.

13                    MR. LINDSEY: If I could make one more  
14          comment, kind of back to where we are, as far as  
15          the holistic approach. My understanding is --  
16          and kind of mirroring what Charlie said, and I  
17          think, Mayor Resnick -- we will finish our  
18          writeup of comments on the holistic approach and  
19          report that as something which the group  
20          determined was something that would work.

21                    I don't think we're going to put a  
22          timeframe on it. We're not going to say, we  
23          don't think you're going to do it in the next  
24          session, therefore, choose Plan B.

25                    I think the report is to reflect this is

1 the consensus and here are the other options so  
2 that the legislators -- when this report is  
3 issued -- in their wisdom, they can look at it  
4 and say, yeah, you know what, this is something  
5 that was probably a two-year or a multi-year  
6 effort.

7 They may look and say, you know what, the  
8 surcharge on prepaid looks great. Or they may  
9 see another issue that they may like and want to  
10 look at legislation there. I'm thinking the  
11 report would look kind of like that.

12 It's just going to lay out this holistic  
13 approach as one of particular interest that  
14 we've delved into. And then we'll list all of  
15 the other options that can be considered.

16 Is that kind of the -- that seems to be  
17 kind of the way we're presented.

18 MS. FOX: The only problem that I see with  
19 that is that if you don't do something with  
20 regard to prepaid or if you decide that  
21 prepaid -- no matter what is being offered,  
22 prepaid is only subject to sales tax, that means  
23 that current CST is going to be diminished  
24 further. That has negative impact on local  
25 government. So, I have a big concern with that.

1           We already are seeing erosion caused by  
2 unbundling. And we know that we've got erosion  
3 based on prepaid. So, that does not -- if those  
4 things are not addressed, then we continue to  
5 lose money and we continue to lose money at an  
6 increased rate.

7           MR. DUDLEY: Sharon, I would propose we  
8 think about laying out this holistic approach  
9 and then say that, while the Legislature reviews  
10 that, there are some items that we just don't  
11 think can wait. There are policy decisions that  
12 need to be made. And I think No. 1 is prepaid.

13           The Legislature needs to understand there  
14 is a dispute. And I think you have to call it a  
15 dispute as to whether or not prepaid should be  
16 in CST. There are people who feel like it has  
17 to be or you significantly continue to erode the  
18 base and you have disparate treatment.

19           And there will be others who say it was  
20 always intended to be sales tax. Nothing has  
21 changed and it should be sales tax. You need to  
22 just point out, I think, for the Legislature  
23 that there are different opinions and that there  
24 are different issues involved in how you  
25 categorize prepaid.



1           But in the end, I think everyone around  
2           this table agrees that the Legislature needs to  
3           understand the prepaid issue more than just a  
4           30-second sound bite, with all due respect.  
5           They need to understand the numbers involved in  
6           that. They need to understand the impact on the  
7           consumers. They need to understand the impact  
8           on State and local governments.

9           MS. KITTRICK: Impact on retailers.

10          MR. DUDLEY: Yeah, retailers are going  
11          to -- there should be something in here that  
12          retailers have indicated that collecting  
13          anything but sales tax is problematic.

14          Yes, we had Wal-Mart, I think it was,  
15          saying they might be able to do a surcharge or  
16          something. And then we had, I think, the Retail  
17          Federation say, hey, that may be Wal-Mart, but  
18          that's not the convenience store down the street  
19          that sells those phones. I think I heard Randy  
20          Miller say that.

21          So, I think you just have to have one of  
22          those balanced reports to the Legislature,  
23          whether it's a majority or minority opinion,  
24          that lays out some of the issues that the  
25          Legislature and the staff of Legislature needs

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1 to be aware of when it comes to how are you  
2 going to address the prepaid issue.

3 Are you going to do nothing and allow the  
4 erosion to continue and to allow certain  
5 litigation for the next 12 months before the  
6 Legislature comes back? Or are you going to  
7 clarify it's sales tax? Well, if you do that,  
8 there is this. Are you going to put any of this  
9 in CST? Well, if you do that, there is this.

10 MS. FOX: I agree with that. My  
11 recollection of what Randy Miller said is  
12 different from what your recollection is.

13 MR. DUDLEY: Okay.

14 MS. FOX: My recollection was he said that  
15 a surcharge was doable whereas a sales-tax rate  
16 change was not.

17 MR. DUDLEY: Okay.

18 MS. KITTRICK: Well, I don't --

19 MR. LINDSEY: I think each of us reported  
20 our options. And those were compiled and kind  
21 of consolidated. I think those are out there.  
22 So, we've got the holistic that we'll report on.

23 All the others are laid out. I think  
24 there are options that say, continue as before.  
25 There are options that say subject to the

1 prepaid CST. There is another one that says use  
2 a surcharge. So, I think all of those are out  
3 there. We probably just need to go back and  
4 look at them to refresh our memory. But I think  
5 that's all there.

6 I don't really think -- I mean, we can  
7 talk further about it. But I think those  
8 options have already been laid out and will be  
9 included in the report. So, I think we're  
10 there.

11 MAYOR RESNICK: Not to lose sight of it --  
12 this is something we have to discuss at some  
13 point today -- and Charlie referenced it a  
14 little bit. But the fees for the use of the  
15 rights-of-way and permit fees are still an  
16 outstanding issue, especially if you wind up  
17 migrating some of these services through a  
18 surcharge and not charging a CST, which was the  
19 replacement source for those fees.

20 You know, my perspective would be that the  
21 condition on that would have to be -- and those  
22 carriers that are using the rights-of-way but  
23 not paying a CST have to pay for use of the  
24 rights-of-way.

25 MetroPCS -- I noticed in their comments --

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1 I just sort of glanced at it because I haven't  
2 had a chance to read it in full. But they use  
3 the rights-of-way. They have back-call. But  
4 because they are a communications provider and  
5 they are supposed to pay the CST, they do not  
6 pay for use of the rights-of-way. So, that  
7 would have to change.

8 MR. DUDLEY: But if their back-call is  
9 handled by AT&T, Verizon, Comcast -- those  
10 companies do pay. That's part of --

11 MAYOR RESNICK: Not -- I don't know if  
12 they actually pay for the use of the rights-of-  
13 way for that.

14 MR. DUDLEY: I think something that maybe  
15 I'm just not understanding that's been a theme  
16 on this issue is the franchise fees were part of  
17 the replaced local CST. I understand the growth  
18 has not been what people projected it to be. A  
19 lot of it is maybe due to the internet and that  
20 sort of thing.

21 But there was a snapshot taken in '99 and  
22 then again in 2000 and in between when the REC  
23 was gathering data from the local governments.  
24 I think we were allowed to project what 2001 was  
25 going to be, if I remember the submission

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1 process right.

2 All of that was taken into account when  
3 replacement rights were set. And all of the  
4 franchise and right-of-way fees are listed in  
5 the statute, in 202 and 204, as replacement  
6 revenue sources.

7 So, I'm really struggling with the concept  
8 that there needs to be an additional right-of-  
9 way or permit fee paid --

10 MAYOR RESNICK: It's actually not  
11 additional because, even now, local governments  
12 are allowed to charge rights-of-way fees for  
13 companies that don't pay the CST.

14 MR. DUDLEY: Right.

15 MAYOR RESNICK: So, you're basically  
16 including that and changing some of the  
17 statutory language -- or giving them the option  
18 of looking at changing that statutory language.

19 MR. DUDLEY: I think you're asking to  
20 charge twice for the same --

21 MAYOR RESNICK: For example, I think you  
22 can -- like, if a company is using the rights-  
23 of-way to provide internet service, you can  
24 charge that company the rights-of-way fee.  
25 There is nothing prohibiting that. You can't

1 tax them for the service. But then they should  
2 pay for the rights-of-way.

3 We keep forgetting about the point that  
4 it's a public resource that private for-profit  
5 companies are using for their own purposes.  
6 They should have to pay for that. That's the  
7 general concept. It costs money to maintain it.  
8 So, they should have to pay their fair share to  
9 maintain it.

10 MR. DUDLEY: I think when you look at  
11 Chapter 337, it says, unless you're a  
12 communications-service provider paying the local  
13 CST --

14 MAYOR RESNICK: Right, so --

15 MR. DUDLEY: -- then you may or may not  
16 owe a franchise fee depending on that particular  
17 local government's ordinance. There is a whole  
18 rule on it.

19 MAYOR RESNICK: Right. So, if we're  
20 talking about getting rid of the local CST  
21 portion for some companies to be exempt from  
22 that because it's too hard to implement -- for  
23 services being used because it's too much to  
24 implement, not companies -- then we have to go  
25 back to charging companies for their share of

1 using the rights-of-way.

2 MR. DUDLEY: Well, I think the dealers,  
3 though, that are collecting the CST -- my point  
4 is: The dealers collecting CST from their  
5 customers -- the franchise fee is embedded in  
6 there already. It was replaced.

7 MAYOR RESNICK: I think we're having a  
8 discussion now -- I think it's listed on the  
9 items that we still have to discuss.

10 But my sign-off on any type of holistic  
11 approach is conditioned -- I'm not supporting  
12 a wholesale -- first of all, I don't even know,  
13 from a policy standpoint, whether I could  
14 support getting rid of the CST, shifting to a  
15 higher sales tax. I don't know what that does  
16 for Florida.

17 I don't know if that hurts tourism. I  
18 don't know if it hurts economic development. I  
19 don't know if it really, really will have a  
20 detrimental effect on things that Florida and  
21 local governments and counties have been trying  
22 to accomplish.

23 But aside from that, any type of  
24 conditions related to getting rid of the CST and  
25 what it was supposed to replace would have to,

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1 in my mind, include compensation for the use of  
2 rights-of-way by private for-profit companies  
3 that are using it for their own purposes.

4 MR. DUDLEY: That are not dealers of  
5 communications? Or are you going to charge a  
6 second franchise fee? That's my question.

7 MAYOR RESNICK: Well, it's not going to be  
8 a franchise fee if you're paying sales tax -- or  
9 charging your customers a sales tax.

10 MR. DUDLEY: So, then we should go into  
11 the new sales-tax rate and reduce it and take  
12 back out all the franchise revenue that you were  
13 given as a replaced source, right? Because  
14 otherwise you're paying it twice.

15 MAYOR RESNICK: Well, you can --

16 MR. DUDLEY: That's what I'm trying to --

17 MAYOR RESNICK: -- go back to the  
18 snapshot.

19 MR. LINDSEY: The part that confuses me  
20 is, if we're talking about Item 2, neutral  
21 fiscal impact for all parties determines that  
22 current revenues that are currently being  
23 received are going to be preserved and it's  
24 going to be local-government distribution. It  
25 sounds to me like the current revenues being



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1 received are -- we've already addressed that.

2 So, it sounds to me like under this  
3 holistic option, we've said those will be  
4 replaced. They will be made whole for any  
5 revenues that are out there including the  
6 current ones.

7 So, I'm not following the concern about  
8 the right-of-way being carved out, unless we're  
9 talking about just purely carving that out and  
10 saying that's no longer -- it would almost be  
11 like, let's take that out of the CST right now  
12 and carve it out and make that something that's  
13 only in the right-of-way.

14 MAYOR RESNICK: It would be similar --

15 MR. LINDSEY: It's a part --

16 MAYOR RESNICK: It's similar to Virginia's  
17 model, which, you know, from what the fees for  
18 the rights-of-way are supposed to accomplish,  
19 from a policy standpoint, it actually does seem  
20 like it's a better way of doing it. You know, I  
21 mean, we're going back over ancient history.  
22 We're looking at what the CST was supposed to  
23 accomplish.

24 But I can't explain to a legislator why it  
25 makes sense to charge Mr. and Mrs. Jones from

1 New York when they are vacationing down in  
2 Florida for use of the rights-of-way for these  
3 companies that are making a profit for services  
4 they are not taking any advantage of.

5 You know, if that's what we're talking  
6 about doing is shifting the burden of  
7 maintenance of the rights-of-way to tourists and  
8 to businesses out of state, that doesn't make  
9 any sense to me.

10 MR. STRANBURG: I think we're probably not  
11 going to come to agreement on this at this point  
12 in time, but I think we've got enough  
13 information that we will work on setting this  
14 issue out in --

15 MAYOR RESNICK: It has to be --

16 (Simultaneous speakers.)

17 MR. STRANBURG: -- part of the draft. So,  
18 again, it becomes a policy issue for the  
19 Legislature to weigh in on, how it would like to  
20 deal with this issue.

21 I understand both sides' points of view.  
22 And we'll do our best to try to capture both of  
23 those, to leave that out there as a decision  
24 point for those policymakers to weigh in on.

25 Okay. The next item on the list was

1 create a sales-tax working group for technical  
2 issues. I'm not sure that that's something that  
3 there is much detail we would get into  
4 discussing on that.

5 I think we all realize when we discussed  
6 the option -- this holistic option -- at our  
7 last meeting, that there would be technical  
8 issues that would need to be worked through.  
9 However, we would like to propose they consider  
10 putting together a group to do that. I think  
11 that would be probably a good idea for the  
12 Legislature to get advised on some of those  
13 issues.

14 Again, I don't know that we want to try to  
15 invest and go through all of those, nor that we  
16 would necessarily do a good job in the time that  
17 we've got, putting that list together. But  
18 again, giving them, as part of the options,  
19 suggesting that they need to probably have a  
20 group to do that.

21 MS. FOX: Along those lines, Mr. Chairman,  
22 I think it's really critical that when we're  
23 talking about a working group, we talk about  
24 that with regard to the holistic approach.

25 You know, the CST was developed by a

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1 working group that included the State and the  
2 counties and the cities and the industry. And  
3 having all of those members made sure that  
4 everybody remembered the little nuances that  
5 maybe one group remembered, but another didn't.  
6 And it worked quite well. I think that we  
7 created something that lasted for a good, long  
8 time. And everybody was happy, at least  
9 initially.

10 Now, we've done it once. Maybe we can do  
11 it a little bit better the next time so it  
12 doesn't fall out quite so quickly. But I do  
13 think that a working group to help craft the  
14 language and vet the issues is important.

15 MR. STRANBURG: Okay.

16 MR. LINDSEY: So, that would really be --  
17 the record or the item would be to create a work  
18 group for technical issues and really,  
19 effectively, a draft that would actually create  
20 details, nuts and bolts.

21 MS. FOX: (Nodding head affirmatively.)

22 MR. STRANBURG: Okay. The next item is, I  
23 think, one we've discussed pretty  
24 comprehensively so far; maintain the ability to  
25 ensure future and current bonding ability. Tax

1 policy, which is kind of the crux of the whole  
2 purpose of this effort, is to recommend some  
3 ideas for tax-policy decisions on the part of  
4 the Legislature.

5 MAYOR RESNICK: Just to go back to the  
6 bonding ability, though, I think part of our  
7 options should include a weigh-in on that issue  
8 by financial institutions. They haven't been  
9 participating, at least publicly, in this  
10 process. And they are vital because they watch  
11 that issue on the bond and the debt. I think  
12 they need to be brought in to the process at  
13 some point.

14 MR. STRANBURG: Okay. The bundling issue.  
15 Again, that's something that we touched on a  
16 little bit this morning. I don't know if anyone  
17 wants to have any further discussion of that  
18 portion. Again, that's an issue for  
19 consideration as part of the options that would  
20 go forward and the movement of the CST with the  
21 sales-tax-based levy.

22 MS. FOX: From my perspective, if a  
23 holistic approach is adopted, that issue goes  
24 away because everything is taxed the same. If  
25 we're trying to carve out things, then I think

1 that that's a big issue as well.

2 The current State unbundling language is  
3 really overly broad. There are a lot of ways to  
4 manipulate the sales price that aren't  
5 necessarily good accounting practice or good for  
6 anyone that's trying to administer the current  
7 tax.

8 Virginia has some better language with  
9 regard to bundling that, I think, there will be  
10 more internal controls so that it's not overly  
11 broad.

12 I think that our current language, even if  
13 it's to be kept, is not well-crafted from an  
14 administrative standpoint. And I don't think  
15 it's well-crafted from an internal control  
16 standpoint. I think manipulation for those  
17 entities that were interested in such things  
18 could easily adapt sales price according to  
19 them.

20 So, if it's not intended that a holistic  
21 approach apply to everything -- because I  
22 thought that the holistic approach applied to  
23 everything -- then I think that it's definitely  
24 an issue.

25 MS. KITTRICK: I think you're still going

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1 to have issues of internet access.

2 MAYOR RESNICK: Federal law --

3 MS. FOX: Well --

4 (Simultaneous speakers.)

5 MAYOR RESNICK: -- would be exempt under  
6 Federal law.

7 MS. FOX: Apart from what is allowed by  
8 Federal law, I think that goes --

9 MR. DUDLEY: Yeah, my point on that is  
10 that there are some services that Florida  
11 doesn't charge a sales tax on. So, if you're a  
12 dealer of communication service and you happen  
13 to be -- this was the issue last year. We have  
14 dealers of the communication services bundling  
15 home-alarm services. Now, home alarm is a  
16 sales-tax item, not a CST item. You're also  
17 selling internet access, which is not allowed to  
18 be taxed under Federal law. So, that is a zero-  
19 tax part of the transaction.

20 Now, whether or not you get to the issue  
21 of how you handle bundling, Sharon -- I mean,  
22 I've read Virginia's -- I don't see that it's  
23 much different than Florida's. It's got  
24 examples of what types of books and records.

25 So, I don't really see anything in

1 Virginia -- at least the summary that we've been  
2 provided in this document. I don't really see  
3 much difference than what was passed last year  
4 by the Legislature.

5 But I think the reality is, even with a  
6 holistic approach, you're going to have the  
7 offering of the taxable and non-taxable goods  
8 and services. It's not fair to the customer who  
9 elects a bundled transaction from a dealer to  
10 pay a tax on a good or service that they get  
11 from a competitor, at least in that segment, and  
12 it's not taxable.

13 MAYOR RESNICK: How does the company  
14 distinguish the tax on the bundled service like  
15 that? Does it say, you know, if you have  
16 internet, phone, alarm and it's all bundled, one  
17 price --

18 MR. DUDLEY: Well, the first thing that  
19 you have to realize, Mayor, is that we have an  
20 incredible incentive to try to get it right. If  
21 we get it wrong at audit, then we owe the tax  
22 and we can't go back and get it from the  
23 customer.

24 So, we have price lists that are out  
25 there. People may have tariffs that are out



1           there. We have all kinds of examples, rates and  
2           offerings that are out there that are readily  
3           available for people to look at.

4                    Again, the incentive is to get it right or  
5           you can't recover.

6                    MS. FOX: And to your point, perhaps it's  
7           an accounting perspective because there are  
8           nuances that are in the Virginia definition that  
9           are not in ours.

10                   MR. DUDLEY: Okay.

11                   MS. FOX: But also, perhaps we need to  
12           evaluate taxable services versus non-taxable  
13           services.

14                   As was mentioned earlier, things that  
15           become communication services based on the  
16           communication-services definition -- perhaps,  
17           home-alarm services, if they are provided in a  
18           certain way, definitely meet the communication-  
19           services definition because technology, again,  
20           has changed.

21                   So, there is that to be considered as  
22           well. I just --

23                   MR. DUDLEY: Another great reason to have  
24           a sales-tax approach.

25                   MS. FOX: Exactly. Exactly.

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1 MR. LINDSEY: I think, quite frankly, the  
2 bundling issue was listed here primarily as a  
3 positive attribute. To the point you made  
4 earlier, it would be much simpler under the  
5 sales-tax approach because it clearly --

6 MS. FOX: If it's bundled, it's taxed.

7 MR. LINDSEY: Right.

8 MAYOR RESNICK: Unless you're exempt.

9 (Simultaneous speakers.)

10 MR. LINDSEY: Well, it would distinguish  
11 between taxable and non-taxable items. We're  
12 not dealing with different rates. I think it's  
13 pretty straightforward.

14 MAYOR RESNICK: Well, except the issue  
15 becomes what is going to be required to  
16 basically verify that they're taxing the  
17 appropriate services because, otherwise, a  
18 company could attribute 99.9 percent of the fee  
19 charged, or whatever, to a non-taxable service.

20 MR. LINDSEY: It could. It could do lots  
21 of things.

22 MAYOR RESNICK: You say we're giving away  
23 the taxable services or whatever. And how does  
24 DOR -- or whatever entity is supposed to  
25 understand that -- know that? And how does the

1 customer know that?

2 So, I mean, in terms of the billing, would  
3 we propose that the bill sets forth very  
4 clearly, you're taxed this amount because this  
5 percent -- this portion of your bundled fee is  
6 non-taxable? Or you know, how would you make  
7 that very clear?

8 That was part of the charge to this  
9 committee, too, is recommend options to make  
10 sure that the customers understand clearly the  
11 nature of the tax. So, what would be the option  
12 that we would want to include with respect to  
13 that?

14 MR. LINDSEY: Well, there are  
15 provisions -- I think I had found an example of  
16 the public -- the mobile sourcing law that had  
17 bundling language just as one example to  
18 consider. There are lots of good examples out  
19 there. There are lots of audit methodologies  
20 out there across the U.S. for states that do  
21 bundling that are out there for review.

22 And I think the carriers can make  
23 appropriate disclosures on how -- there is a  
24 place that carriers can have language and  
25 provide customer-friendly -- and again,

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1 Charlie's point, it's absolutely in the  
2 provider's interest to provide something very  
3 clear to the customers as to how we tax.

4 MR. STRANBURG: All right. Next item was  
5 revenue flexibility, something that we've talked  
6 about. Anything more anyone wants to add about  
7 revenue flexibility?

8 MAYOR RESNICK: I'm not sure what that  
9 means.

10 MS. FOX: It's because CST, you can use  
11 for anything.

12 MAYOR RESNICK: Oh --

13 MS. FOX: We have the ability --  
14 (Simultaneous speakers.)

15 MR. STRANBURG: The utilization of the  
16 proceeds.

17 MAYOR RESNICK: All right.

18 MR. STRANBURG: And same thing,  
19 replacement revenue -- I think we've talked a  
20 significant amount about that today.

21 And the last item on the list is replicate  
22 exclusions or exemptions in CST into the sales  
23 tax. And I think we've had some discussion  
24 about that, too. That, to me, is another one of  
25 those technical issues of what do you move over,

1           what do you retain, tied up in some other issues  
2           along with definitional issues as well.

3                   Anything else anybody wants to talk about  
4           with respect to that point?

5                   MS. FOX: Mr. Chairman, the only thing I  
6           would add -- and I think that Charlie has talked  
7           about it already -- is the elimination of the  
8           residential State exclusion only because it's a  
9           simplification issue. And it's not the same  
10          gravity that it once was from the volume  
11          standpoint because so many people have given up  
12          their landlines.

13                   But any time we have the option of  
14          broadening the base by eliminating some of the  
15          exclusions, I think we add to the stability of  
16          the revenue stream and we make it easier to  
17          administer.

18                   Every time there is a carve-out, that is  
19          something that has to be vetted by the  
20          auditors -- also, any time you can broaden your  
21          base and keep the rate as low as possible, which  
22          I think is also important.

23                   MR. DUDLEY: And I think MetroPCS made an  
24          argument on this as well that was compelling on  
25          being competitive. A lot of people are using

1 wireless devices for their residential service.  
2 They are cord-cutters or whatever. And  
3 arguably, they are paying a higher rate than  
4 they should -- or at least some portion of it.

5 I would suggest that you make a revenue-  
6 neutral change; that we consider laying out for  
7 the Legislature that they ought to remove the  
8 exemption because it's outdated and it creates  
9 competitive issues and that it ought to let REC  
10 tell us what the number is. I would argue we  
11 produce the State rate accordingly.

12 MR. STRANBURG: Are there other issues  
13 that the members believe we ought to consider as  
14 part of the holistic option?

15 Gary?

16 MR. LINDSEY: There is one thing -- this  
17 might be more in the technical issues. I think  
18 at some point in one of our discussions, we  
19 talked about rounding. And I was thinking that  
20 it would be good -- maybe we talked about this.  
21 Maybe it's too deep in the weeds, but just to  
22 have pure mathematical rounding involved.

23 MS. KITTRICK: Yeah, we did talk about  
24 that. And it makes a lot of sense because if  
25 you want to position the sales tax as sort of

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1 more streamlined and, you know, get us to where  
2 we need to be for Main Street Fairness or  
3 marketplace fairness or whatever passes, I think  
4 that's a really important point. If we can use  
5 the revenues to offset the cost for the  
6 rounding, that might be a good thing to do.

7 MR. STRANBURG: Again, I feel I have to  
8 put my administrator hat on here that if  
9 rounding does cost the State some money -- I  
10 don't believe there has been a current estimate  
11 of that.

12 The last estimate I remember seeing, as  
13 you mentioned, Kathleen, was part of the  
14 proposed streamline legislation. It's probably  
15 a good seven or eight years ago. My  
16 recollection was somewhere in the neighborhood  
17 of a \$40-million or \$45-million issue. I don't  
18 know where it would be today. Again, I'm  
19 talking sales-tax dollars.

20 MS. KITTRICK: Right.

21 MR. STRANBURG: You had CST.

22 MS. KITTRICK: Right.

23 MR. STRANBURG: And you already have that.  
24 You don't have the bracket system in CST.

25 Other issues related to the holistic

1 option?

2 MR. SUGGS: We forgot one thing, Marshall.  
3 It's with holistic, but it was whatever we come  
4 away with. We talked about consideration of  
5 this issue, but it might -- very well, we could  
6 address this issue and the package issue with  
7 Main Street Fairness or something else like  
8 that. Or do we think this needs to be a  
9 stand-alone issue?

10 MAYOR RESNICK: Could the tax on sales --

11 MR. SUGGS: I mean...

12 MS. KITTRICK: Use the revenues so we  
13 don't have to raise the rate?

14 MR. SUGGS: It's been talked -- I mean,  
15 this we're sort of holding out as sort of a  
16 revenue-neutral package. But let's say an  
17 internet sales tax -- it might be something more  
18 for us --

19 MS. KITTRICK: That's more of the nexus  
20 issue. That's not internet sales tax. It's  
21 more the out-of-state sales-tax collection.

22 MR. STRANBURG: And again, the only  
23 cautionary note I would put on that, Davin --  
24 which again, in the previous meeting, we talked  
25 a little bit about this. Until you've got



1 Federal legislation on the remote-commerce  
2 issue, you don't necessarily have that solution  
3 that states can bank on if we adopt a Main  
4 Street -- we have to have that Main Street  
5 Fairness Act adopted Federally or something  
6 similar.

7 Simply because we move to adopt streamline  
8 definitions, it's uncertain what your revenue  
9 bump is going to be. But those numbers you see  
10 out there, whether you agree with them or not  
11 agree with them on what you're losing from a  
12 remote-commerce issue, you're likely to see  
13 those coming in.

14 That would be part of the REC-DBR process  
15 to determine what's the right mix of all of  
16 those moving parts to try to determine we will  
17 meet everybody's needs from the local-  
18 government end, from the PECO end, as Charlie  
19 talked about, and then from what the State ends  
20 up releasing to the general-revenue portion of  
21 the proceeds that come in.

22 So, again, I understand your point. I  
23 mean, it's something that we can consider, but  
24 there are other things that may impact that.

25 MR. SUGGS: And to that end, I'm not

1 pushing that we say -- maybe it's more so that  
2 we, along with this, say that this needs to be a  
3 stand-alone issue handled by itself.

4 It's like either way -- because I  
5 understand what your point -- I mean, in dealing  
6 with this, is this for us or do we think the  
7 State needs to address this issue --

8 MS. KITTRICK: My opinion would be that we  
9 keep them separate only because it's going to  
10 have the weight of -- you know, I don't want to  
11 have any more weight to this issue than we  
12 already may have. And the Main Street  
13 Fairness -- that's really for all general-  
14 business retail. That's much more broad, as far  
15 as other -- you know, the mail-order companies  
16 and the brick-and-mortar retailers, et cetera.

17 MR. STRANBURG: But again, I think where  
18 Davin is talking -- and you heard, I believe,  
19 some members of the Legislature earlier this  
20 year talking in terms of, if we adopt something  
21 and start bringing those dollars in, we don't  
22 use it as new revenue. We use it to reduce  
23 levies in some other places.

24 Is that a way in which, if you plug that  
25 in, maybe instead of a six-and-three-quarters or

1           whatever it may be, it's something less than  
2           that? Just what that number would be -- again,  
3           I'm not sure you could necessarily count on  
4           anything until you have that Federal legislation  
5           in place to, then, give you an idea of who  
6           you're going to see collecting because some of  
7           that is going to go off of if they have some  
8           type of small-seller exception, where that  
9           small-seller exception fits, and who do you have  
10          in and who do you have out of being required to  
11          collect sales tax.

12                 MR. SUGGS: All I'm saying, Marshall, the  
13                 stuff you just said -- and most people probably  
14                 want to keep this separate. If we put a  
15                 cautionary note, say, hey, this issue is big  
16                 enough, but the stuff you just said, be careful  
17                 in trying to combine -- to somebody's mind, make  
18                 this better because Part A might not be  
19                 guaranteed. Offset revenues might not be  
20                 guaranteed.

21                 So, we need to look at fixing CST in just  
22                 fixing CST. I mean, Marshall, I agree with you.  
23                 I understand what you're saying. But if we need  
24                 to put a cautionary note in anticipating that  
25                 some people are trying to use one or trying

1 to -- there is some talk of combining stuff  
2 already out there. So, I mean, if we feel  
3 strongly that we need to look at this solely,  
4 then, we might need to go ahead and anticipate  
5 that, put that cautionary note in there.

6 I think most people agree with what you  
7 just said. You can't bank on the other stuff.  
8 So, to sort of make this package here, we need  
9 to put our best foot forward on this sole issue.  
10 They can choose to listen to us or not.

11 MR. STRANBURG: Other points of  
12 consideration for this option?

13 Okay. I think as we've discussed a little  
14 earlier as part of this -- and we may want to go  
15 back and spend a little time revisiting some of  
16 those other options that we had out there to  
17 make sure that we've accurately captured them,  
18 see if there is anything else to be included, as  
19 was pointed out as a method of consideration for  
20 the group to have in our report that we're going  
21 to put together.

22 I'm kind of at that breaking point of do  
23 we want to start looking at those? Or do you  
24 want to break for lunch now and come back and  
25 start working on them at one time after lunch

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1           rather than working on some and breaking them  
2           up?

3                       Is there a preferred way of doing that  
4           among members of your group?

5                       MR. DUDLEY:  What's your preference?  I  
6           know you've got a lunch.

7                       MR. STRANBURG:  I've got to run downtown  
8           to do a dash-in at another meeting.  I'm a  
9           little flexible about when I can go with that.

10                      So, again, I just want to be receptive of  
11           what y'all think would be the best way of doing  
12           that.

13                      MR. LINDSEY:  Do we have -- I should have  
14           brought it with me -- but where we have all of  
15           the other options laid out?

16                      MR. DUDLEY:  (Indicating.)

17                      MR. LINDSEY:  Oh, that's right.

18                      MR. STRANBURG:  This was the list we used  
19           at the October 31st meeting.  It does not  
20           reflect maybe some of the things that we, at  
21           that meeting, decided either we could combine  
22           elsewhere or maybe a member thought this isn't  
23           an idea I want to pursue.  But this does capture  
24           everything that was submitted by the members.

25                      MR. LINDSEY:  Okay.

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1           MR. DUDLEY: Mr. Chairman, maybe it makes  
2 sense to stop and have a lunch break so people  
3 can look at this. You can do your speech. And  
4 we can come back at 1:00. Is that --

5           MR. STRANBURG: That would be fine, if  
6 it's okay with everyone else. Why don't we do  
7 that. We'll come back at one and work through  
8 this list.

9           And then we want to talk a little bit  
10 about next steps. We've got a tentative to  
11 schedule of some next steps to run over with you  
12 to see if that's convenient. We're not looking  
13 at trying to do another in-person meeting, if at  
14 all possible. We'll get some information to  
15 you. And then maybe we can do a phonecall or  
16 two, if need be, to do everything that we need  
17 to do after that.

18           With that, I'll see y'all back here at  
19 1:00.

20           (Brief recess from 11:26 a.m. to  
21 1:00 p.m.)

22           (Proceedings continued uninterrupted in  
23 Volume 2.)

24                                   \* \* \* \* \*

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