

FLORIDA DEPARTMENT OF REVENUE

PUBLIC MEETING

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MEMBERS :

Marshall Stranburg, Chair

Brian Smith

Gary Resnick

Sharon R. Fox

Alan Rosenzweig

Gary S. Lindsey

Kathleen Kittrick

Charlie Dudley

Davin Suggs

Also Present :

Andrea Moreland

PROCEEDINGS

1
2 **MR. STRANBURG:** Welcome back, everyone. We
3 have a couple housekeeping things we want to get
4 taken care of before we get started on our
5 discussion. So we'll do that and wait for --
6 hopefully Charlie will show up by that point in
7 time.

8 For those of you who have the little visiter
9 badges, we just ask if when you leave, please be
10 sure to drop those off at the security desk where
11 you picked them up in the morning. Most interested
12 in getting the little plastic covers back from you
13 because we do reuse those privately,
14 environmentally, cost crunches. So if you would,
15 please, please drop them off before you go, we
16 would greatly appreciate that.

17 For those of us up here, there's been a
18 request. Some of the people can't hear us very
19 well in the back of the room or on WebEx or on the
20 phone, so if you could please try to be sure to
21 project. You've got microphones set up around the
22 table. Try to talk into them. And rather than
23 unnecessarily turning your head and looking at
24 someone, you can still try to make sure to project
25 into those microphones so that everyone can hear

1 us. That would be appreciated.

2 And we're going to spend a couple minutes
3 right at the end just talking about some things
4 that we're going to cover -- we plan on covering at
5 the next meeting. And if there are any additions
6 to that that you would like to have us cover in the
7 way of presentations or topics, please be sure to
8 bring those up as part of that discussion. But we
9 have been working off of the list we gathered from
10 the first meeting from what the members would like
11 to see in the way of information and presentations
12 and structuring things around those requests as
13 well as the heart of the law of things that we're
14 supposed to review as part of the instruction for
15 the working group.

16 So, with those things out of the way -- we'll
17 just wait just a second for him to come in and then
18 we'll starting talking about the process.

19 We've given you both a copy of the principles
20 that we talked about this morning, that Gary talked
21 about this morning so that you have those to go
22 along with the list that we had put together for
23 you. And then we've also given you the sheet that
24 talks about the mission of the communication
25 services tax working group. And I want to

1 apologize by saying that I may have got us off a
2 little bit on the wrong topic of discussion this
3 morning with respect to the report that we have to
4 put together when I started talking about in terms
5 of recommendations.

6 Because I went back and took a look over lunch
7 time at this language that is in the law that has
8 created this working group, and the two points that
9 we will be talking about is -- I think, is kind of
10 driving this is we have two tasks. We're supposed
11 to review certain things and then we are to
12 identify options in a couple of different areas.
13 And I had started us talking about recommendations.
14 And we went back and took a look at -- there's
15 another working group the Department is involved
16 in. It is the reemployment assistance packet.
17 There's a work group that's also looking at some
18 things there. And the legislature, in creating
19 that work group, used different terms. There they
20 specifically said provide recommendations to the
21 legislation where our task is to provide options to
22 the legislature.

23 So I took a couple minutes to think about,
24 what's the difference between recommendation and
25 options? And I just pulled out the dictionary in

1 the office and recommendations, definition of that
2 goes towards you're commending something is worthy
3 or desirable, you're endorsing something. Options
4 are you're looking at how or right of choosing.
5 You're giving someone a choice. So, I want to take
6 a step back and say I think that's where we were
7 coming from, the Department, in putting this work
8 group together and then how that report would be
9 structured, that we're looking at sending out
10 options. We're looking to put things in there that
11 gives the legislature choices on what they would
12 do. We weren't specifically tasked with coming up
13 with a recommendation, something that we're
14 commending or endorsing.

15 Though, I can't understand, I think as Al
16 talked a little bit about this morning, does it
17 send a stronger message if we're recommending a
18 particular option? But I think that does not
19 preclude us from giving them, whether we want to
20 call it an opposing option or a different option, a
21 contrary option. But again, I look at the use of
22 the language in there and I'm not convinced that in
23 the past, we have been given as a working group is
24 to say this is what we think you should do
25 legislature, we're giving you some choices, some

1 things you can choose from to say these are things
2 that we think you can decide to select one of them
3 to either streamline the administration of this tax
4 or to remove competitive advantage without unduly
5 reducing revenues to local governments. So to the
6 extent I got us wrapped around a wheel of thinking
7 about, well, we've got to vote something out and
8 say this is the way this working group thinks it
9 ought to be fixed, I'm not sure. Going back and
10 looking at the language that we were tasked with,
11 that's what we've been tasked to do. We've been
12 tasked to give them some things that they can pick
13 from with respect to those two topics.

14 So having said, I'll open up the floor for
15 anyone else to give their point of view or to see
16 if they think maybe we can agree on some consensus
17 on where we should go with this report. And then
18 the last thing, again, I want to make clear, it's
19 always been our intention to be sure that that
20 report that is completed at the end of this comes
21 back to this full working group and the full
22 working group has the opportunity to say, and
23 individual members to say, we endorse this or we
24 don't think it is really reflective of what we
25 think the working group either reviewed or the

1 options that we're presented. So there will be an
2 opportunity, I think, to have input at the end when
3 that report is put together to say we agree or I
4 disagree as a member of the working group with the
5 contents of that report.

6 So, again, to move this along, does anybody
7 else -- I'm looking for some other ideas or where
8 we should proceed?

9 **MR. ROSENZWEIG:** And I appreciate you going
10 back and taking an opportunity to look at that
11 language. I don't have a fine distinction in my
12 mind with the term recommendation and option. I
13 still feel very strongly that we, as a committee,
14 need to be -- there needs to be some structure and
15 some formal voting thresholds for things to be
16 moved into some document. Whether it's an option,
17 whether it's a recommendation, whatever the
18 language we want to use, we, as a committee, need
19 to have some formal votes that move them into the
20 document. I feel very uncomfortable that anything
21 that's brought up in this room, that could be an
22 option for streamlining administration or removing
23 competitive advantages, that any idea that is
24 raised can be moved forward to the legislature. I
25 don't think that's what they tasked us with. I

1 think the reason we're here is because they
2 couldn't work it out and they're looking to us to
3 come back with options that everybody in this room
4 generally thinks are reasonable. And the only way
5 that I think that can happen is if we have some
6 voting thresholds that get that option documented
7 in the report.

8 So I would think, you know, that we should
9 agree that there'll be some formal structure. I
10 think a six-member vote is a very reasonable
11 threshold to show consensus of options. And if we
12 can't reach that, then whatever's put in there is
13 clearly back where they were last session anyway.
14 So we can write anything we want. They already
15 have the information. They know what the fights
16 were about. But if we all can get -- I would hope
17 things that we move forward are unanimous. My
18 expectation would be that the things that we're
19 trying to identify in terms of streamlining or
20 removing advances, that we would come back as
21 unanimous and say these are options that we
22 unanimously agreed upon. But at minimum, I think
23 six members should have to agree to that.

24 So, you know -- and I know we haven't started
25 taking motions or doing things, but that makes me a

1 little uncomfortable also. I think it's a lot
2 cleaner, just when we're running the meeting in
3 terms of how you want to move forward that it's
4 okay for us to take formal motions and actions so
5 that there's some history and record of what we've
6 all agreed to and did.

7 So my comments are that. I think we should
8 have a formal voting threshold to any options into
9 some final report. So I appreciate you just coming
10 back and explaining the clarification compared to
11 the other committee, but I don't feel comfortable
12 at all having a document come back to me that lists
13 everything that's been presented to us and that we
14 then kind of give our opinions on whether we agree
15 or disagree what's in the document and that's
16 somehow reflected. I don't think that's going to
17 serve the legislature well at all in the end. I
18 think they'll be looking at us like, well, that
19 wasn't very helpful, guys. I want to provide them
20 something substantial they can work with.

21 So if you're interested in motions,
22 Mr. Chairman, I'll be happy to, at some point, make
23 one today.

24 **MR. STRANBURG:** Well, let's let others have an
25 opportunity to discuss and then we can try to do

1 some motions to try to come up with some --

2 **MS. FOX:** Thank you. I agree with Al because
3 I believe that in order for this to be meaningful,
4 and I presume that the legislature would not have
5 taken up so much of everybody's valuable time if it
6 weren't supposed to be meaningful, that the options
7 that we present -- meaningful being workable,
8 acceptable to at least a majority of the group.
9 So, again, I appreciate your distinction,
10 clarification. But in my mind, they still are the
11 same in that we have to provide workable options
12 and workable to a majority of the group.

13 **MS. KITTRICK:** I guess I would just say that I
14 agree that, you know, all of us here are here in
15 the spirit of cooperating and wanting to come up
16 with a solution. It concerns me that if we don't
17 get agreement on something, that the discussion
18 point not make it into a document. I mean, I think
19 we're here to review all of the issues and make
20 recommendations if we can. But I think there's
21 still value in the discussion and the dialogue that
22 we've had. So, I mean, to the extent that we can't
23 agree on certain items by a super majority, I would
24 still like, you know, documentation in the report
25 that we have had these discussions and we have

1 thought through a lot of it.

2 **MR. SMITH:** Marshall, along those lines, I
3 think the distinction you provided is helpful. I
4 like the idea of options.

5 **MR. STRANBURG:** Could you speak up a little
6 bit?

7 **MR. SMITH:** I like the idea of options because
8 I think what the legislature's asked us to do is
9 present them with a list of options that are
10 viable, not just a laundry list of everything we
11 want. And if we present that to them and maybe we
12 go to kind of the consensus opinion and descending
13 opinion column with every option, they can look at
14 it. I mean, they can make a decision, okay, well,
15 we can see industry is leaning this way on this
16 option or there's overall unanimous consensus on
17 this option. You know, they're sharp people, they
18 can make decisions. But if we give them a filtered
19 list of what we think is plausible, then that will
20 allow them, when they go back to the table and
21 start negotiating, to be better informed.

22 So if we're going to only move forward things
23 that have a super majority vote, you know, we might
24 as well get out the three by five note card and put
25 that down and send it up. But let's give them

1 something they can work from out of this group.
2 And they can prioritize, you know, who's going to
3 be the benefactor if this goes forward. They'll
4 figure that out. I mean, we'll know when we're
5 talking about it. It's not a state secret. So a
6 more complete list of options is what I think we
7 should put forward.

8 **MR. STRANBURG:** Gary?

9 **MR. LINDSEY:** I agree with the last two
10 comments. And it seems to me that as we go through
11 these, I think to Brian's point, we could not
12 necessarily rank them, but they could be -- you
13 know, this particular option was -- you know, there
14 was consensus on these options. Here are
15 additional options that were mentioned, you know,
16 that were recommended. And we could have that
17 information along with it so that they would know
18 the options that were -- you know, there was
19 general consensus on. And then other options that,
20 you know, not a huge laundry list but other options
21 that were also put on the table.

22 So I think that might be a -- probably talk
23 more about the format of how it would end up
24 looking. So I think there's a way we could do that
25 where we can acknowledge the different options but

1 also report on the level of support that there was
2 with the varying options that were put out there.

3 **MR. DUDLEY:** Marshall, I guess from my
4 perspective, I think I just feel like we have the
5 cart before the horse. You know, you go back to
6 look at this, what was in the statute, it is kind
7 of our charging to do, you know, A through D is we
8 want you to have some meetings and get some
9 presentations that are balanced that anyone's
10 available to come up and speak to the items that
11 are mentioned in items A through D and take a look
12 at this 12-year-old tax and come back with
13 different options of things that need to be
14 potentially looked at. And those options could
15 include -- you know, someone may say we should
16 raise the local maximum rate cap of the CST, and
17 that could be an option. And the options may have
18 comments under them. But there's some that felt
19 that that wasn't necessary and there's some that
20 were because of this and that, and I think that's
21 the less presumptuous way to go forward.

22 And I think to Davin's point if we get through
23 this meeting and the next meeting or so and there's
24 some real consensus about three or four things that
25 should be done, then we can take an extraordinary

1 vote and have a recommendation that, you know, we
2 got this list of options but the work group really,
3 you know, overwhelmingly felt that they should
4 recommend, you know, A, B and C, and maybe or maybe
5 not there would be language associated with that.
6 But I think what we're asked to do is look at
7 options. We weren't asked to -- we weren't asked
8 to rewrite the CST. I think that was mentioned
9 earlier. I never felt like that was the charge.

10 I think the legislature, from my perspective,
11 was struggling with multiple people telling them
12 different things about different issues and they
13 were like, wait a minute, we're going to do a
14 couple things this year and then we're going to
15 establish a group of balanced appointees to take a
16 look at the last 10, 12 years, take a look at
17 what's going on and all the things listed here at A
18 through D and come back and give us a report that
19 our staff and us can look at and use to evaluate
20 different avenues that we can go to modernize this
21 tax. And potentially, I think, part of that would
22 be to include what folks believe are some of the
23 advantages or disadvantages of different options.

24 And so, again, I feel a little bit like it's
25 cart before the horse because I felt like, you

1 know, we needed a couple meetings just to get
2 educated and updated on some of the stuff. And
3 I've been practicing in this area for 20 years and
4 I need an update on what's going on from a
5 technology and law and policy perspective. So
6 that's kind of where I fit, too. I agree with
7 Direct TV for the record.

8 **MR. ROSENZWEIG:** I think, Marshall, just to --
9 I think the issue is if we just kind of float along
10 and we have all these ideas, is any option that
11 anybody throws on the table will show up in the
12 final report. I just don't understand how that
13 works. I mean, if we just are here to present
14 options, then why don't we all just write 20
15 options on a piece of paper, give it to DOR,
16 compile in the report and give it to legislature?
17 I don't understand what that serves. If we don't
18 start weeding out things, then how do you decide
19 what goes in the report and what doesn't because
20 what I'm hearing from different people speaking is
21 that we're supposed to give them options. Well,
22 how -- is any option a good idea? And if every
23 option is not a good idea, then how do we decide
24 which ones -- unless we vote? So I'm just very
25 confused on how you present information to the

1 legislature because then is every idea a good idea
2 unless we actually stop and formally say yeah, we
3 all think that's a good idea and we should let the
4 legislature evaluate it further. But if not,
5 you're going to end up with a list of a hundred
6 things that the legislature's going to go, that
7 wasn't a good use of everybody's time because
8 there's been no -- there's going to be no filters,
9 there's going to be no distinction in the list.

10 And I fundamentally believe that this is not
11 the cart before the horse. This is the time when
12 you have these discussions before you're actually
13 looking at the information. Because at that point,
14 you're going to be fighting about the information
15 so you might as well now lay out the ground rules
16 so everybody knows what's going to happen and not
17 try to figure out what's going to happen when
18 you're actually discussing the content. I mean,
19 this is how many boards that I staff or many boards
20 that we've served on that everybody agrees on the
21 rule so you're not debating that later. And if we
22 float along till the end and then we're going to
23 try to figure out how to put this together, I just
24 see a train wreck.

25 I see us all looking at each other with these

1 big lists and saying, how are we going to now
2 prioritize and filter this information? I think
3 that will be very challenging at that point because
4 people are going to -- their opinions and they'll
5 be debating what's the rules, how do we decide
6 what's on the list, what's not on the list? What's
7 minority option? What's majority opinion? I just
8 think we all need to agree up front what's it going
9 to take to move a pice of information forward to
10 the legislature?

11 The review information, A through D, that's
12 great. We compiled all the facts, we looked at it,
13 here it is. E and F are the ones that I think we
14 need to have some idea on what are we going to do
15 as a committee or as a work group to move this
16 stuff forward. So I strongly think we need to
17 spend some more time on this and come to some idea
18 of what's going to happen. I don't look forward to
19 three months from now having this same discussion
20 once I have that list in front of me.

21 **MR. STRANBURG:** Let me just say one thing, and
22 I think this is a concern of mine mulling this
23 whole issue over, and that's trying to decide is
24 the better approach, as you're saying, do we vote
25 on what goes into the report or do we compile

1 things in a report and then take a vote and say
2 these are things that this group believes are a
3 good idea or not? Because, again, what we are
4 doing is we're identifying those options that we
5 are presenting the legislature with with some
6 feedback from this group about whether they think
7 it is a good option or it is not a good option.
8 But if we don't put those ideas and those options
9 out there for consideration, you know, my worst
10 fear, I don't know if it's possible it could
11 happen, everything could go four-four vote. We
12 have, unfortunately, an even number of voting
13 members. And it's entirely possible that
14 everything that comes as a potential option in
15 front of the working group, you don't get not even
16 super majority vote, you don't even get a majority
17 vote on. And then again, what have we done? Have
18 we fulfilled our task as a group that the
19 legislature asked us to do which is to identify
20 options? They didn't say we only want good
21 options. We only want options that everybody
22 agreed upon. They didn't say we only want options
23 that are going to pass the legislature. They just
24 asked this group to identify options in these areas
25 and to present them to them as part of the report

1 and then the legislature would take that
2 information from there.

3 Again, I'm fearful that if we don't at least
4 put those options out in a report that this group
5 studies, and I understand your fear of people can
6 come to the table with hundreds of options, which I
7 don't think is going to be beneficial nor do I
8 think it's necessarily the intent of the people --
9 most of you that I know here, I don't think your
10 intent is to just throw hundreds of things into the
11 this working group report just to give this sheer
12 volume. I think you want -- I think we all want
13 this to be a quality product that provides the
14 legislature with some assistance. Because as we
15 talked about this morning, they reached a stalemate
16 on some of these issues last year and they're
17 looking for this group as experts to come forward
18 with them with some ideas that they can take and
19 then try to enact something to improve this tax, to
20 not unduly hurt local government revenue streams.
21 To make the administration for the Department a lot
22 easier, because this is, you know, not a very easy
23 tax for the Department to have to handle.

24 So I'm just fearful that if we don't put
25 something in the report that identifies options and

1 gives some type of viewpoint of, you know, this is
2 the way the group came up with these ideas and
3 these are the ideas they had, then we can decide
4 if, as a group, we want to say this is a
5 preferable option, this is an option that we don't
6 think is very realistic. I think we've done our
7 task. But to say that we have to have a majority
8 or super majority vote on anything we want to put
9 as an option in the report, I'm afraid, you know,
10 we are going to leave a lot of things off the table
11 that might be of some value to the legislature.

12 **MR. ROSENZWEIG:** So how does an option get in
13 the report?

14 **MR. STRANBURG:** I think an option would be one
15 of the members brings this forward as an option
16 include it in the record. We can either -- again,
17 process-wise we can individually cast votes on
18 options and say we don't believe we think this is a
19 viable option, it's not a viable option, it's a
20 recommended option, it's not a recommended option.

21 **MR. ROSENZWEIG:** So any option that any
22 committee member raises gets in the report and then
23 there's a narrative that goes with it what the vote
24 was, what the fiscal impact is to the local
25 government? Because item F is clear to me that any

1 option in this report has to explain fiscal impact
2 to local government. There's really no way around
3 that. So any option --

4 **MR. STRANBURG:** No, I don't --

5 **MR. ROSENZWEIG:** Well, it says unduly reducing
6 revenues, so I don't know how the legislature
7 wouldn't know -- I'm just trying to understand
8 what -- I don't know how they would know the impact
9 to local government if we didn't tell them what it
10 is. I mean, we would have to know what the impact
11 is to local government, I would think just --

12 **MR. RESNICK:** I'm not sure what F means and I
13 wasn't part of the legislative process last session
14 so I didn't -- I wasn't in Tallahassee when these
15 issues were being debated and the various bills and
16 drafts were done, so -- I mean, I read it; it just
17 says that we're identifying options that remove
18 competitive advantages in the industry as it
19 relates to the state tax structure. I don't know
20 if that even includes the local portion of the
21 state CST. But it's -- you know, I have no idea.
22 So maybe somebody who was part of that process can
23 explain what that means.

24 **MR. STRANBURG:** Go ahead.

25 **MR. LINDSEY:** I think the intent is -- it's

1 not talking about just the state tax structure,
2 it's talking about the tax structure within the
3 state including the locals because it does
4 reference local governments in the last part of
5 that sentence.

6 **MR. RESNICK:** Well, it says the state's tax
7 affects locals because it's redistributed like the
8 DBS tax. So maybe that's what they mean, that they
9 don't want to have an impact to local revenue by
10 redistribution of the state tax. I have no idea.
11 I'm just asking. I really don't know what it
12 means.

13 **MR. STRANBURG:** I can only say from this point
14 of view that this is a state-imposed levy, a
15 state-administered levy, but there is a state
16 component and a local component of revenue. And I
17 believe that's what they were getting at is looking
18 through -- making an adjustment to this state-level
19 imposed tax; does it have any impact upon revenues
20 that are either going to local governments as part
21 of the local government component or as you heard
22 about, there are certain revenue-sharing structures
23 in place as well for sales tax and other taxes. Is
24 there any impact as a result of changes to this
25 state-level structure that --

1 **MS. FOX:** It's interesting how one sentence
2 can mean different things to different people. I
3 see that the state tax structure being, because
4 this is a state statute. But to your point about
5 it being a state-assessed tax, the local government
6 piece is a local government assessed tax. It is
7 not assessed by the state or the local government;
8 it is assessed by the local governments. And it's
9 something that is -- the rate is chosen by
10 ordinance by the local governments. So, I perceive
11 that is part of the state's tax structure because
12 it is a state statute. So it goes to show you that
13 it could be read different ways.

14 But, be that as it may, any option that is
15 recommended, I see must have some information
16 provided with it as to how it impacts local
17 government revenues because that's clearly in the
18 sentence. There are no commas; it's one sentence.
19 So again, my interpretation.

20 **MR. STRANBURG:** Davin, did you have a comment?

21 **MR. SUGGS:** Yeah, a couple things. I just
22 want to reiterate maybe what our focus should be.
23 If we're going to define -- earlier we were talking
24 about the funding issues, solving the problem. If
25 we are going to go by E and F -- program -- that's

1 going to take further development from everybody.
2 I, like Gary, am optimistic. The end goal is the
3 taxpayer and the role we play -- I mean, them as an
4 issue. The industry as a tax collector per se, but
5 in their collecting taxes, it affects the delivery
6 of service and they're -- it affects their bottom
7 line, the hoops that they have to go through in
8 collecting taxes. It affects their bottom line,
9 the competitive advantage or disadvantage for us.
10 It affects our ability to deliver public services.

11 All of -- we're all in here together, okay.
12 I'm optimistic. We can solve the issue. And
13 Charlie said something very important. People like
14 me, Charlie, I don't know if Gary and Kathleen and
15 my friend from Direct TV, which I have, I'm a loyal
16 customer, but either we can solve the problem now
17 or I know me and Charlie are going to be in a room
18 in March and we're going to call our buddies --
19 what we're doing right now, we're going to do the
20 exact same thing and -- and you know what they're
21 going to do? They're going to shove our positions
22 right back in our face and you guys go work it out.
23 Or we can work it out right now. Or they're going
24 to shove them right back to us. And the
25 discussions we had, man, we just had time in a

1 non-highly politicized environment to sit down and
2 talk like civil adults, we can work this out.
3 That's this time right now.

4 So, Mr. Chairman, I don't want to -- don't
5 underestimate the potential that we have here. I
6 don't want to shove options back at the legislature
7 because they're going to shove them right back at
8 us. But every time -- at that point, it comes down
9 to certain clients and feeding our own bottom line,
10 okay. I mean, that's the truth of it. And at that
11 point, when we get to that point, it's about
12 winning and losing and not working it out for we've
13 already determined that the end game here is the
14 tax-paying citizens. And we have that focus. And
15 how we all play a part in that where there's a win,
16 win, win for local government, for the industry,
17 and ultimately the taxpayer. And not just local
18 government, I mean, the state government also.

19 I'll give you an example. In E, with the
20 administrative burdens, I can narrow down to
21 options to two or three. Okay. As a matter of
22 fact, everybody in this room knows that DOR drafted
23 legislation last year, and I still got it on my
24 computer on my desk, everybody's seen it. You
25 drafted options in the appropriations process. It

1 removed all -- authority from the cities to say any
2 rate. You gave it to the counties and you came up
3 with a formula that the counties would redistribute
4 like we do the gas taxes. We already know that
5 option. You already know what the cities are going
6 to say by losing authority to separate and levy a
7 tax.

8 Or we could go further. The other options is
9 remove the authority from the cities and counties
10 and make -- let the state levy one big rate and
11 redistribute it like revenues. The administration
12 gets real easy. We know those options. We can
13 write those today and send them to the legislature
14 and then the cities and counties go fight it out.
15 I already got the speech. I don't have to come up
16 with a new argument. I've already got it. And I'm
17 going to say, we can avoid that because I think we
18 all have a genuine interest.

19 We really want to hear -- the industry
20 concerns, did they further define E and F for us
21 where we can work that out. They have been genuine
22 and sincere and listened last time, listened today
23 this morning, when we are talking about bonds and
24 stuff to our concerns. And they're sincere. And
25 we're not in a win/lose environment. And so, to

1 everybody, don't forsake this opportunity. We can
2 produce an eight to ten-page piece of paper with
3 legislation on it that might not be perfect, okay,
4 it may need amendments or further -- we can produce
5 a starting point that is much better than a sheet
6 of paper with bullets that we already have
7 arguments for.

8 And I just -- and I'm not asking for
9 direction, not making a motion, but this goes to
10 what Gary said earlier in serving the interest or
11 we're trying to get a win, win, win. It goes to
12 what Alan says about there needs to be some
13 structure to get there. It's okay. I would rather
14 fight through a structure in getting a certain
15 number of votes to get something, I'd rather do
16 that here than trying to get 120 votes or 40 votes
17 or majority and fighting it in that type of
18 environment. I'd rather fight with my counterparts
19 here because we all have the same interests and we
20 all have the same interests and nobody loses.

21 So, I mean, Chairman, just don't forsake --
22 don't -- the potential of what we could do
23 versus -- I mean, because at that point, I mean, a
24 lot of people can mail stuff instead of coming
25 here. If all we're going to do are bullet points,

1 we can mail it in. I don't have to come here.

2 **MR. RESNICK:** Well, the idea that -- I mean,
3 we're spending a lot of taxpayer dollars in having
4 these meetings and I think we're supposed to
5 accomplish something other than just recreate the
6 fight for the legislative session, otherwise what a
7 big waste of resources as others have said. And I
8 would hate to report back to my constituents that,
9 yes, I wasted your resources by traveling to
10 Tallahassee once a month for several months.

11 And it looks to me that by reviewing
12 information before we identify options, or if
13 that's the word that was intended, the options that
14 we identify are supposed to be based on the
15 information that we review. So it shouldn't just
16 be a bullet point. These are options. There
17 should be some factual basis supporting those
18 options. And I wouldn't mind a minority point,
19 similar to a court opinion where you have the
20 majority court opinion and then you have a minority
21 opinion saying I disagree and here's why. But it
22 should be reflected somewhere that that's a
23 minority opinion as opposed to a majority opinion.
24 But I think it's the role of this committee to come
25 out with some general majority opinion.

1 I don't know what parameters we meet under. I
2 don't know if that was set out under the statute,
3 in terms of whether we're under Roberts Rules of
4 Order or just Chairman's discretion or whatever.
5 But -- so I don't know how this committee is
6 supposed to even meet. I don't even know if one
7 person shows up to the committee, then that's a
8 quorum and then you can take action. You know, I
9 don't know what's required in terms of the role of
10 this committee and how we're supposed to perform
11 our functions. But in every committee that I've
12 ever been on, whether it's legislative or
13 otherwise, they vote at some point on what's going
14 to be the will of the committee. And I -- you
15 know, I don't see us having four-fours on
16 everything. I see us capable of having meaningful
17 dialogue and coming up hopefully with good tax
18 policy reform for the State of Florida. I mean,
19 that's my goal to the extent it's necessary. We
20 haven't even really identified necessarily what's
21 necessary. Two necessities at the same time,
22 sorry.

23 But if that's the charge of this committee, I
24 think we can do that, putting aside as I said
25 earlier, our individual special interest in coming

1 up with good policy. I have no problem if somebody
2 explains to me why they think the tax rate that
3 that particular service is being charged is
4 anticompetitive and puts them at a competitive
5 disadvantage. I have no problem, you know, if that
6 makes sense to me in recommending a reduction in
7 the tax rate if they've demonstrated their case,
8 so --

9 I'm sure the industry members as well -- they
10 heard the presentation this morning about how much
11 the local governments rely on this source of funds
12 to support their operations and their debt. I'm
13 sure the industry members wouldn't want to, you
14 know, have local governments go belly up or do
15 without those services to -- and that's actually
16 part of the charge of the statute, to protect those
17 things. So I'm sure that they can -- you know, I
18 don't want to put the -- look at the trees and
19 forget about the forest. Overall, we're supposed
20 to come up with a plan to improve Florida's tax
21 structure. And I think by vote of the committee,
22 we should be able to do that.

23 So I'm supporting -- I guess it's the comments
24 of several of the folks on that side of the table
25 as well as the comments on this side of the table.

1 This committee should do its work and we should
2 vote on a way to identify options that we want to
3 go in some type of final report for the
4 legislature.

5 **MR. STRANBURG:** Anyone else?

6 **MR. LINDSEY:** I'll just add my thoughts to
7 that. If we allow this to occur -- you know, this
8 is a group of people of good will, and we all have
9 common interests here. And if we, you know, go
10 through A through D, continue to gather
11 information, I think we will see options coming out
12 of that process, kind of like we said earlier. And
13 at some point, I don't know formally, but at some
14 point in August or October, we might say, okay,
15 let's look at -- what are all the options, let's
16 put those together. I don't think it's going to be
17 a hundred. I don't think we're going to do that.
18 I think we're going to see options that we approve.
19 And at that point, we can see whether there's
20 consensus on them and, you know, if we end up
21 voting on them. But I think that's -- it just
22 seems like kind of a natural process the way this
23 is laid out that that's what's going to happen.
24 And I don't think we're going to not allow that to
25 happen in this group.

1 **MS. KITTRICK:** I agree.

2 **MR. ROSENZWEIG:** Marshall, and I just don't
3 understand the hesitation of deciding now. You
4 just said it, after you review it, there's going to
5 be options. What's the hesitation of acknowledging
6 now when you get to that point, here's what we're
7 going to do with those? I mean, I staff a board
8 right now that I guarantee you, it would be very
9 dysfunctional if we didn't lay out to them how the
10 rules of procedure are going to be to make good
11 decisions for the community.

12 I think it's very -- I agree completely. The
13 process is going to come to many options and that
14 we all want to get to the right place. And
15 hopefully it's just obvious that it's unanimous,
16 but I don't understand this great hesitation of
17 deciding now what we're going to do because I am
18 very fearful that when we get to that point, we're
19 going to be -- there's going to be some options are
20 going to be contentious. And I do not want to have
21 those on the table and say, oh, well, they're going
22 to go in the report anyway because we all agreed up
23 front that we wait to get to this point and then
24 we're fighting about what to do with those. I
25 don't want to get to that point without knowing

1 what the rules are going to be.

2 I'm very hesitant allowing the process to move
3 forward, let those options even get developed to
4 the point to where they're in some document and we
5 don't know what we're doing with them because that
6 will happen. Options will get out there that, you
7 know, we're all not going to agree with. So what
8 do you do with those? What happens when we get to
9 October and there's ten options and we agree with
10 five, but five we all really like? Are they still
11 in the report -- what's the information that goes
12 with them? I don't think it's unreasonable for all
13 of us to agree what are we going to do. We know
14 there's going to be options. What are we going to
15 do with them as a committee? What are going to be
16 the rules to move this forward to the legislature?

17 I feel very uncomfortable moving forward
18 without a clear understanding of what the eight of
19 us are going to do with that material. I don't
20 understand why that is such a great hesitation if
21 we all acknowledge there's going to be options and
22 we're going to have to deal with it. Seems like
23 we're kicking the can down the road for another
24 day. And I think we should just deal with it now.

25 So, at some point, Mr. Chairman, if you want

1 motions, options, whatever, but we need to move
2 this forward somehow.

3 **MR. STRANBURG:** Let's move it forward. Does
4 somebody have a proposal that they want to --

5 **MR. DUDLEY:** Well, Mr. Chairman, I think
6 there's a couple things. I think, one, is I think
7 we should be open to anybody putting an option out
8 there for discussion. And that applies to the
9 public, consumers, people in the audience, people
10 online, as well as everyone up at this table. I
11 think one thing that can be a problem with this tax
12 is we can be too close-minded. You can't be about
13 this. There's a lot going on in technology and
14 law. And people may have a much better mousetrap
15 or a much better idea than is currently in the
16 statute or that any of us can come up with. I
17 think that's number one.

18 If you want to set some sort of threshold to
19 Alan's point, you know, I would put out there on
20 the table that any three of us could be in favor of
21 an option being in the report. So you don't have
22 to have a majority or super majority. The minority
23 has a right to be heard. And it may not be a
24 popular option, but it may be a viable option.

25 So I would throw out there that any three --

1 you know, if we're worried about having 200 options
2 in October -- and some way, if Alan's looking for
3 some threshold or some way of saying, well, these
4 options had at least three people that thought they
5 were worthy of going in the report or should be
6 included in the report because we're creating a
7 report right now with this young lady over here.
8 Everything that's said, put on the table,
9 everything e-mailed, everything in these notebooks
10 is all going to be part of this report. It's going
11 to be pretty massive. And I just think that there
12 may be a lot of people out there and a lot of ideas
13 that we just haven't thought of that may be very
14 worthy to think about.

15 When it comes to, for example, to E, I was
16 going to suggest options for streamlining the
17 system, that maybe we just start with E and say
18 that after this meeting for the next ten days, we
19 kind of solicit anyone who has an idea that would
20 fit under E, to submit those to the staff here.
21 And I would include DOR staff. You guys can talk
22 internally about how you want to do that. If
23 people have an option for streamlining the
24 system -- it could be that someone in local
25 government out there has an option for streamlining

1 the system that may be very worthy to talk about.

2 And maybe that's one way of chopping at the tree.

3 Because I understand what Davin's saying, that
4 at the end of the day, these are generally
5 consensus items that we generally try to work out.
6 They're very technical and everything else, but I
7 don't know how to get there because I'm worried
8 that I may be being more close-minded than I should
9 about solutions that I just haven't thought of.
10 Because I'm at my wit's end with some of these
11 solutions -- just with some of this tax and some of
12 the compliance issues. And I would love for
13 someone else to help me come up with what they
14 think is a good idea that I can work with.

15 **MR. SUGGS:** Mr. Chair. Charlie, your
16 recommendation, I see where you're going. That's
17 at -- go to a higher level. To make it simpler. I
18 think we are good will. And like you said,
19 everybody -- part of our goal is to take
20 contributions from each of us and from everybody
21 else and consider all of them. But the end game
22 here is what's due back. And to speak to all --
23 make sure consideration of everything, but also to
24 speak to what Al was saying.

25 Just can I make -- are you taking a motion?

1 Or what I want is just to put a structure on the
2 end process, the final report to get out of this
3 committee takes a super majority. Anything else,
4 one person -- Charlie, that means one person can
5 put any option out there. So to get in for
6 consideration, discussion, whatever, anybody -- it
7 shouldn't -- for you to voice an idea to be
8 considered, it shouldn't take two or three people.
9 I'm like you, I want -- we got a thousand ideas.
10 This is the time to get them out. All we're saying
11 is for this report to move forward to go to the
12 speaker and the president, with at least let there
13 be a super majority of six out of eight of us say,
14 okay, fine, send it.

15 **MR. DUDLEY:** I happen to think that's a
16 disservice to what we were asked to do, myself. I
17 think if you guys want to create some rule that
18 says the options have to have a minimum level of
19 support, I can support that. I can't support
20 saying, because you didn't get six votes, we
21 shouldn't tell the legislature that this was one
22 idea, that X percentage thought it was something
23 you should know and you should look at. Just like
24 we all live in the real world. If the senate,
25 finance and tax chairmans, mayor of its largest

1 city has an option or idea for CST that no one
2 likes, it still may get a hearing. So, that's my
3 thought, Davin.

4 I don't disagree that there shouldn't be some
5 higher threshold if we're going to do a
6 recommendation because I don't see where the
7 legislature's asked us for recommendations. I
8 think they'd love for us to have a consensus
9 recommendation. And if we get there in October,
10 November, January, February, we get there. I think
11 they're asking us to do A through D, to take
12 testimony, to do some research and in the end come
13 up with some different options to address some of
14 these issues that have been on the table the last
15 couple of years. And those options can say, you
16 know, these are the advantages of this option and
17 these are identified as the disadvantage.

18 If you want to take this concept of moving to
19 67 county rates with municipal sharing within it,
20 the first bullet point could be the League of
21 Cities and counties strongly oppose this because,
22 you know, this is usurpation of their
23 Constitutional home rule authority. And it's going
24 to lead to X, Y, and Z. And then the Department
25 may have some information that provides that that

1 option would save the State of Florida \$4 million.
2 I don't know. I think all that should be out on
3 the table because that's what -- that's what we've
4 been asked to do is provide the legislature some
5 information so they can go to work in March and
6 April, so --

7 **MR. SUGGS:** Charlie, where I'm coming from is
8 the eight of us, the nine of us, we made a simple
9 commitment to solving issues defined by E and F.
10 We made a commitment that I think we can solve.
11 And to me, it's that simple. It's a little bit
12 higher than what's on this mission, but if we are
13 making a commitment, I can make a commitment right
14 now to I'm going to be part of solving these
15 issues, not just coming up with my ideas. I want
16 to solve the issues to the benefit of all the
17 parties, including the taxpayers. I'm making that
18 commitment. I'm just asking you what I think Alan
19 is asking. And Sharon, we're asking everybody to
20 make that high level of commitment, that we are
21 going to present a conclusion.

22 **MR. STRANBURG:** And I would say if that's the
23 commitment, why do we need to vote?

24 **MS. KITTRICK:** Right.

25 **MR. RESNICK:** You're not a voting member, so

1 they wanted us to vote.

2 **MR. STRANBURG:** Still, if your commitment is
3 to come up with a solution, why are we getting hung
4 up about whether it's a four-four vote, five-three
5 or six-two vote or seven-one vote? Because if you
6 don't have that compliment to solve the problem,
7 again, are we just passing the ball down the road
8 and say solve it by voting rather than by actually
9 rolling up our sleeves and getting down doing the
10 hard work of coming up with a solution?

11 **MR. ROSENZWEIG:** I think -- they're one in the
12 same. The only way you can make that commitment is
13 that you all agree at the end, a majority or super
14 majority of us are going to have to agree. The
15 only way to keep everybody focused to solve the
16 problem is to say both sides of this table are
17 going to have to agree to the options going
18 forward.

19 **MR. SUGGS:** Six votes is an evaluation of the
20 merit or the quality of the solution being
21 presented.

22 **MR. ROSENZWEIG:** Everybody's got to give a
23 little. The only way to commit to what you're
24 saying is we all got to say, yeah, we're all going
25 to have to agree with the product to some degree.

1 And that gives the legislature something viable and
2 tangible to enact as opposed to, here's a list of
3 options that three people think might be good for
4 you and here's a list that four think and five
5 think and all this hodgepodge of stuff. Then
6 they're just looking at us like, that was nice,
7 guys, but what do you all collectively think we
8 should -- options that you all think will solve
9 this problem. We need to understand what it is.
10 So I agree with you completely. If we're all
11 working in good faith to solve a problem, then
12 there should not be an issue with saying majority
13 or super majority have to agree to that final
14 report.

15 **MR. STRANBURG:** I would only say I think if
16 there's that commitment, I'm not wanting us to get
17 hung up on the super majority or whatever. I think
18 if there's a commitment to work together, I think
19 it's going to be crystal clear from the way in
20 which this group proceeds -- either we're all
21 working together or we're not working together. If
22 we're not working together, there's probably going
23 to be an idea that we drop and move on to those
24 areas where we can work together and we can reach
25 agreement and we can make recommendations and we

1 can provide options. We can do the kinds of things
2 that I think will get us off where we've been in
3 the past with an inability related to look at this
4 tax and decide whether it's working or is there a
5 better way to do it? Is there a way that you can
6 treat local governments fairly? Is there a way
7 that we treat taxpayers --

8 **MR. ROSENZWEIG:** So what's the fear from
9 everybody about having a voting threshold? If we
10 all -- because what you just said, the fundamental
11 concern that we go through this all, ideas come and
12 go and at the end, we're like, what do we do?

13 **MR. STRANBURG:** Well, we need to move on.
14 We're either going to reach agreement on this right
15 now or we're just going to have to flow on. And as
16 the Chair, I guess I will have to make some -- this
17 is the way we're going to do it. Unless you can
18 reach agreement, I don't see any other place I can
19 go but to say this is the way we're going to
20 proceed because unfortunately, we were not given
21 really good guidance on how they wanted -- the
22 legislature wanted this group to operate. We
23 weren't given any specific rules. Yes, there is an
24 indication in there of the fact that I don't have a
25 vote or the executive director doesn't have a vote.

1 There would be some votes taken. But they didn't
2 indicate that they want super majorities or
3 majorities on things coming out of this.

4 I think we may be, again, going beyond what
5 our goal is to say this has to be by super
6 majority. It may just be that we vote on a
7 recommendation and we report this has been voted on
8 as an option that was out there as a point of
9 discussion among the group. It was four-four
10 split. There was a six-two split. There was --
11 what's wrong with doing that? And I think that
12 probably to me gets closer to the intent of what
13 the legislature wanted us to do, then say, well, I
14 want to move things forward but have a super
15 majority viewpoint of options in the working group.

16 **MR. ROSENZWEIG:** So you're agreeing on putting
17 votes on options? Some -- you just said that there
18 has to be some --

19 **MR. STRANBURG:** I think that's one way to look
20 at it, sure. There's another way to look at and
21 say we just throw all options on the table that,
22 again, I'm trying to reach some kind of consensus
23 here and we're not finding it, so we need to move
24 on. It's a matter of somebody's got to make a
25 decision and does it fall to the Chair to make that

1 decision.

2 **MR. RESNICK:** As the only elected official, I
3 can count. So let me throw out something as a
4 compromise. Why don't we try this and see if this
5 works for everybody, that something that will be
6 reflected as the consensus of the work group will
7 require a super majority, but any option or call it
8 a recommendation that obtains at least three votes
9 from members of the work group would be presented
10 in the ultimate report that's presented to the
11 legislature as another option or another idea, and
12 the discussion as to why it was -- the good points
13 and the bad points as to that idea would be
14 presented as well. You understand what I'm
15 suggesting?

16 **MR. DUDLEY:** My only suggestion is that a
17 recommendation ought to be unanimous because the
18 legislature didn't even ask us for a
19 recommendation. They asked us to identify options.
20 So I'm fine with saying anything that says the word
21 "recommended" has to be unanimous. Otherwise,
22 we're just going to do what the legislature asked
23 us to do which is identify options and ideas for
24 administering -- improving the administration of
25 the tax in dealing with the issues in F on

1 competitive issues without reducing revenues.

2 **MR. RESNICK:** So I'll accept that as a
3 friendly amendment to my motion. That if an option
4 is to be identified in a final report as the
5 consensus of this work group, requires super
6 majority. If it's a recommendation, it has to be
7 unanimous. And minority options require at least
8 three votes.

9 **MR. DUDLEY:** That's not my -- that was not
10 what I said.

11 **MR. RESNICK:** Okay.

12 **MR. DUDLEY:** I said that any -- if you want to
13 say that the work group has the following
14 recommendations, I think you ought to make that
15 unanimous. But when it comes to identifying
16 options and doing what the statute asked us to do,
17 I think I can sit here with a microphone and have
18 the floor and give 25 options into the record which
19 are going to be part of the report. I think it's
20 silly. I wouldn't do that.

21 I'd rather e-mail or present ideas, if I have
22 them, for different options that can be sent around
23 to everyone a couple weeks before a meeting and
24 say, you know, when we get to the meeting, Charlie
25 Dudley had six options he'd like to present and

1 then have discussion on those. And if any of them
2 have legs among the committee members, you know,
3 you'd have pluses and minuses at to that option.
4 And you'd go right down the list. You'd go to
5 Sharon Fox, and you'd go to Brian Smith. And you
6 go to whomever with their ideas and options on how
7 to handle E and F. And that's why I put out there
8 three because I understand administratively you
9 could have 500 options and that may be a little --
10 that may be a few too many. But I would hate to
11 keep any relevant idea or option away from the
12 legislature.

13 **MR. ROSENZWEIG:** I think the Mayor's
14 suggestion was that it would just be how it's
15 structured in the report. If it's -- pick the
16 threshold you want, but there's something that
17 rises above in the report that we all, a majority
18 of us, felt strong enough to move forward. And
19 then all the other options, pick your number, if
20 it's three, if it's four, whatever, still get
21 reflected in the report.

22 So all we're -- we're parsing language now.
23 At some level, we want to reflect to the
24 legislature what we all kind of agree to and put a
25 vote on that. Is it unanimous? Is it 6-2, is it

1 7-3, is it 7-1, 5-3? And then you can list the
2 balance of the information as these are other
3 options, but the majority of us didn't agree to it.

4 **MR. SMITH:** So all we're really hearing is all
5 the options will be listed and there will just be a
6 tally of how many people agreed with them.

7 **MS. KITTRICK:** Right.

8 **MR. LINDSEY:** Well, that's what -- I think
9 that's what we're saying.

10 **MR. SMITH:** And I think this comes down to do
11 we just give them a plain number? Do we tell them,
12 you know, who voted which way?

13 **MR. DUDLEY:** A vote count.

14 **MR. SMITH:** Yeah, give them a vote count.

15 **MR. LINDSEY:** So we would have a method of
16 filtering so we would have any recommendation that
17 or any option that had at least three supporters
18 would be listed as an option. We would then also
19 rank them. I don't think we'd refer to them as
20 majority and minority. I think we would just
21 report on these options, you know, had this level
22 of support and kind of rank them accordingly.

23 And I think with this group, it will not be a
24 huge number of options probably by the time we get
25 through this process. That seems like a reasonable

1 way to present them.

2 **MR. SMITH:** Well, I think we might be
3 premature in how we're going to rank them because
4 we don't know what the options are. The options
5 might lend themselves to falling into categories of
6 these are the administration, you know,
7 unification, you know, definitions, lowering tax
8 rates. But because, you know, we're going to try
9 to decide all the parameters we're going to work
10 within without knowing what the task, you know, is
11 going to present to us, we're a little bit
12 handcuffed right now.

13 **MS. FOX:** Mr. Chairman, and along Brian's
14 comments because the issues have not been
15 specifically identified, it's really difficult to
16 know what options we're talking about to begin with
17 if we don't identify the issues. Charlie mentioned
18 earlier today that he was at his wit's end, I think
19 I used your language, about what to do about these
20 issues. But he has not said what these issues yet
21 are. And again, it's really difficult to look into
22 the future here and try to figure out how this is
23 going to be structured if we don't know what it is
24 specifically that is creating the problem.

25 **MR. STRANBURG:** Which is what we're trying to

1 get onto right now which is talk about some of the
2 issues with -- prepaid issue and -- most of this
3 afternoon, discuss -- we're already about an hour
4 behind doing that.

5 I'm going to do something that I know some of
6 you aren't going to be happy with but I think we
7 need to start on the presentations. We haven't
8 brought this in for a landing. We're going to have
9 to bring it in for a landing by next meeting. I've
10 heard what y'all have had to say. I think I would
11 like to assimilate all that and maybe come back to
12 you all with something concrete at the next meeting
13 as to this is the process being used and see if we
14 can get agreement on that. But let's go ahead and
15 get started on our afternoon presentations.

16 Again, I apologize for that. We're going to
17 be talking about prepaid communication services.
18 Got a number of speakers that we want to get to
19 this afternoon. Our first is French Brown with the
20 Department's technical assistance and dispute
21 resolution unit. He's the deputy director, and
22 he's going to give us some information on other
23 states, how they tax prepaid communication
24 services.

25 **MR. BROWN:** Yeah, this is going to just be a

1 quick overview of Florida and then some other
2 states. We did a follow-up survey to the survey
3 that we had done earlier this year for the work
4 group. So I wanted to provide the information that
5 we had at this time to you guys.

6 Next slide, please.

7 So to start off, we obviously start off with
8 where Florida is right now, the current forecast --
9 provisions. The main things to note -- oh, also I
10 just wanted to go and say in the back of the
11 material for this handout in all of y'all's
12 packets, we provided the other 25 jurisdictions
13 that we have, their definitions. We provided
14 additional backup information. So if you have any
15 specific questions about anything that we kind of
16 go over -- overview and surveying this, you can go
17 back to that packet of information and find more
18 detail there, especially the different definitions
19 because we can spend all day going through all the
20 states' definitions.

21 But as for Florida's definition, two of the
22 big things that Florida really seems to key onto --
23 and I'm going to -- after we get through
24 definitions, I'm going to talk about a taxpayer
25 information publication that many of y'all are

1 aware of just that Florida put out recently. But
2 kind of the things we think that, you know, may be
3 unique for Florida, may not be, depending on the
4 various opinions, is one is the Florida definition,
5 number one, is the advantaged payment of
6 communication services that consist exclusively of
7 telephone calls. A lot of states have
8 communication service-type language in there but
9 not necessarily exclusively telephone calls. So
10 that's going to lead to some of the answers that
11 we're going to see later.

12 Second is the predetermined units or dollars
13 whose number declines with the use and known
14 amount. That's another provision in Florida. That
15 likewise provision might be in other states'
16 definitions, but again, you have those definitions
17 to see later.

18 Next slide is really just kind of the rest of
19 the site out of Florida Statutes. Florida treats
20 sales of prepaid calling arrangements as sales tax
21 and they're taxed at 6 percent. It also talks
22 about the sourcing of those types of sales.

23 Next slide.

24 Tax information publication. This is what we
25 put out in March of this year --

1 **MR. SUGGS:** Can you go back?

2 **MR. BROWN:** Sorry, just trying to get through
3 this. Yes, Davin?

4 **MR. SUGGS:** Okay. Want to ask about the
5 return. It's clear when you buy it up front,
6 there's sales tax.

7 **MR. BROWN:** You mean the recharge?

8 **MR. SUGGS:** Yeah, the recharge. So if I
9 recharge it, it just charges sales tax again,
10 however they recharge it. And who collects that
11 sales tax?

12 **MR. BROWN:** If it is -- again, it depends on
13 how it's sold. But if it's sold through a
14 retailer, that retailer is going to collect that
15 sales tax and remit it if it is a prepaid calling
16 arrangement either for the original sale or for
17 recharges.

18 **MR. SUGGS:** All right. Because I've never --
19 I don't know. Because I've never -- I can get like
20 an old phone or prepaid phone and I can keep going
21 back to the dealer and recharging it?

22 **MR. BROWN:** You can go to that dealer. You
23 can generally go to other dealers. They sell just
24 cards.

25 **MR. SUGGS:** Just cards. I thought it was --

1 so what if I got it from Wal-Mart? I have to go
2 back -- actually recharging is not putting money on
3 the same card. I go buy a new card with minutes or
4 units on it?

5 **MS. KITTRICK:** We're going to do a
6 presentation in a few minutes that talks very
7 specifically about how to recharge and what
8 products are out there.

9 **MR. SUGGS:** So whoever collected our original
10 tax, wherever they go, at this point retailers
11 collect the sales tax?

12 **MS. KITTRICK:** Retailers always collect the
13 sales tax.

14 **MR. SUGGS:** Okay. I got you. I'll wait.

15 **MR. BROWN:** Hopefully it will clear up. If
16 not, we can try to get you some --

17 Back to Florida's tax information publication
18 that we put out. We kind of laid out a little bit
19 of the history of prepaid and we laid out how the
20 Department feels what the statutory definition
21 means. We specifically laid out that some plans
22 may not fall -- the Department feels that some of
23 those plans do not fall in the definition of
24 prepaid calling arrangements. Some examples of
25 those would be plans that include text messages,

1 multimedia messaging, web, and e-mail. Unlimited
2 calling plans that do not decline with usage.
3 Service plans that are not sold in predetermined
4 units or dollars or services or plans that are not
5 originated using access number or authorization
6 code.

7 That tip-off went on to say that because of
8 Florida's broad definition of what is a
9 communication service, the Department felt that
10 things that did not fall under sales and use tax,
11 prepaid calling arrangement definition would be a
12 communications service for Florida purposes and
13 would therefore be subject to the communications
14 services tax.

15 All right. Now on to other states. Initially
16 what we reported to you in early June at our first
17 meeting, we had 25 jurisdictions that had answered
18 our survey that we had asked a number of questions
19 about. You can see those states here. These were
20 all the states that did provide us their statutory
21 definition of prepaid. And like I said, that's in
22 the backup materials.

23 Next which came up, again, at our first work
24 group meeting was streamline's definition of sales
25 and use tax. So we wanted to include that in this

1 presentation. Again, like I said, streamline
2 doesn't necessarily use exclusively telephone
3 calls, they use the language accessed exclusively
4 telecommunication services, but they do have
5 similar language, the predetermined units or
6 dollars, which are a number of clients with use in
7 a known amount. Also, streamline does have
8 definitions for both prepaid calling service and
9 prepaid wireless service. So we wanted to make
10 sure we had both of those because we had questions
11 about them last time.

12 This is one thing that came to our attention
13 as Florida isn't necessarily a streamline member
14 state. But we wanted to make sure the work group
15 was aware of this. Streamline sales tax, sales and
16 use tax did present an issue paper in August of
17 2011 related to unlimited plans. Essentially what
18 that issue paper says, it's not a -- it's not a
19 final decision yet on behalf of streamline, but it
20 is an issue paper and they do set forth essentially
21 their recommendation that unlimited plans can be
22 limited based on other predetermined units of
23 measure, such as month. So we wanted to make sure
24 the work group was aware the way that streamline is
25 treating quote, unquote "unlimited" plans for their

1 purposes and how those work.

2 Now kind of on to the substance of the
3 additional information that we asked the other
4 states. We asked the other states, because there's
5 some question whether or not what did we mean by
6 prepaid before, what -- you know, were states
7 really clear. We wanted to make sure we made this
8 clear as possible. So we essentially sat down and
9 we asked the states, those states that we had
10 contacts from initially, we asked them specifically
11 on local and long distance usage only, you know,
12 whether or not if you paid by minute or whether or
13 not you paid by dollar. Then we asked about
14 wireless, if it's just voice, if you're paying by
15 minute, by dollar or unlimited. Again, just voice
16 plus text, minute, dollar, unlimited. And then
17 text, voice and data to try to cover the whole
18 gambet to see how the different states were
19 treating prepaid, anything that could generally
20 consider to be a prepaid communication service.

21 Also, just wanted to note that as part of this
22 additional survey, we also included other questions
23 that had come up at the first meeting like
24 questions related to unbundling which I think
25 you'll hear about at the next meeting. Questions

1 related to bonding, which we can provide
2 information once we get some more information on.
3 Questions related to franchise and permit fees,
4 rights by fees, and some other information that we
5 just thought that y'all -- that would help you,
6 based on the questions that we received at the last
7 meeting, to make decisions, see how other states
8 were treating certain things.

9 Last two questions that we asked them, we
10 asked them if there was any -- if that state -- if
11 there was any difference in the application between
12 the original sale -- sorry, the sale of an actual
13 physical card or the sale of a PIN or Internet
14 code. And then secondly, we asked them if there's
15 any difference between the initial and the top-up
16 or the recharge, like your question was, Davin. So
17 we asked other states that specifically to see
18 there was -- they treated them differently.

19 So we did pretty good considering we sent our
20 survey out a day or two before Fourth of July
21 holiday. We got -- we essentially asked 26 states
22 and we got 13 responses. So right now, we're at
23 about half, so that's good. If we get more
24 information, we'll be sure to follow up in the
25 future meeting materials with you guys. But just

1 to note, of these states, Georgia, Kentucky,
2 Nebraska, West Virginia, Wyoming are actual
3 streamline states. They're all full member
4 streamline states, so the rest are not.

5 All right. So again, back to the initial
6 survey. We had received answers from 25
7 jurisdictions. Of those -- 11 percent of those 25
8 were full member streamline states. Of the
9 streamline states that responded to the additional
10 questions, all of those states except for Georgia
11 followed that issue paper 11004 that related with
12 unlimited. Of the 25 jurisdictions that initially
13 answered, 21 percent or -- sorry, 21 or 84 percent
14 have the same tax rate for their definition of
15 prepaid as they had for their general sales and use
16 tax. Kentucky and Washington, D.C. tax prepaid at
17 a rate higher than the general sales tax. And
18 Louisiana actually taxed prepaid at a lower rate
19 than the general sales tax. Just wanted to point
20 those out.

21 Now on to the actual 13 responses that we
22 received. Again, the first two questions asked
23 about our traditional phone cards, you know, our
24 local or long distance phone cards. Of that, ten
25 of the 13 do treat those as prepaid. Georgia

1 treats it as prepaid, but only if it's local
2 exchange telephone. South Carolina actually treats
3 that as their ways and means tax which instead of
4 being based on when it's sold, it's based on its
5 use. So that's just one thing to note -- that's
6 the way that the South Carolina ways and means tax
7 works. And then Washington, D.C. actually treats
8 it as a gross receipts tax.

9 So now we're going to start getting more into
10 the actual wireless-type prepaid plans and services
11 that are available. Again, three, four and five
12 asked just about voice communication, either in
13 minute, dollar, or unlimited denomination. As for
14 Florida, based on our taxpayer information
15 publication that we put out, if it's minute or
16 dollar denomination, then Florida would treat those
17 as prepaid. If it was unlimited denomination, then
18 Florida would treat that as CST. Eight of the 13
19 states treated those as just prepaid. And again, I
20 just want to state that when I say prepaid, I mean
21 they treat it as prepaid as sales and use tax. New
22 York treats mobile communications under their sales
23 tax and their mobile telecommunications tax.

24 The way South Carolina works, and you'll see
25 this kind of throughout, South Carolina treats --

1 if it's minute or dollar, they treat it as prepaid.
2 If it's unlimited, they treat it as their ways and
3 means tax. Washington, D.C. treats them as gross
4 receipts tax again. And Georgia, because Georgia
5 just taxes the local exchange, they don't
6 necessarily -- they don't tax them as prepaid, so
7 those generally aren't taxed to wireless.

8 Any questions?

9 **MR. DUDLEY:** I have a question.

10 **MR. BROWN:** Charlie.

11 **MR. DUDLEY:** So, our border state, Georgia, I
12 go into Thomasville into a store and buy a prepaid
13 phone with, you know, 100 minutes on it, but I just
14 use it in Tallahassee, so there's no tax anywhere
15 on that prepaid phone?

16 **MR. BROWN:** Again, Georgia is a streamline
17 state. On their streamline matrix, they say
18 prepaid is not subject to tax.

19 **MR. DUDLEY:** So I don't pay sales tax in
20 Georgia and I'm not paying anything when I use it
21 in Florida unless I'm Bob McKee and I'm doing a
22 volunteer used tax phone. That's fine. Just
23 trying to understand it.

24 **MR. BROWN:** Next slide, please.

25 All right. This next slide focuses on

1 wireless voice and text messages plans. Again
2 minute, dollar, unlimited. The answers are pretty
3 much the same. But Florida treats -- actually this
4 one's different because Florida treats -- because
5 it's voice and text, Florida treats all three of
6 these different denominations as communication
7 services tax. The eight states treat them as
8 prepaid any of the three, any denomination. New
9 York treats its sales tax and local telecom tax.

10 **MR. RESNICK:** Is that true in Florida if you
11 buy them online as well, you still pay the same
12 CST?

13 **MR. BROWN:** It shouldn't, yeah. It's not
14 necessarily regardless of whether or not you buy it
15 in store or purchase it online. There's no
16 statutory distinction between the two, I guess I
17 should say.

18 Again, South Carolina splits their ways and
19 means taxes on their unlimited and their -- if it's
20 minutes or dollar, it's prepaid. Washington
21 receives gross receipts and Georgia's not taxed.

22 This is related to -- these last three
23 questions were the ones related to voice, text and
24 data. Again, Florida it would be all CST. Eight
25 states were prepaid. New York, South Carolina,

1 D.C. and Georgia are kind of essentially the same
2 for the last. But again, we just wanted to lay
3 this out for everyone so that you have a good idea
4 of how the other states are treating these and we
5 tried to cover every possible scenario of how
6 somebody would sell some of these services.

7 Next slide, please.

8 Questions 12 and 13 that we asked specifically
9 related just to data-only services. And 12 was
10 related to bandwidth -- if you sold bandwidth or 13
11 was if it was unlimited. For this one, the
12 responses that we had was if it's Internet access
13 and it's not taxed in Florida, however, if it was
14 the transmission of data, then that is under the
15 Florida CST definition.

16 Texas and West Virginia treated sales of data
17 as prepaid. Alabama, Georgia, Nebraska, New York
18 and Utah did not tax data-only services. Kentucky
19 taxed under their sales and use tax and telecom
20 tax. South Carolina was the same with their ways
21 and means tax for unlimited. Or if it was
22 bandwidth, then it was just prepaid. Wyoming taxed
23 it only if it was a specified digital product under
24 their code. Washington, D.C. treated it as a gross
25 receipts tax. And Connecticut didn't provide any

1 guidance on that question, so --

2 And then lastly, the last questions we had
3 related to the differences. And hopefully this
4 will help you a little bit, Davin. Florida,
5 Alabama, Connecticut, Georgia, Kentucky, Nebraska,
6 New York, Texas, Washington, D.C., West Virginia,
7 and Wyoming didn't have a difference for either of
8 those questions. South Carolina answered yes for
9 both of those questions. Utah answered that the
10 sale of the card is sourced to the place the card
11 is purchased, the sales of a PIN over the phone or
12 Internet is sourced to the customer's home
13 location. So that was how Utah answered that one
14 differently than Florida for the first question.

15 And essentially that was -- that was a very
16 quick-through trying to catch us up with some time.
17 But are there any questions on the different -- on
18 either Florida or how the different states kind of
19 treat prepaid?

20 All right. Thank you.

21 **MR. STRANBURG:** Thank you, French. It's about
22 20 after 2:00. Why don't we take an afternoon
23 break for about ten minutes and then get started
24 back again at 2:30 and we'll have Bob McKee coming
25 up and talking some more numbers with us on prepaid

1 users.

2 (Brief recess.)

3 **MR. STRANBURG:** Our next presentation is going
4 to be by Bob McKee. Bob is going to be talking
5 about some revenue estimations on the tax base.
6 Bob?

7 **MR. McKEE:** Good afternoon. I'm still Bob
8 McKee with the Department of Revenue. This
9 afternoon I'm going to be doing something similar
10 to what was done this morning but a little bit more
11 difficult. And that's trying to provide some
12 estimation of a tax base associated with prepaid
13 wireless service.

14 Next slide, please.

15 We've got several sources of data that we used
16 in trying to estimate the base, the potential base.
17 And there's a couple things I want to talk about
18 before I get into the data or into the analysis
19 that was done. One is sort of the comment that was
20 made earlier that these are analyses. They're not
21 official state estimates. The Revenue Estimating
22 Conference develops official state estimates.
23 Another is that this is one of the challenges --
24 those of you who've had the fun of sitting through
25 some of the estimating conferences and those who've

1 been like myself, participants and principles to
2 the conferences. One of the challenges in doing
3 analysis on these things is where we don't have
4 direct information to make an estimate or propose
5 an analysis.

6 And I'll give some examples. In this instance
7 using the prepaid example, we don't know when
8 someone remits sales tax, we get information on
9 entities remitting it and we don't get information
10 on the specific items beneath it that are sold. So
11 many times when a piece of legislation come forward
12 that exempt a certain thing or treat it
13 different -- a certain item differently for sales
14 tax purposes, we very seldom have direct
15 information about those types of items. And that's
16 the circumstance here. We don't have -- when a
17 retailer sells a prepaid calling arrangement that
18 meets the definition and appropriately the
19 6 percent state tax should apply, we don't know
20 that among the remittences. Also where a
21 communication services tax provider also sells
22 prepaid calling arrangement, it's taxed for --
23 appropriately for sales tax purposes and meets the
24 definition of prepaid calling arrangement under
25 Florida Statues. Because they also sell other

1 items of tangible personal property, we don't know
2 from their returns, information that we receive as
3 a Department, what part of that might represent
4 prepaid calling arrangement and what might
5 represent rental, tangible personal property, what
6 might represent other sales of tangible personal
7 property that would be taxable for the state sales
8 tax purposes. So that's some of the challenges.

9 So when we look to do these kinds of analyses,
10 we look to what information we can get to give us
11 some estimate or basis to perform an analysis. For
12 this analysis, we look to, first, the Public
13 Service Commission who produces a report on the
14 status of competition and telecommunications
15 industry. That report is related to what the
16 federal communications commission produces. And
17 the local telephone competition status as of
18 June 30th, 2011 was the latest version that we
19 used in the analysis. And then we also use Florida
20 E911 Board Annual reports for the period of 2007-8
21 through 2011-12. So those are the sources of data
22 that we look to to try to get an idea for potential
23 prepaid wireless base.

24 And I want to talk about that for a moment
25 because essentially the analysis that we did was

1 try to estimate the base, just the base, not to put
2 any value judgment in it, who should be paying one
3 way or should be paying another. Just if there
4 were a switch and all of those types of
5 arrangements that are not a part of communications
6 services tax base today became a part of the
7 communications services tax base today. That's
8 what we tried to estimate in the base. So we're
9 not trying to go in and put any judgment, these are
10 the ones that meet the current definition. These
11 are the ones that are beyond the current
12 definition. Just essentially if everything were
13 treated as communication services tax, what's the
14 potential base for that.

15 Next slide, please.

16 Here's some of the historic data that we used.
17 And some of this was talked about in the
18 presentation we did at the first meeting. Using
19 the wireless 911 receipts, we calculated out of
20 that an implied number of handsets that the E911
21 data indicates or an implied number of handsets
22 that are available or that are out there in the
23 marketplace. And then there's another implicit
24 assumption as we move forward that whatever's being
25 done for wireless E911 purposes, that whoever's

1 providing that service is considering it the same
2 with respect to communication services tax. So, if
3 it's -- if they -- if they're not paying on it for
4 purposes of E911, they're also not paying on it for
5 purposes of communication services tax. And so
6 that's an implicit assumption in trying to measure
7 this.

8 We then looked at the PSC reported wireless
9 handsets which come from the FCC data. And that's
10 essentially a number of handsets within -- total
11 within Florida. And so by looking at the --
12 comparing the implied number of handsets from the
13 E911 data with paying the 50 cent wireless fee,
14 monthly fee on it, and then comparing that to the
15 PSC report, we get an implied number of prepaid
16 handsets. So you see there sort of the historic
17 numbers from '05 to 2011 in terms of the implied
18 number of prepaid handsets using that methodology.

19 Next slide, please.

20 Looking at it graphically, you see that the
21 top line, the red line, is the PSC-reported number
22 of wireless handsets where you see in that number
23 going from 2005 forward, some significant growth
24 overall. Then the blue line is the implied number
25 of handsets from E911 data. And you see actually

1 relatively flat in that period. And so then you
2 look at the implied number of prepaid handsets;
3 that number is a growing number. And so from this
4 analysis, it appears that most of the growth in
5 wireless handsets is taking place within the --
6 either there's the new customer deciding to choose
7 prepaid as opposed to post-paid plan or there's
8 some switching taking place among current post-paid
9 customers switching to prepaid. But essentially,
10 the growth in the wireless market from this
11 analysis appears to be in the prepaid sector.

12 Next slide, please.

13 These are the growth rates in the services in
14 wireless handsets that come out of that previous
15 analysis. So you can see that much higher rates of
16 growth throughout taking place in the implied
17 prepaid number. Even though it's a shrinking
18 amount going forward, the growth has remained much
19 higher in that segment as indicated by this
20 analysis than in either the overall or the handsets
21 that are remitting the E911 amount.

22 Next slide, please.

23 As with any analysis, there's certain
24 assumptions that had to be made in coming to this.
25 The first is the one that I talked about, the

1 difference between the PSC report of wireless
2 handsets and implied E911 handsets or the number of
3 prepaid handsets that are out there in the
4 marketplace. And again, without any value judgment
5 about what way they should be taxed under Florida
6 law today.

7 We put a growth constraint on future growth in
8 total wireless handsets of 3.5 percent through
9 2013-14 and 1.5 percent beginning in 2014-15. And
10 this was necessary in order to prevent the number
11 of handsets. At the historic growth rate, if we
12 were to extrapolate that out, we'd have more
13 handsets than people starting in just a couple
14 years from now. So essentially by ratcheting down
15 the growth rates, we constrain the number of
16 handsets to the number people in the State of
17 Florida. That may or may not be a fair assumption,
18 but that's the assumption that's made at this
19 point.

20 Looking at the historic growth rates, we put
21 the growth in prepaid handsets, total wireless
22 handsets at about just under 3 percent annually and
23 then constrain that to 41 percent by '20-21. Now
24 the -- there'll be a later presentation that I
25 think has a lower market penetration in the later

1 period. We didn't have the benefit of that when we
2 did the analysis. We looked at the historic
3 period. There may be other projections for that
4 slowing down. We also are measuring the current
5 market penetration at a higher number for the
6 current period under this analysis than what's in
7 the later presentation. I think the later
8 presentation had 23 percent for the most recent
9 period we had actual data for. I think we're
10 measuring about 26 percent given this analysis.

11 When we get to impact numbers, we assume that
12 there's an effect -- that the current effective
13 local rate -- the current effective rate for the
14 local component of the communication services tax
15 of 5.04 percent continues across future periods, so
16 we have a constant rate to look at revenue
17 generations for the local component. And that in
18 that 5.04 weighted average or effective rate, that
19 that does include the discretionary surtax add-ons.
20 So that's the total local component including local
21 CST, permit fee option, and local discretionary
22 surcharge portion.

23 And then to get to the actual dollar estimates
24 we made. For the low estimate, we assumed the \$35
25 per month service cost that would be taxable under

1 either state sales tax or CST. For the middle
2 estimate, use an average of \$45 per month service.
3 And then for the high estimate, use an average of
4 \$55 per month service. And you can see these
5 assumptions, particularly the low, middle and high,
6 they're levers and they're meant to be levers. If
7 data showed us that the average plan was, you know,
8 \$20 instead the 35, 45, \$50, then, you know, that
9 would be the appropriate amount to use to try and
10 extrapolate out impacts.

11 Next slide, please.

12 All right. So, this is essentially taking the
13 historic data, taking the assumptions that we just
14 talked about and looking at a number of wireless
15 handsets, forecasting the number of wireless
16 handsets going forward, forecasting the number of
17 prepaid lines and looking at developing out an
18 assumed market share for prepaid as I talked about
19 earlier. We get out to 41 percent in '20-'21. I
20 think we were at -- I think the last in the later
21 analysis is around 2018 at 31. And this analysis
22 we're at 39 percent market penetration in prepaid.
23 So, of course, that's another lever that's going to
24 determine the impact to the extent that existing
25 wireless service switches over to prepaid.

1 Next slide, please.

2 Then looking at the \$35 average, the \$45
3 average, \$55 average and those implied market
4 penetration, developed out potential tax basis for
5 each of those scenarios. At the \$35 average
6 monthly service for 2010-2011, '11-12, those would
7 be simulated basis. They're actually simulated
8 over the entire period of time. But you see in
9 2010-11, given that sort of increase that we have
10 in the analysis in the penetration of prepaid, you
11 see the impact doubling over that entire period of
12 time with respect to the -- base.

13 Next slide, please.

14 Now focusing in at an implied tax base of \$35,
15 this -- these next few slides are going to be very
16 similar to what I showed you this morning. This
17 one, like the one earlier, says if the current
18 rates were maintained, what would the revenue
19 implications be? Now making it clear that all of
20 that base fell under the CST. And so at the -- on
21 the low estimate of the estimated base, you see at
22 the current rate for gross receipts tax in '12-13,
23 it would have been about an extra \$61 million for
24 gross receipts tax going out to the 91 million in
25 2021. At the local effective rate for the local

1 component of the communication services tax, you
2 see at the '12-13, the estimate of that base size
3 would generate about \$130 million compared to 195
4 in '20-21.

5 Now the analysis for the state component is a
6 little different because the prepaid arrangement
7 you have to take account, you know, assuming this,
8 that, if today, it's being, in the marketplace,
9 treated like it meets the prepaid definition, then
10 it should be collecting the 6 percent sales tax.
11 So the impact would be restricted to only the
12 difference between the 6.65 percent state
13 communications services tax component and the
14 6 percent state sales tax rate.

15 **MR. ROSENZWEIG:** Bob?

16 **MR. MCKEE:** Yes.

17 **MR. ROSENZWEIG:** Some perspective on these
18 numbers. I'm trying to figure out what's the total
19 now, I can't find in my book, that we're generating
20 locally -- I'm trying to get a perspective what 130
21 mean, what does 15 million mean to the state,
22 what's the total now? And then also out of the --
23 I saw how you have the analysis for the 6 percent
24 for the state; what about the local option sales
25 taxes? Does that play at all into your thought

1 process in terms of the local 1, 1 and a half
2 percent we might be levying in terms of sales tax
3 currently?

4 **MR. MCKEE:** To answer the second part of your
5 question first, that's the local component. That's
6 the local discretionary surcharge component of the
7 CST rate. And that's within the 5.04 effective
8 rate. So that's a conversion. For example, where
9 Leon County levies the 1 a half percent, that
10 converts, I believe into .9 percent or somewhere
11 approximating that on the CST. So that would be a
12 part of the state-wide effective rate.

13 So this is -- when you're doing it on a
14 state-wide basis, it's much easier to use the
15 effective rate and talk about state-wide impact.
16 When it comes down to trying to look at Leon County
17 versus any of the cities or otherwise, it becomes
18 more difficult analysis because of those rate
19 fluctuations. But right now in the aggregate, that
20 would be essentially the impact.

21 Now to answer your other question my
22 recollection is the total collections on CST local
23 is somewhere around \$800 million. But you'll get a
24 magnitude in a moment. I'll do rate reduction and
25 you can get a sense of the magnitude related to the

1 revenues by the amount of the rate reduction. So,
2 you'll see in a minute, I think, that under, you
3 know, sort of a steady state, analysis current rate
4 with the 2012-'13 estimate that's done here or
5 analysis that's done here, what would the rate be
6 that would generate the same amount of revenue?
7 And that will give you a sense of the magnitude
8 compared to the size of the base.

9 So, I think -- did that answer both parts of
10 your question?

11 **MR. ROSENZWEIG:** Yeah, I think the next slide
12 does.

13 **MR. MCKEE:** Okay. Go to the next slide.

14 This slide, again, sort of similar to the
15 residential exemption analysis earlier today, this
16 slide demonstrates how much the rate could be
17 reduced given the estimated or the basic amount of
18 the early analysis and then what would be necessary
19 to generate the same -- back the same rate. And
20 you can see that it's a reduction in the effective
21 rate just under 2.25 percent for both the gross
22 receipts and the local effective rate. So
23 something, you know, approximating a fifth of the
24 total rate. And then the -- of course, the
25 reduction that can take place in the state sales

1 tax is much lower because the additional amount of
2 revenues coming in would only come in because of
3 that additional .65 percent.

4 Next slide, please. The next four slides do
5 the same analysis using the applied average --
6 middle estimate for the average base and then the
7 highest for the average place. And then so you see
8 the amount of revenues to be generated, very
9 similar. It's going to be about double between
10 2010-11, 2020-21 given the assumed rate of
11 increased market penetration of prepaid.

12 And then the next slide.

13 This gives the range of essentially steady
14 state rates at the middle estimate level.

15 And then the next slide, please.

16 This gives the high. You know, same analysis
17 used in the high amount of the base and then
18 looking forward.

19 And then the next slide gives sort of the
20 steady state rates assuming the higher base and
21 current revenues.

22 Any questions?

23 **MR. RESNICK:** For the years that have occurred
24 in the past, do you have actuals?

25 **MR. MCKEE:** They're not reported to us. I

1 mean, there's not any specific reporting mechanism
2 for prepaid -- specifically prepaid wireless
3 service. To the extent that it's been treated as
4 sales tax as I talked about earlier, we just get it
5 in as part of the sales tax returns information
6 from whatever entity is making that sale.

7 **MR. RESNICK:** Okay. And from Internet sales
8 of prepaid wireless, French indicated that they are
9 subject to the CST, but they don't collect it and
10 pay it to the state. So, I just bought a prepaid
11 wireless card on Amazon and they didn't charge me.
12 So, do you know how much is actually being lost in
13 terms of --

14 **MR. MCKEE:** There's a form, DR 700019 that's
15 required to be remitted semiannually to report your
16 used tax collections.

17 **MR. RESNICK:** No, realistically, any sense as
18 to what percentage of sales are done on the
19 Internet versus --

20 **MS. KITTRICK:** We have that answer for you.

21 **MR. RESNICK:** You do have that? Okay. Well,
22 does DOR have any mechanism to do anything with
23 respect to Internet sellers that don't pay tax?

24 **MR. MCKEE:** We have those powers that --

25 **MR. RESNICK:** I didn't buy one --

1 **MR. MCKEE:** There are US Supreme Court cases
2 that have defined where the edge of state taxing
3 authority is with respect to entities that don't
4 have nexus within the state but may be doing
5 business with the state. And I think the analysis
6 here for that prepaid analysis is very similar to
7 what you hear traditionally with any sort of sale
8 that takes place over the Internet. Where if that
9 entity does not have a nexus within Florida, the
10 tax may still legally be due and the responsibility
11 of the individual who consumes the communications
12 services, but the dealers --

13 **MR. RESNICK:** -- looking at reality. So in
14 the end, I guess the question is your figures and
15 perspective rates don't take into consideration
16 actual collections versus theoretical collections?
17 Because there's no way of knowing how much is sold
18 on the Internet versus physical.

19 **MR. MCKEE:** Yeah. I mean, the purpose here is
20 to try and estimate the size of the base. And
21 there are -- where you don't have direct
22 information, there are always challenges with
23 developing the estimate. And I want to make sure
24 it is always my place that better information makes
25 for better estimates. So to the extent that we can

1 be provided any better information like the
2 information that's in the presentation later, it
3 results only in better estimates. So we will
4 always consider that information. So, I just want
5 to make sure that that's not -- whether it's this
6 process of providing an analysis, whether it's in
7 the analysis we do for the Revenue Estimating
8 Conference, we will always consider information
9 that's brought to us in developing those analyses.

10 But, yeah, where there's information that
11 we -- now if that handset is -- I mean, Mr. Mayor,
12 if the handset is reported within the FCC data and
13 there's not a collection of the 50 percent wireless
14 collections in that, then they would be in the
15 numbers that we're using to extrapolate out a base.
16 Now whether those could actually be collections or
17 not I think is the other question. So, even if all
18 of those things exist and are out there and not a
19 part of the CST base today, which is what we
20 estimated the size of the base, whether in
21 estimating revenues does there need to be some
22 factoring down of things that cannot be collected
23 or where the enforcement powers can't reach them or
24 other things, I think that's a very fair
25 recommendation.

1 **MR. RESNICK:** Would you give an estimate as to
2 how much to factor down?

3 **MR. MCKEE:** You know, without -- my
4 recommendation would be if it's the will to have us
5 do some research to see if we can -- if there's
6 anything we can point to. Right now, it would just
7 be a gut reaction which, you know, I would expect
8 to tend to be wrong on that.

9 **MR. RESNICK:** Wireless prepaid, and this may
10 be getting into Verizon's presentation when you're
11 doing your wireless presentation, but do they --
12 the 911 fee, is that collected from wireless
13 prepaid?

14 **MR. MCKEE:** Not on prepaid today. That was
15 the basis for the analysis. There was a brief
16 period where it was a part of the requirement to be
17 collected, it was expanded, I think, in 2002 or
18 2003 for a couple of years and then that provision
19 was sun-setted.

20 **MR. RESNICK:** Just trying to help you figure
21 out how much the State of Florida is losing, you
22 know, by not being able to collect this. All
23 right. Thanks.

24 **MR. STRANBURG:** Thank you, Bob. Now we will
25 hear from Kathleen Kittrick from Verizon and John

1 Barnes from MetroPCS. They're going to talk about
2 31 Flavors of Prepaid.

3 **MS. KITTRICK:** We wanted to sit here together
4 instead of running back and forth to the podium
5 because we thought maybe we could make this more of
6 a get-and-take discussion. And if you have
7 questions, you know, we maybe can answer them
8 together and make it so it's not just a speech but
9 you can get answers to the questions that you have.

10 So, John did a great job in putting together
11 the bulk of the presentation. And we were asked to
12 look at, you know, describing the products in
13 marketing. So that's what --

14 **MR. BARNES:** So 31 Flavors, I'm not sure
15 completely does this justice. There's probably
16 more flavors in that. And what we tried to do is
17 paint an overview of what distinguishes prepaid
18 wireless. There's a slide in there about prepaid
19 long distance or more traditional which we didn't
20 want to forget about that, but I think a lot of our
21 discussions here in this room relate to the
22 wireless aspect of it. We also, you know, wanted
23 to go through some time lines in history, kind of
24 the growth of prepaid wireless and how it's come to
25 be where it is today and kind of where we think

1 it's going tomorrow as well as talking about just
2 the variety of plans that are out there. And then
3 we'll close with, you know, there's some
4 information we have about MetroPCS's specific
5 product offerings as well as Kathleen will go
6 through the Verizon specific product offerings.
7 But we certainly welcome questions along the way.

8 As we prepared this presentation, it really
9 wasn't -- although I'm a tax person, I was trying
10 not to -- trying not to put tax into the
11 presentation. It was really focused in on what the
12 marketplace is. And it's really trying to be, I
13 guess, agnostic to the companies that are offered
14 out there except obviously when we get to the
15 individual company presentation. So, and actually
16 not everything's going to apply to every individual
17 company, but we'll demonstrate those issues and
18 those contracts.

19 Next slide, please. Next slide again, please.

20 So what we have here is something we kind of
21 complicated to distinguish -- we didn't put together a
22 counter-slide that shows what post-paid wireless
23 qualities are, but we really want to just give you
24 what is prepaid. And what are kind of universal
25 qualities that cut across all types of varieties of

1 offers, whether it's voice, text, data, whatever it
2 may be -- whether it's by the minute, by the week,
3 by the month, whatever. These are kind of the
4 universal qualities that we think apply nearly
5 across the board to all wireless plans.

6 The very first one is it has to be paid in
7 advance before usage can occur. That's kind of
8 the -- it's inherent within the name, it's prepaid.
9 But the service also typically expires after use or
10 a period of time. And I think there's a notion out
11 there -- I couldn't really find any -- my company
12 does not offer, and I don't know if Verizon does
13 either -- all of our plans have a termination.
14 There is no -- there is no infinite time period
15 which to, quote, use them. So technically somebody
16 can come in, prepay for service and never actually
17 actively use anything. And I think the same is
18 true probably for a long distance card as well.
19 You can purchase a card for 100 minutes and lose it
20 when you walk out the store and never actually
21 place a call. So, it ultimately expires. It's
22 going to expire at a point in time. It's near
23 universal.

24 The other thing we have, there's no billing
25 concept. The term bill may be used and I think

1 it's kind of in our business and I think as
2 people -- it's kind of taking a form where people
3 understand it's something you pay, but in the
4 concept with contrasting post-paid and prepaid, in
5 prepaid there is no bill that somebody receives in
6 the mail. You know, they write a check, send it
7 back in. It's typically done through you have a --
8 you purchase something, you have a defined service
9 period and once that period ends, you need to make
10 another paper. But, you know, like in our
11 business, we'll get through it. We send text
12 messages to our customers -- hey, if you want to
13 keep your service going, you need to come back and
14 pay us some more money. But the concept of billing
15 is replaced in prepaid with this whole notion of
16 top-up, refill, recharge. Those are more of the
17 terms that you hear in a prepaid space, which is
18 basically just the additional value to the prepaid
19 account, whether it's units or dollars, it doesn't
20 matter.

21 The other thing to point out with prepaid, it
22 has to be paid in advance before usage occurs.
23 There's one exception to that, and that's because
24 the federal law requires once your service expires,
25 the phone still has to be able to make calls to

1 911. That's a requirement that's mandated from the
2 federal government for obvious reasons. So that is
3 the one exception that you can continue to use your
4 phone. And this is true probably for any phone.
5 Even if you have a post-paid phone that expires,
6 your contract, and no longer service -- be able to
7 make those calls.

8 Another big element of prepaid is, you know,
9 no credit extended. There's no credit checks. No
10 overages. There's no -- not necessarily a photo ID
11 required. You know, not necessarily doing -- we're
12 not doing background checks. There's no -- since
13 you pay for what you use before you use it, there's
14 no matter of people running up, you know, huge
15 phone bills, making international calls or you
16 know, making a bunch of usage. I guess there's
17 stories before people getting huge text overage
18 bills. The FCC has talked a lot about bill shock.
19 But that's not an issue with prepaid because you
20 only get to use what you paid for. And you have to
21 pay for it in advance.

22 So again, in prepaid, we have reduced fraud.
23 We have very little back debt. There's probably
24 still a little bit of back debt related to bad
25 checks, stuff like that. But the great thing about

1 prepaid is as soon as the check goes bad, that
2 service can be disconnect immediately. There's no
3 collection effort that's involved. There would be
4 a collection -- behind the scenes to collect on the
5 bad check, but there's no grace period, so to
6 speak. And most prepaid is typically card based or
7 cash based. As you typically think of prepaid
8 telephone cards, when I say card based. Now
9 obviously customers prepay with credit cards as
10 well.

11 No long-term contracts. And what that means
12 is the service renewal each and every service
13 period, whether it's a day, week, month, year, is
14 solely at the consumer's discretion. There's no
15 termination fees, there's no -- they're not locked
16 into anything. In fact, they can change -- they
17 can go -- hop from prepaid carrier to prepaid
18 carrier as long as they have the right handset
19 that's compatible to networks. They may have to
20 buy a new handset each and every time, but it's --
21 there's no implied long-term customer relationship
22 here. We have to earn our customer's business each
23 and every month to keep them. And that's where we
24 have -- the prepaid industry typically has a
25 higher, what we call churn, prepaid churn. So in a

1 post-paid base, I think Verizon, you guys,
2 what's -- your churn in the post-paid base is one
3 of the lowest in the industry.

4 **MS. KITTRICK:** Yeah, it's usually about 1.1,
5 which is conceptionally low for churn in post-paid.
6 On the prepaid side, it's upwards of 3, 3 and a
7 half percent, so it is higher.

8 **MR. BARNES:** And I think in our business,
9 usually it's 3 and a half to 4 percent which
10 basically means we turn our customers over every --
11 25 to 35 percent of our customers turn over every
12 year. And so that's a pretty significant amount
13 of -- we have to earn those customers' business.

14 Also, the other thing that's different about
15 prepaid is you typically pay more for your handset.
16 So we don't have those offers where you get free
17 handset with two-year contract. That doesn't apply
18 in our stores. You'll typically pay more for your
19 handset up front. But the idea is hopefully that
20 you'll pay less over the time period through the
21 prepaid monthly or prepaid service. So, there is
22 more sales tax there collected on those handsets as
23 our customers upgrade pretty regularly.

24 The other big thing, the other big difference,
25 and we'll lead into the next slide, please, the

1 varieties of distribution. And this slide is kind
2 of busy, but let's take a few minutes to go through
3 it. On the right-hand side, we kind of distinguish
4 prepaid and post-paid. But I think what you'll see
5 is at first glance, it looks like there's a lot of
6 similarities in distribution between prepaid and
7 post-paid. But the primary distinction here is on
8 the post-paid side, those channels, national retail
9 and indirect -- you know, unaffiliated website and
10 800 numbers and indirect retailer, their obligation
11 to those contract customers ends basically at
12 activation. There's no ongoing relationship with
13 those. But in the prepaid space, each and every
14 service period, you know, whether it be a week, a
15 month, a year, those customers are coming back into
16 national retail chain to see stores, you know, any
17 one of those to recharge, top-up, whatever it may
18 be, that is -- all those options are available
19 with -- variety retailers that are out there. So,
20 as you can see, it's quite varying in the number of
21 options that are out there. Like I said in the
22 beginning, not every prepaid -- not every company
23 that offers prepaid sells through all these
24 channels. But it's the good overview of kind of
25 what options are out there as well.

1 **MS. KITTRICK:** So the percentages at the
2 bottom to get to the question, Mayor, that you had
3 asked about the number of Internet sales or direct
4 sales in the stores. We did a little survey over
5 the last couple weeks with as many prepaid
6 companies as we could find. An economist
7 aggregated the information for us. 72 percent of
8 all prepaid sales are still done in national retail
9 stores like the Best Buy and the Target. And
10 17 percent are direct remote, which is the
11 Internet -- sales over the Internet from companies
12 like Verizon. Actually our percentage is a little
13 bit lower than 17 percent. But we do -- you know,
14 because we have nexus in Florida, we do collect
15 sales tax on those Internet sales. And then
16 11 percent are done in direct retail stores. And
17 my marketing people will tell you that of those
18 11 percent that are done in the direct retail
19 stores, 80 percent are still done on a cash basis.

20 Yes?

21 **MS. FOX:** Would the direct remote also include
22 telephone credit card?

23 **MS. KITTRICK:** Yes.

24 Yes, Davin?

25 **MR. SUGGS:** Okay. Let's just take a national

1 retail like a Best Buy -- Verizon -- do they like
2 buy inventory like from you all and sell it and
3 keep the money for each unit they sell or at the
4 end of the month they remit that to you guys? How
5 does that work on the initial handset?

6 **MS. KITTRICK:** On the handset itself?

7 **MR. SUGGS:** I'm assuming if I'm going to go in
8 and buy a prepaid service, I had to buy a handset
9 and a service at the initial activation.

10 **MS. KITTRICK:** Typically. I mean, if you have
11 a phone, an old Verizon phone that works on our
12 network that is out of contract, you can bring that
13 in and fill it up with prepaid. You don't have to
14 buy a brand new phone. But, typically what you do
15 is with the national retailers is Wal-Mart, for
16 instance, is purchasing our wholesale minutes or
17 phones at wholesale, we send it to Bentonville,
18 Arkansas and they distribute to the states and it
19 will come to Florida and it's their inventory.

20 **MR. SUGGS:** At that point, it's all Wal-Mart?

21 **MS. KITTRICK:** It's all Wal-Mart, yeah.

22 **MR. SUGGS:** And then I don't understand like
23 on the recharge, tell me if --

24 **MS. KITTRICK:** No, we'll get into a lot of the
25 precharge stuff, but --

1 **MR. SUGGS:** If somebody's recharging with a
2 company with MetroPCS or Verizon or anybody else,
3 is there a handset or services -- some type of
4 identifiable -- let's say you sent a text message
5 to people at Metro saying you need to recharge or
6 somewhere in there you identify there's a prepaid
7 handset out there, and they need to recharge or --

8 **MR. BARNES:** When a customer signs up with us,
9 I mean, we have certain identifying information.
10 We have to assign their device. Their device has
11 an ID. And that device -- in fact, it may have
12 several IDs, like their phone number, the device
13 ID, and that information for us is stored in a
14 network element. And that's how we authorize them
15 to receive service. And that's how we can deny
16 their service if they fail to make a payment as
17 well. So we have their phone number, we know what
18 phone number they have and we keep -- we have it --
19 tracking system that can know when their time is
20 coming up to an expiration point and sending those
21 notifications for them to make a payment. And
22 we'll go through later on kind of all the different
23 ways which like MetroPCS will accept payments.

24 **MR. SUGGS:** I assume even after -- especially
25 on the recharge situation, Verizon or anybody else,

1 between the phone number and access to the network,
2 you're able to identify what minutes you have out
3 there and say I want to recharge my minutes to --
4 this person at this identified handset is
5 recharging -- because they have contributed money
6 or minutes. You don't wholesale minutes? Do you
7 wholesale charge -- I guess do you recharge minutes
8 to your cards or -- I mean, some are different
9 ways --

10 **MS. KITTRICK:** We do most of our refills
11 through cards, yes.

12 **MR. SUGGS:** So that may go to -- you may sell
13 that wholesale; it may go to a retailer if they
14 don't go directly to you?

15 **MS. KITTRICK:** Right. They can buy them
16 anywhere.

17 **MR. SUGGS:** Okay. All right. What I'm
18 getting at is the devil with me is -- part of this
19 will come later on when we learn. No matter what
20 we decide to do with prepaid, we're going to
21 collect. And that's what I'm trying to -- I'm
22 trying to get at the jinx of the problem.

23 **MS. KITTRICK:** And that's --

24 **MR. SUGGS:** If you're collecting wholesale --
25 are you making wholesale revenue and sometimes

1 you're making retail revenue. And I know you've
2 got the minutes identified and you can identify
3 when somebody purchases it, but depending on how
4 you do it, they -- it makes it complex.

5 **MS. KITTRICK:** We can identify it when they
6 activate it. We -- identify when they purchase it.

7 **MR. BARNES:** And how they distribute it.
8 So --

9 **MR. SUGGS:** -- you're receiving money up
10 front, but it's wholesale money through a retailer.
11 Sometimes you receiving money directly --

12 **MS. KITTRICK:** Right.

13 **MR. BARNES:** And I think it can be different
14 based on the relationship with different retailers.

15 **MR. SUGGS:** Right. No, you're free to --
16 Wal-Mart's got 10 million stores; they get a better
17 price than the Circle K. I understand that.

18 **MR. LINDSEY:** I have a quick question. It's a
19 question or clarification on the direct remote
20 which is Internet. Like you said, the companies
21 like Verizon and AT&T that have nexus everywhere,
22 we would be generally collecting tax. That issue
23 regarding, you know, like buying it from someone
24 who is out of state that Amazon, that really the
25 same issue -- that's just a general sales tax nexus

1 issue; that's not really anything particular to
2 prepaid cards. So it's not anything that could
3 necessarily be solved in our prepaid environment;
4 that's just kind of the nature of the beast given
5 the Constitutional, you know, the Supreme Court
6 issues.

7 **MS. KITTRICK:** Right. And that's one of the
8 things that I had brought up at the last meeting
9 that I thought that if we had time to explore it,
10 it's -- talk about the over-the-top providers and
11 some of those, you know, companies that maybe don't
12 have nexus in the state. I mean, there's always
13 going to be that issue we have regardless of
14 whether it's AT&T or --

15 **MR. BARNES:** We are not going to solve --

16 **MS. KITTRICK:** Right, we're not going to solve
17 it.

18 **MR. SUGGS:** One last question, area code.
19 Like say if I go to this Wal-Mart here and Verizon
20 prepaid, it's going to be an 850 area code or does
21 it matter? It could be --

22 **MR. BARNES:** I think that's a business
23 practice of some companies because I know from my
24 own experience for MetroPCS, if you activate in
25 Florida, you're going to get a Florida area code.

1 But I think there's other companies out there that
2 can give you the option of phone numbers in other
3 states.

4 **MR. SUGGS:** So then it's super hard to track,
5 for instance -- situsing issues, so you can
6 sometimes -- I mean, there's no way you can
7 pinpoint --

8 **MR. BARNES:** We can easily have a customer who
9 activates in the State of Florida and moves to
10 Texas the very next month, and we may never know
11 that because they keep recharging using a credit
12 card online.

13 **MR. SUGGS:** Right.

14 **MS. FOX:** But along those lines, can't you
15 identify place of use through the telephone number
16 on each call?

17 **MR. BARNES:** I'm not sure I understand the
18 question. Like you mean which telephones numbers
19 they're calling?

20 **MS. FOX:** Yes, and where they're calling from.

21 Don't you have to have that in order to do the
22 connectivity --

23 **MS. KITTRICK:** I don't think that, you know --
24 we have a billing system -- the billing system for
25 prepaid is different from post-paid anyway, but I

1 don't think we have the capability of tracking, you
2 know, each cell site that the call is connecting to
3 and sort of situsing from there.

4 **MR. BARNES:** I think talking about the history
5 of prepaid, I think the movement in the '90's was
6 the shift from taxation of prepaid to the point of
7 sale because of that specific problem of the
8 ability to understand where somebody is using that
9 card each and every time they actively initiate a
10 call or receive a call. And that crossing state
11 lines and creating those types of double taxation,
12 I think, which is what led prepaid to be taxed at
13 the point of sale under sales tax in nearly every
14 state in the '90's.

15 **MS. KITTRICK:** Right. The federal bill and
16 local telecommunication sourcing act explicitly
17 sort of leaves prepaid out of the place of primary
18 use -- sourcing because of that issue because it's
19 very difficult. And that's why, you know, all the
20 states virtually except for Florida, they've always
21 took the position that prepaid is under the sales
22 tax.

23 **MS. FOX:** To make sure I'm understanding then,
24 the current system developed because of the
25 situation that existed in the '90's that doesn't

1 necessarily exist today; is that what you just
2 said, so that --

3 **MR. BARNES:** No, I think the issue still
4 exists today very much so. The mobility of prepaid
5 consumers to move across state lines at will
6 without a permanent or regular place of use or even
7 billing -- a billing address --

8 **MS. KITTRICK:** Right. It goes back to where
9 it's purchased really. I mean, you know,
10 72 percent is still purchased in retail stores
11 through cash. So, we don't have, you know, a
12 billing relationship with those folks. We don't
13 have any information that -- we can't verify. We
14 don't do credit checks. So we can't verify if
15 they're putting in Daffy Duck, residence of Disney
16 World.

17 **MR. BARNES:** We've had a few Mickey Mouse
18 customers.

19 **MR. RESNICK:** On the 72 percent that you have
20 in the -- data that includes the indirect remote
21 which would be like an Amazon website.

22 **MS. KITTRICK:** Right.

23 **MR. RESNICK:** Do you know what percent of the
24 72 is that?

25 **MR. BARNES:** We do not have the time to

1 compile that level of detail. We kind of sent out
2 this request just a few weeks ago to try to get
3 what we could, just a high level to demonstrate how
4 much is sold direct versus indirect.

5 **MR. SUGGS:** Well, like Amazon, you have an
6 established relationship -- like -- we have a
7 relationship with Wal-Mart at a wholesale. Amazon
8 and any other indirect -- established relationship
9 just like --

10 **MR. BARNES:** That's true. You just can't sell
11 for free will on Amazon.

12 Next slide, please.

13 The next couple of slides are kind of some
14 prepaid wireless history that stems sort of from
15 the origination. I think what we're hoping to
16 demonstrate is a variety of plans and kind of
17 key -- some of this stuff is just to give a flavor
18 of what was developing at the time and give a
19 flavor for key milestones in the evolution of
20 prepaid wireless.

21 As far as I could tell, it appears that
22 prepaid wireless was born around 1993 with a
23 company, Banana Cellular. And I think soon after,
24 GTE launches their other service. I think what
25 you'll see going through this, too, is back then,

1 wireless was very fragmented. It was comprised of
2 a lot of very localized carriers that had obviously
3 since consolidated since then. So I've tried to
4 put in here also some -- in parentheses, where
5 companies have succeeded. But it may not be -- I
6 may not have gotten them all right, but -- '94,
7 Houston Cellular launches CallTrack. I kind of
8 don't have a whole lot of information on what those
9 service plans offer; it's just a limited number of
10 information out there. They obviously don't exist
11 today.

12 But one that was interesting in '94 was
13 Rogers, they launched their -- what they called the
14 Amigo, phone-a-box, which was sold -- first month
15 was sold in retailers. And at the time in '94,
16 most of the phones were -- it was a very -- wasn't
17 widespread. A lot of phones were for business use
18 or for security reasons. You know, emergency use
19 only. So what Rogers was trying to argue was those
20 security -- consumers, they actually required a
21 credit card. And it was really a phone deposit of
22 sorts, as if you were renting a phone from them.
23 And if you never returned the phone, they would
24 actually charge your credit card for the price of
25 that phone. So the monthly fees they had in 1995,

1 so forth, actually included a phone rental fee.

2 Also, you know, the first base line service
3 was free calls to emergency services. They were
4 being very nice there, right? But then 95 cents
5 per minute thereafter that you had to -- that the
6 19.95 was used to apply to. Then if you wanted to
7 go up the next tier, you actually had unlimited
8 weekend, unlimited nights and weekends was the next
9 tier up even then. I think what you see is the
10 primary use of the networks -- looking at our own
11 network used today, there's definitely peaks that
12 are during busy time and then it drops off late in
13 the night. So they really -- the fact is the
14 equipment's there and they're looking to use it no
15 matter what. There's fixed costs of giving away
16 unlimited nights and weekends when there's heavy
17 call traffic already because that's when the
18 business traffic tapered off at that time.

19 I put some data in there around 1995 just to
20 kind of get perspective, too. The wireless plans
21 really started to target the credit-challenged, the
22 budget-minded. I think the over -- there was some
23 bill shock going on even back then. Minutes were
24 expensive. So extra minutes, you may not have
25 gotten a whole lot and if you went over your

1 allotment, you paid a premium for those minutes.
2 So prepaid was offered as an alternative to that.

3 At the time, just to paint a perspective,
4 there was 44 million total post-paid and prepaid
5 customers in the United States. Now there are
6 331 -- over 331,000,000 who are call connections.
7 And that's important because not every connection
8 provides a voice-capable service.

9 Prepaid, I know Bob had some estimates in his
10 presentation. I think there's a general estimate
11 that 20 to 25 percent of the market today is
12 prepaid. But it's challenging to get some of that
13 information because of the way in which
14 companies -- some companies are not public. Some
15 companies don't break it out. So it's just a
16 range. Also, just to kind of get perspective,
17 roaming minutes back then were nearly 60 cents to a
18 dollar, now they're much more affordable.

19 Next slide, please.

20 So in 1996, Ameritech actually launched a
21 top-up with a disposable card, much like what we
22 think of prepaid cards today. But they also
23 accepted credit cards or they would take cash at an
24 authorized retail center, which is much like a lot
25 of businesses including MetroPCS conducts prepaid

1 business today. Also in 1996, Cellular One
2 introduced a card that came prepackage with the
3 Motorola phone. So here you had a phone with a
4 card. And in some cases, the cards could actually
5 be used, not just for wireless but it could be used
6 for long distance as well. So the cards would
7 cut -- be used for either one. You didn't
8 necessarily know how to --

9 Cellular One also allowed you to bring your
10 own handset in activation fee. Also that year,
11 Topp Telecom launched. That's the company that was
12 the predecessor to what we know at a TracFone phone
13 today. The unique thing about Top Telecom was the
14 launched proprietary prepaid technology that
15 actually had the -- that was actually in the
16 handset itself. So keeping track of the usage of
17 the customer was on the handset itself as opposed
18 to somewhere in the network -- the network
19 authorization -- the phone itself was the only
20 device that knew how many minutes the customer had
21 left at any time which is highly obviously
22 affordable with no real relationship with the
23 customer; you'd have no idea how that phone was
24 used.

25 **MS. FOX:** And is that the common method now or

1 is the common method now network based?

2 **MR. BARNES:** I think it's still specific to
3 the company. MetroPCS does not use that type of
4 technology. And I'm not sure if TracFone still
5 uses that today. I'm not sure.

6 1999, PowerTel, which is now T-mobile, kind of
7 received expansion of the prepaid account. You
8 know, expansion of prepaid customer relationship.
9 They had vouchers and pins with expiration dates.
10 Their service plans also included calling features
11 and SMS. So we see a growth there, expansion of
12 prepaid plans that are not just for calling and not
13 just for emergency calling anymore; they're really
14 broadening in the scope of usage. '99 also AT&T
15 sold a phone that's preloaded, so as opposed to a
16 separate card, it's preloaded with minutes. And at
17 that time, you could refill cards at an AT&T store,
18 some direct retail outlet, or using an 800 number.

19 1999 also marked the launch of unlimited local
20 plans. So you kind of see it early on in '96 where
21 Rogers had their unlimited nights and weekends.
22 Now we have a plan that provides unlimited local
23 calling. But it's really offered as a replacement
24 for wire line service. And it wasn't intended to
25 be a highly mobile service although it obviously

1 can be used on the go. But it was intended to be
2 used within a defined geographic area and not
3 beyond that. But you could buy separate calling
4 cards to make long distance calls if you wanted to.

5 In 2002, MetroPCS launched service with
6 unlimited local as well. In that case, you could
7 buy long distance five cents a minute through \$10,
8 \$20, \$30 cards. Also in 2002, Virgin Mobile, which
9 is now owned by Sprint, launches a mobile virtual
10 network operator which basically means they don't
11 own the network facilities which carries the
12 traffic. That's the first indication I could find
13 of website recharges. Obviously, I don't have the
14 Internet as it exists in 2001, but that's the first
15 one where I saw definitely where they were offering
16 website recharge.

17 2002, 2003, more plans kind of come out. AT&T
18 launches the GoPhone. In 2003, they had -- at
19 first, it was an automatic replenishment through a
20 debit and credit account, but I don't believe
21 that's a requirement date. That was something that
22 initially as they entered the market, that was tied
23 to a credit account. So the -- was is that you
24 would recharge.

25 Next slide, please.

1 This slide, except kind of in 2005, this comes
2 from a Morgan Stanley analysis back in 2011, late
3 2011, kind of showing what they expect the growth
4 of prepaid market. Has been cited as the fastest
5 growing sector of the wireless market. I think
6 we're kind of in the 23, 24 percent range according
7 to this chart now. And I think there's -- I
8 hope -- I like Bob's estimate earlier, so I'm
9 hoping for our business sake that is -- his
10 estimates prove to be true.

11 Next slide.

12 This is some information we received from
13 Nielsen who does analysis of consumer trends.
14 They've kind of divided how they view the prepaid
15 market into three tiers. And I think this fits in
16 with some of, I guess, look at what Bob was doing
17 in the economic estimate -- low tier, mid tier,
18 high tier. I think the market does kind of break
19 down that way, although I think where you have the
20 lifeline customers with a very restricted feature
21 phone, doesn't have a lot -- doesn't have any apps,
22 sort of like your basic phone; I think you tend to
23 see those customers pay a lot less per phone. The
24 low tier is probably somewhere around -- it's less
25 than \$20 and in some cases probably somewhere in 8

1 to \$12 range. For those customers that are
2 receiving that qualified under federal guidelines
3 typically below poverty level, they're getting that
4 type of reduced rate. But then you move up to the
5 mid tier.

6 The mid tier is feature phones that may be a
7 little bit more complex. They're still not like an
8 iPhone or an Android type of smartphone, but they
9 still have some additional features. Not just used
10 for voice and texts, there may be additional
11 capabilities there, even downloading ring tones,
12 things like that. All the way up to the high-end
13 service, I think, where the market is really moving
14 towards today with the smartphone devices. I think
15 even recently several prepaid providers launched
16 the iPhone. I think it costs \$600 on a prepaid
17 plan, but it's available if you want to pay that.

18 **MR. STRANBURG:** Do you have an estimate on the
19 mid and high-end service, the dollar amounts?

20 **MR. BARNES:** Well, I can speak from MetroPCS
21 perspective. We offer plans and phones in the mid
22 tier and the high-end service tier. Our plans
23 range from \$25 to \$70. But generally from a
24 consolidated perspective, our, what we call ARPU,
25 average revenue per user, is around 40 to \$41. But

1 I think we typically -- and this is -- we're trying
2 to provide a post-paid experience to a prepaid
3 customer. So we're probably towards that mid tier,
4 upper tier end of it. But I would think that some
5 plans that are out there are -- you see a lot of
6 types that are \$50. But I would say the prepaid
7 average is much lower than that.

8 **MS. KITTRICK:** I agree.

9 **MR. BARNES:** Next slide, please.

10 **MS. KITTRICK:** This slide basically just shows
11 where prepaid is going, the trended type. And as
12 you can see, first quarter of 2011, the
13 month-by-month unlimited plan seems to have taken
14 off and actually exceeded the by-the-minute plans.
15 I know that, I think, MetroPCS had the unlimited
16 plan for quite a while. Verizon has done -- issued
17 its unleashed program within probably the last six
18 to eight months. So we are now in the marketplace
19 for the unlimited plans. And they are proving to
20 be pretty popular. So we're seeing about
21 37 percent estimates of growth by the end of the
22 first quarter in 2012.

23 You still see the lower end of the green
24 chart, the minute plans, by-the-minute plans.
25 They're maintaining a 7 percent penetration rate by

1 the end of 2012. All kinds of -- in between.

2 **MR. BARNES:** I think I was really struck, too,
3 by the 10 percent annual plans. That's not
4 something MetroPCS sells, but you can imagine the
5 customer comes in once and you may not see them for
6 another year. That plan works that good, so I was
7 really struck by the fact that 10 percent of the
8 prepaid market is --

9 **MS. KITTRICK:** Those are the phones that sit
10 in the glove compartment, I think, just in case
11 they need it.

12 **MR. SUGGS:** Two things. I want to make sure I
13 got this right. By-the-month is unlimited. I'm
14 paying for 30 days.

15 **MS. KITTRICK:** Paying for 30 days.

16 **MR. SUGGS:** Annual fee, I'm paying for 365?

17 **MS. KITTRICK:** Right.

18 **MR. BARNES:** It's probably got an expiration
19 date. I think the annual plan is probably defined
20 by something that is good for up to --

21 **MS. KITTRICK:** Minutes of --

22 **MR. BARNES:** It's good for up to -- I mean,
23 it's got a defined number of minutes, but they can
24 be used over the next year.

25 **MS. KITTRICK:** Right. And I will note this

1 when I do my chart. I have it in here in my
2 slides. We have -- you can buy \$100 and above, you
3 can buy a retail card for \$100 and above at Verizon
4 Wireless and the expiration is 365 days. So you
5 have 365 days to use it. But it will expire after
6 365 days whether or not you used, you know, the
7 whole entire 100 minutes. But if you used the
8 \$100, it expires the minute you get, you know,
9 \$99.99.

10 **MR. SUGGS:** So that's annual. But
11 by-the-month unlimited, you have a price point for
12 30 days worth of usage?

13 **MS. KITTRICK:** Right.

14 **MR. BARNES:** 30 consecutive days.

15 Next slide, please.

16 The next slide just kind of lays out just what
17 we've already been talking about with kind of the
18 variety of wireless plans you see today. You know,
19 you have handsets that come with usage already
20 preloaded. You have the handsets that don't come
21 with usage. And then you can buy the top-up,
22 refill or recharge through dollars or unit
23 denominations. But generally the units would be,
24 you know, minutes, days, weeks, and even years.
25 I'm not sure I've ever seen a PIN that goes beyond

1 one year. And part of the challenge is there's
2 phone numbers, you know, a customer hangs on to a
3 phone number for a period of time. There's back-in
4 costs to maintain that for a period of time, so I
5 think -- try to deny that. At least for MetroPCS
6 customers, you know, 30 days is typically the
7 extent unless you charge, recharge.

8 Next slide.

9 Here's where the 31 Flavors -- I didn't
10 actually calculate all the variations here, but
11 just to kind of go through the different
12 services -- voice, texting, data, all the features.
13 Here's you know -- all the different plans that are
14 out there offer all these types of varieties, so
15 there's some plans like a Tablet that may not offer
16 any voice service all the way to some that offer
17 limited, unlimited, pay-for-use, mobile-to-mobile,
18 so forth. Most every plan -- I don't think I saw
19 any plan today that does not include features like
20 call waiting, three-way calling, caller ID, voice
21 mail. And there's just a variety of options.

22 Next slide, please.

23 Here's just the sampling of companies, just
24 brand names that are out there. We've segregated
25 those into two categories, one of those -- one of

1 those that operate their own network, mobile
2 network operators, which are the big names that
3 you -- are associated with communications. Also,
4 though, there's some mobile virtual network
5 operators, MVNOs that basically sell, resell
6 services on somebody else's network.

7 There's a couple things -- deep in MetroPCS,
8 we're unique when we started in the fact that we
9 were a prepaid company that operated our own
10 network. But that was our sole and exclusive
11 business. Where if you look at the AT&T, Verizon,
12 T-Mobile, and Sprint, they operate post-paid
13 business and then operate the prepaid on top of
14 that as well, offered it as a complimentary
15 service. But one also unique thing that I wanted
16 to point out is even recently, just adding the --
17 Leap Wireless operates a network, but they also
18 operate as a MVNO in jurisdictions where they don't
19 operate network. So they're still selling service
20 maybe nationwide, but they're only operating
21 network in some jurisdictions. And they sell
22 exclusively through third-party retail channels.
23 MVNO may be selling less direct than they do --
24 where they operate network.

25 **MS. FOX:** John, does MetroPCS only sell

1 prepaid?

2 **MR. BARNES:** Yes.

3 Next slide.

4 So we tried to -- obviously we don't have a
5 crystal ball, but we tried to throw some ideas down
6 of where we think the prepaid market is going. I'm
7 not sure the prepaid market is going anywhere
8 differently than the whole -- wireless market as a
9 whole. But what we see is everything's moving to
10 smartphones. It's a huge migration. Customers are
11 consuming more and more data. It's almost to the
12 point where I think voice and text are almost
13 commoditized. I think we're starting to see that.
14 The legacy services like voice, the cost is -- the
15 networks are there. The cost has been driven down
16 to really local level. It's almost like the
17 consumers are data hungry. They have these Android
18 or iPhone phones and they want apps and they want
19 to consume data. So that's where we think prepaid
20 is headed as well.

21 The other thing --

22 **MR. SUGGS:** Question. So I've got a Verizon
23 iPad or anybody, AT&T, is 3G and that -- that's a
24 post-paid arrangement. You actually bill somebody;
25 you can't get that data service prepaid -- because

1 that's not considered -- service. That's still
2 sales are 3G service or 4G service?

3 **MS. KITTRICK:** You can -- I'm sure companies
4 are moving towards prepaid data as well where you
5 can have a data card or something that's embedded
6 on a prepaid basis. But if you have a tablet now
7 with 3G service and --

8 **MR. SUGGS:** It's a post-paid like a post-paid
9 cell phone.

10 **MR. BARNES:** I think there are services out
11 there that will -- you can prepay for data.

12 **MR. SUGGS:** Do you sell prepaid data?

13 **MR. BARNES:** We do not. We do not sell
14 prepaid data, exclusively data.

15 **MR. SUGGS:** But maybe in the near future, I
16 can have an iPad with a 3G prepaid --

17 **MS. KITTRICK:** It may be. I would say we are
18 probably already there.

19 **MR. BARNES:** I think there are some companies
20 that are out there that are already doing that.
21 And when you say prepaid data, it's a matter of
22 just -- I say this from my own personal experience
23 of using an iPad. I had to pay \$15 to get a
24 certain amount of usage before I could use any of
25 it. I had to pay for it with a credit card. And

1 now I did establish a recharge situation. So the
2 plans already exist with a prepaid connotation.
3 I'm sure there's carriers out there or companies
4 that are out there that are marketing prepaid data.
5 And it may not be -- it may be on somebody else's
6 network --

7 **MS. FOX:** Well, didn't Cricket and some of
8 these -- and Leap just start marketing iPhones and
9 don't they --

10 **MS. KITTRICK:** Yes.

11 **MS. FOX:** -- primarily deal with prepaid?

12 **MR. BARNES:** Yes. But it's not exclusive. I
13 think if you're still offering a voice and text in
14 a combined package versus an exclusively data-only
15 service. Most people wouldn't buy an iPhone and
16 buy just a data plan for that iPhone. In fact, I'm
17 not sure companies, at least on a post-paid basis
18 that sell iPhones, allow you to do that. You have
19 to have a voice and a data plan. But I think
20 there's companies -- newer companies, and I don't
21 know for sure, I'll use Clear Wire as an example,
22 but I think Clear Wire may sell some prepaid data,
23 what may be paid-in-advance data, but we can maybe
24 get some clarification on that.

25 **MS. FOX:** I thought some of that just came out

1 within the last month.

2 **MS. KITTRICK:** Yeah, they are selling the
3 iPhones now, the prepaid basis, right.

4 **MS. FOX:** Nobody buys iPhone just to talk.

5 **MS. KITTRICK:** No. So, but even as you'll see
6 with my plan, we have prepaid data, but it's not
7 exclusive to just data; we have plans that include
8 talk, text, and data.

9 **MS. FOX:** Right. Because as just explained
10 that is irrelevant --

11 **MS. KITTRICK:** It is.

12 **MS. FOX:** -- kind of comes with the territory.

13 **MS. KITTRICK:** On the post-paid side, we just
14 offered -- we just came out with a new plan called
15 Share Everything. And the focus really is the
16 data. So for a monthly fee, you know, the voice
17 and the text is unlimited. I mean, it doesn't mean
18 anything to us anymore. It's really all about the
19 data. We're selling the various flavors of the
20 package of data.

21 **MR. ROSENZWEIG:** I gather simplistically, all
22 these other -- you're talking about, no CST is
23 being collected, just sales tax? So, for example,
24 the AT&T environment, you have an iPad and you sell
25 prepaid plan, there's no --

1 **MS. KITTRICK:** It just depends. Verizon has
2 an access charge for each phone. So the access
3 charge on the post-paid side would be under the
4 CST. It's still -- it's still taxable. If the --
5 if some day a company, and I don't know that
6 Verizon will ever do this, but some day a company
7 just says, you know what, it's -- we're just
8 offering like Google voice for Skype. We're just
9 going to provide these for free. And we're just
10 going to charge for the data. I think if the
11 Internet -- still in place, then there's an issue
12 of whether anything is taxable if they're offering
13 a free service of voice.

14 **MR. ROSENZWEIG:** So the iPad when you buy the
15 monthly or month-to-month service for data, is the
16 CST being charged?

17 **MS. KITTRICK:** If it's Internet access, no.
18 If it is just Internet access --

19 **MR. ROSENZWEIG:** If it's 3G, it is?

20 **MS. KITTRICK:** Yeah.

21 **MR. ROSENZWEIG:** Okay. So if it's prepaid --
22 just data and it's 3G, you're doing CST?

23 **MS. KITTRICK:** No, Internet access. 3G is
24 Internet access. So there's no voice attached to
25 it. It's just a tablet. There's no voice attached

1 to it. Just Internet access. There's no --

2 **MR. BARNES:** That data plan you're buying is
3 for Internet access. It may be called data, it's
4 really for -- it's not a point-to-point data
5 service, you're accessing the Internet through that
6 portal. There's some questions -- I want to make
7 sure I clarify, too, 3G, 4G really just refers to
8 the technology, the speed, the bandwidth that's
9 available for consumption. But, like MetroPCS, we
10 launched a 4G LTE network several years ago. And
11 what we're seeing, the migration and LTE, it's more
12 efficient for the network. You can put more
13 customers on it. But it also moves to a
14 completely, I'll call IP or internet protocol,
15 method of technology so that you can offer your
16 customers voice over LTE, which is, in effect, IP
17 web customers --

18 **MR. RESNICK:** That's --

19 **MR. BARNES:** -- network, we don't necessarily
20 know.

21 **MR. RESNICK:** Face time or something like
22 that.

23 **MR. BARNES:** I'm familiar with --

24 **MS. KITTRICK:** Face time is like --

25 **MR. RESNICK:** It's the iPad where you can talk

1 to somebody and see them.

2 **MR. BARNES:** We do have that under
3 over-the-top applications. I think this is a
4 significant, it's in some situations, a threat to
5 traditional mobile telephony in the fact that you
6 have the Internet connection that you can put
7 services over the top. And basically if you're
8 using data over a MetroPCS network, we don't
9 necessarily know that you're making a Skype
10 telephone call or you're doing a Skype video chat
11 or you're doing face time or whatever, we don't
12 know. Or you're sending an e-mail. It may look
13 all the same. You're just --

14 **MR. SUGGS:** Data packages versus voice
15 packages.

16 **MR. RESNICK:** But like the Sprint and Verizon
17 modems like you sell for computers, those are just
18 data, right? And that's prepaid --

19 **MS. KITTRICK:** It's Internet. You can buy
20 them prepaid.

21 **MR. RESNICK:** So there's no tax on those.

22 **MS. KITTRICK:** Not if it's Internet access.

23 **MR. STRANBURG:** It's about ten to 4:00. We're
24 only scheduled to 4:00. I don't know if you want
25 to go over things quickly or if you want to come

1 back and finish this up --

2 **MS. KITTRICK:** I can be pretty quick.

3 **MR. STRANBURG:** Or if people want to stay a
4 little bit longer past 4:00.

5 **MR. BARNES:** Let's run through real fast. Go
6 to the next slide. Next slide. We can skip that.
7 Next slide.

8 Okay. So, go to the next slide again, please.

9 Just real fast, this is MetroPCS. We're
10 offering those smartphones, those high-end mid tier
11 phones and trying to offer those broader number of
12 services. So we're not just that throw-away
13 phone-type of company. We're trying to offer that
14 better experience.

15 Go to the next slide, please.

16 Here's just a quick overview of our type of
17 plans. We have what you call by-the-minute,
18 by-the-week, and by-the-month plans. And they
19 range in prices, all the way from \$10 to \$70. All
20 of them pretty much include features. We offer
21 texting. A lot of them have unlimited texting,
22 unlimited local, long distance, web. Our
23 by-the-minute plan does keep track of how many
24 minutes are used or how many kilobytes are
25 consumed.

1 Next slide.

2 Here's just a quick example of what one of our
3 by-the-minute, our \$30 card would look like if you
4 purchased it at a retail outlet.

5 Next slide.

6 **MR. RESNICK:** If you bundle data with the
7 voice services, the other services, how do you
8 separate that for tax purposes? Do you --

9 **MR. BARNES:** If you bundle data with voice?

10 **MR. RESNICK:** Yeah. It doesn't separate?

11 **MR. BARNES:** There's the ability to unbundle
12 with the proper books and records.

13 **MR. RESNICK:** Do you do that internally?

14 **MR. BARNES:** Yes.

15 **MR. RESNICK:** All right.

16 **MR. BARNES:** Next slide.

17 That's an example of our by-the-week card.

18 Next slide.

19 Here's an example of a type of
20 multi-denomination card that we offer. Here you'll
21 see it's pay -- we say pay your bill, but it's
22 really meant as a consumer language to make help
23 them understand this is what you -- you're trying
24 to pay for your charges. We don't actually mail
25 bills to customers, so that's another thing you

1 might see at a retail outlet.

2 Skip the next slide -- next two slides. Go to
3 the typical customer slide.

4 So here's kind of an example of what typical
5 customer experience for MetroPCS is. You're going
6 to purchase a handset from a corporate store, at
7 one of our authorized dealers or a national retail
8 chain. Or you could bring your own phone in. At
9 the same time, you're typically going to pick a
10 rate plan, by the week, by the month. You're going
11 to pay for your first service period. And then
12 like I mentioned earlier, we're going to send you a
13 text message eight days -- one day prior -- here's
14 an example of what a text message might look like.
15 And then the customer basically utilizes one of our
16 payment options to pay. If they don't pay by
17 their -- what we call their anniversary date, their
18 cycle date, their service is suspended. And if it
19 stays in that state for the next 30 days and at the
20 end of the next 30 days, they use -- their service
21 gets canceled and they never receive service, but
22 their account is canceled and they lose their phone
23 number. They can actually come back to us, pay for
24 another service period, and reactivate their
25 service.

1 In fact, if the customer pays us, if it's a
2 \$40 plan, they pay us \$50, at the end of that 30
3 days, they still have, quote, "\$10 credit," they
4 don't have enough to continue their service. They
5 still get suspended.

6 **MR. SUGGS:** Pay reactivation?

7 **MR. BARNES:** In some cases, yes, there is a
8 reactivation fee.

9 Next slide, please.

10 I just wanted to kind of demonstrate all the
11 variety of payment options our customers have. And
12 this may be different for other prepaid companies.
13 But we allow our customers to pay one time or set
14 up a recurring debit or credit card with their
15 account. They can go online to our own website.
16 We don't take recharges through third-party
17 websites, but other companies may. You can buy --
18 you can call up the 800 number, you can dial
19 through your phone. There's an application we have
20 on certain phones. You can mail a check. Drop a
21 check off at the drop box, purchase a card at a
22 retail outlet or authorized detailer. But the most
23 interesting fact about our company is 70 percent of
24 our customers pay in cash every month at one of
25 over 6,000 retail locations. And we only have

1 nation -- in our footprint, 162 corporate stores.
2 You can see our customers are paying -- mostly
3 paying in cash and mostly paying at stores that are
4 not our own.

5 **MS. FOX:** You have 19 market areas?

6 **MR. BARNES:** We operate in 18 states.

7 **MS. FOX:** 18.

8 **MS. KITTRICK:** So I'm going to -- a lot of
9 what I had to say, John has covered. So I'm not
10 going to spend a ton of time going through my
11 slides. But just to let you know, we do have daily
12 plans and we have per-minute plans and we have
13 per-month plans. You can -- depending on what kind
14 of service you are interested in, you can pay by
15 the minute. And you'll see the minute rates are
16 higher. And you don't get free mobile-to-mobile
17 calling and free anytime minutes if you pay by the
18 minute. You can pay 99 cents and get what's quote,
19 unquote, an "unlimited" number of mobile-to-mobile
20 calling calls. And then the rate drops to 10 cents
21 a minute for anytime minutes under the 99-cent
22 plan. If you go to the \$1.99 daily plan, you get
23 more unlimited calls and cheaper texting and mobile
24 web. We also have a \$50 unlimited plan. And
25 again, unlimited, I think Davin made a very good

1 point before, it's for 30 days. It's a unit of
2 time. The unit of time is not a day, it's not a
3 week, it's a month. It's 30 days. And for that
4 \$50 limited plan, you get unlimited
5 mobile-to-mobile calling, again, like with the
6 daily plan. Anytime minutes, text message, and
7 mobile web. And mobile web refers to just sort of
8 the basic ability to go online and search
9 something. It's not video streaming or watching
10 movies or anything like that. It's just very
11 basic. This is what --

12 I'm sorry, next slide.

13 This is a picture of a phone in a box, if you
14 will. Our phones come with a minimum amount of
15 money, \$10 of air time included.

16 Next slide.

17 You open up the box, you can see that you can
18 choose from, again, a variety of plans, the daily
19 plans, the monthly plans. And it has information
20 about the rates. The option services are voice
21 mail. I'm sorry, not voice mail, 411 information,
22 mobile e-mail, easy navigator, and games and
23 international calling and text messaging. That is
24 in addition to the \$50. And we'll talk about how
25 that works in a minute.

1 Next slide.

2 This is similar to the information John
3 provided. You can make a payment by using your
4 phone. Texting 611 from your phone and putting in
5 a PIN with a retail card, and we will show you
6 retail cards coming up. So you can do it over your
7 phone dialing 611, you can do it online using a
8 credit card, or you can do it in person at a kiosk
9 or giving cash to a customer rep in our stores.
10 80 percent of all of our refills are done in stores
11 with cash. They're still an anonymous customer in
12 many years.

13 Next slide.

14 To activate the service, you basically just
15 install your battery, turn the phone on, select
16 your language, press send for instructions. You
17 put in your zip code. That's the only information
18 we have is where your zip code is. They give
19 you -- they ask you for a phone number if you don't
20 have one attached and your account security code
21 that you select and then you make a call and listen
22 for instructions. One of the key points about this
23 is if you have signed up for the monthly service
24 and after 30 days you don't have enough money on
25 your account to pay for another month service,

1 unlike John, where if you had \$10 left over, you
2 didn't have to -- cut you off, we will allow you to
3 drop down to a daily plan. So, as long as you do
4 have some money in your account, you can drop down
5 to a daily or a minute plan until that money has
6 run out.

7 **MR. ROSENZWEIG:** The zip code, that's just
8 information you're getting or just to use your
9 credit card?

10 **MS. KITTRICK:** I'm sorry, what?

11 **MR. ROSENZWEIG:** The purpose of the zip code.

12 **MS. KITTRICK:** I think that is to try to
13 assign a phone number.

14 **MR. ROSENZWEIG:** You can put in any zip code
15 you want?

16 **MS. KITTRICK:** You can put any zip code in you
17 want. There's no way credit checks. Again,
18 there's no way to verify if that zip code is --

19 **MR. ROSENZWEIG:** Where you are.

20 **MS. KITTRICK:** So if somebody is savvy, they
21 can pick a state like Delaware that doesn't have
22 any taxes.

23 **MR. RESNICK:** You don't have to comply with
24 that -- the federal law enforcement requirements?

25 **MS. KITTRICK:** No, we do.

1 **MR. RESNICK:** You comply, but you don't have
2 any information?

3 **MS. KITTRICK:** Well, they can still run a
4 wire. We still work with them. It makes it
5 more --

6 **MR. BARNES:** I think the issue is more 911.
7 It has to be focused in on where the GPS versus --
8 you don't have an address to send a first responder
9 to, so we have to base on network location to do
10 that.

11 **MS. KITTRICK:** Right.

12 Next slide, please.

13 What a refill card looks like for us. Again,
14 you can use it for your \$50 monthly service or you
15 can add -- you can use that and add another \$50 if
16 you want to do apps and games and tones, things
17 like that. You'll see that you can again dial 611
18 and add -- if you want to do it from your phone,
19 there's a PIN area on the bottom that you can use
20 to verify that you have your --

21 **MR. SUGGS:** Question.

22 **MS. KITTRICK:** Yeah.

23 **MR. SUGGS:** This \$50. If we -- voice -- some
24 stuff is not taxable, like Internet stuff is not
25 taxable.

1 **MS. KITTRICK:** Right.

2 **MR. SUGGS:** How much is \$50 --

3 **MS. KITTRICK:** Well, if you're buying this
4 right now in a store and you -- the entire \$50 is
5 taxable under the sales tax. We have no way of
6 knowing when you're buying this.

7 **MR. SUGGS:** Right. So like if I bought -- if
8 we were somehow -- if the legislature said, okay,
9 we're going to put CST on prepaid, not saying who's
10 collecting, we're just going to put CST on prepay,
11 but we can only -- can't put prepay on Internet,
12 only do it on voice, right?

13 **MS. KITTRICK:** You can't put prepay in
14 Internet?

15 **MR. SUGGS:** CST on Internet, I'm sorry. CST
16 on voice per se, voice for prepay or whatever else.
17 How do we put CST on a \$50 recharge? How do we --
18 I mean --

19 **MR. BARNES:** Are you asking how do you put CST
20 on --

21 **MR. SUGGS:** Yeah, how --

22 **MS. KITTRICK:** We have a very difficult time
23 breaking it out.

24 **MR. BARNES:** Who would collect that?

25 **MR. SUGGS:** No, collection is a different

1 problem. This is a new problem. I'm seeing a new
2 problem here. If you're selling a prepaid card for
3 50 bucks, we have to figure out what does that 50
4 bucks -- what's the value of the voice versus the
5 value -- because what -- apps, tones, e-mail,
6 mobile broadband --

7 **MR. BARNES:** Okay. I don't want to complicate
8 it further, but I think there's differences in data
9 based off of handsets. If you have a low-end
10 feature phone, that is very -- doesn't have HTML
11 web browsing capability, it has very limited web
12 browsing capability, all the way up to your
13 smartphones, your Android and iPhones type of
14 phones that have full web browsing capability as if
15 you're sitting in front of a computer. So you have
16 a wide range. When you buy that card, until they
17 actually take and scratch off that PIN and apply it
18 to an account, you don't necessarily know what kind
19 of phone they have.

20 **MR. SUGGS:** See, this is my point. And, Bob,
21 if you're listening for next time. Great numbers,
22 the great revenue numbers, they're missing
23 prepaid -- if we were ever to tax prepaid, that
24 creates a problem. I don't know, next time, can
25 you talk about looking at that screen and your

1 numbers, do your numbers contemplate -- are you
2 only taxing the talk part of it or do your numbers
3 contemplate -- you're just taxing the 50 bucks?

4 **MS. KITTRICK:** Right now at point of sale, you
5 get a sales tax on the entire --

6 **MR. SUGGS:** This number's contemplating what
7 the CST on prepaid on all of it, I think. I'm
8 asking.

9 **MR. MCKEE:** Actually they just assume that
10 some amount of a transaction below \$25 -- 35 by 45,
11 so if the plan -- you have a plan price for \$25,
12 and some part of that could be unbundled as
13 Internet, then that 25 will be too high. So the 25
14 didn't just assume that that was service tax on the
15 CST.

16 **MR. SUGGS:** Okay.

17 **MS. KITTRICK:** So, I mean, you can see that
18 it's very complicated, you know. The service that
19 we sell today just doesn't fit in this tiny box.

20 Next slide, please.

21 I just wanted to, again, go to the information
22 that I have underlined. So if you don't have a
23 sufficient monthly balance for monthly access, you
24 can still get a plan to cover -- you'll get sort of
25 drop down to 25 cents per minute or 20 cents for

1 text, 25 cents per-picture-plan till that money
2 runs out. Again, like with John, if you have no
3 money in the account, the account is suspended. We
4 give you an extra 60 days, though, to put more
5 money on or your number goes away. And -- again,
6 roaming, peak tax is an additional charge. And you
7 have to have money in your account. We don't
8 back-bill for that stuff. It's got to be in your
9 account, prepaid.

10 **MR. BARNES:** One more thing I want to clarify,
11 too, with our -- with our model, we actually have
12 what you call a Metro connect account which is
13 something that we allow customers to put money kind
14 of in this side account. And they can use that for
15 downloads, for ring tones and downloads. Also for
16 roaming. We don't have a roaming -- we have
17 roaming relationships with different carriers.
18 Some of that's included in our plans. But if you
19 happen to roam into an area that isn't covered by
20 one of our primary roaming agreements, we would
21 charge the customers 19 cents a minute. That will
22 come -- they have to have funds in their Metro
23 connect account. So it's -- we almost have two
24 prepaid accounts within one.

25 **MS. KITTRICK:** Okay. So if you could go to

1 slide 41, I promise this is my last slide.

2 This is a picture of our rechargeable card.
3 Again, you can buy, you know, a lot of different
4 denominations here -- \$15, 30, 50, 75 or \$100. And
5 then if you go on the right-hand side, the refill
6 rate is an expiration. If your card is between \$15
7 and \$30, it expires in 30 days. \$30 and \$75
8 expires in 90 days. 75, 99 expires in 180 days.
9 So there's always a definite period of time, okay.
10 It's a unit of time.

11 I think it's really important when we discuss
12 the definitions, again, that people understand that
13 is we really think that -- we're covered in a lot
14 of this.

15 **MR. BARNES:** That's good for that period of
16 time, whether they actively make a call or not.
17 The phones are constantly interacting with the
18 network in order to communicate the location.

19 **MR. RESNICK:** -- more complicated than, I
20 think, it is or will be. Does Verizon bundle --
21 with their wireless prepaid?

22 **MS. KITTRICK:** No.

23 **MR. SUGGS:** Last question for me. MetroPCS,
24 you're 100 percent prepaid. One of our missions
25 here is talking about competitive advantages. Do

1 you have a competitive advantage based on our tax
2 structure over Verizon and AT&T over everybody
3 else? You pay no CST at all or do you?

4 **MR. BARNES:** That's a challenging question.

5 **MR. SUGGS:** -- recharge MetroPCS over my
6 MetroPCS website, do you collect CST?

7 **MR. BARNES:** We pay some CST.

8 **MR. SUGGS:** And then -- voluntarily?

9 **MR. BARNES:** We prefer not to. If you're open
10 to options, I'd like to throw one out for the --

11 **MR. SUGGS:** Let me ask Verizon. Are you at a
12 competitive disadvantage versus MetroPCS?

13 **MS. KITTRICK:** I mean, I don't know that I can
14 really answer that question like that. I think
15 that from our perspective, we strongly believe that
16 this is such a complicated product and because it's
17 a complicated way of selling the product that it
18 really truly does belong under the sales tax. And,
19 you know, when the CST was drafted and enacted in
20 2000, I mean, this was a very well discussed topic.
21 I mean, you know, prepaid was included in -- sales
22 tax because of the sourcing issues and because of
23 the difficulty and how it's sold. Whether you look
24 at the 31 Different Flavors or prepaid, the same
25 principals apply then, apply now. It's sold

1 primarily in retail locations. It's sold on a cash
2 basis. I mean, it's -- nothing has really changed
3 from that.

4 **MR. BARNES:** I think if you look at the
5 situsing issues and I think the complexity of
6 distribution models that kind of show up here in
7 varieties, I think sales tax still remains the most
8 viable solution creating a competitive and mutual
9 landscape across all prepaid types of arrangements.

10 **MS. KITTRICK:** Keep being consistent.

11 **MR. BARNES:** And to keep being consistent with
12 the rest of the country as well.

13 **MS. FOX:** The 19 cents that you charge for
14 roaming, if someone is outside your area, you are
15 able to charge that at the time of the sale of the
16 call because it's a location that is being used,
17 but you're not able to locate --

18 **MR. BARNES:** We do not have a way in which our
19 network communicates to our tracking system where
20 that customer -- somewhere in the network we know
21 where that customer was, but to marry that up with
22 the tax would be an extreme complexity because
23 even -- originated call in one jurisdiction and
24 terminate that call in a whole different
25 jurisdiction.

1 So, we do the best we can with the information
2 we have, which is, you know, if we have customer
3 information, we use it. If we don't, we have, you
4 know, some call-back mechanisms in order to
5 determine where the customer is. But it does
6 not -- it's not precise enough to know that
7 customer originated that call on that tower and
8 therefore we're going to charge tax because the
9 tower was in Leon County, we're going to charge tax
10 in Leon County, even if that call terminated when
11 they were one county over. Or ten minutes of the
12 call were in Leon and 20 minutes of the call were
13 in the next county over.

14 **MR. SUGGS:** Question.

15 **MR. BARNES:** You already used --

16 **MR. SUGGS:** I lied. Okay. On your not
17 prepaid, on your post-paid, you do offer unlimited
18 plans, I can pay 100 bucks for unlimited. How
19 would that change if you just bill me in advance
20 instead of post like -- how would that be able to
21 change me to like prepaid, to change that to
22 prepaid service or change that --

23 **MS. KITTRICK:** You have to be out of your
24 contract.

25 **MR. SUGGS:** So the contract messes up

1 according to our statute, the contract -- what
2 makes it not --

3 **MS. KITTRICK:** I'm sorry, you want to take
4 your phone, your current phone number and move it
5 to a prepaid?

6 **MR. SUGGS:** I'm just talking about your
7 business model. On your post-paid business, if
8 you -- people have unlimited and they pay 80 bucks
9 a month. You just bill them after 30 days. Bill
10 them -- how hard would be it to change it to like a
11 prepaid card?

12 **MR. BARNES:** Are there unlimited -- I'm not
13 sure there are unlimited post-paid plans, but --

14 **MS. KITTRICK:** No, we don't have exactly an
15 unlimited post-paid plan now. I mean, I think the
16 difference, the reason people choose one or the
17 other, I mean, honestly is the price of the phone.
18 So, you know, people make a conscious decision -- I
19 want a new iPhone and I want the new iPhone every
20 two years, but I can't afford \$600 every two years,
21 so I'm going to go with a company that gives me a
22 two-year contract so I can buy down the cost of the
23 phone and I sign the contract and in doing so, I
24 pay --

25 **MR. SUGGS:** That's what Bob said.

1 **MS. KITTRICK:** I mean, there's always going to
2 be those people that can't afford \$600 every time
3 they want a new phone. And then there's going to
4 be people that can't afford -- you know, they don't
5 have the credit and they can't afford to get locked
6 into a monthly plan, and so they're going to do the
7 prepaid. It's a very viable product for folks,
8 depending on what they want.

9 **MR. SUGGS:** It's a very small -- from the
10 industry perspective, keeping --

11 **MS. KITTRICK:** Oh, yeah, we will always
12 keep --

13 **MR. RESNICK:** In the prepaid, you don't keep
14 your phone number, right?

15 **MS. KITTRICK:** Yeah, if you --

16 **MR. RESNICK:** If you keep that card.

17 **MR. BARNES:** If you don't keep paying, you'll
18 lose your phone number. But you can port phone
19 numbers.

20 **MR. RESNICK:** You can port a number --

21 **MR. BARNES:** In and out, right.

22 **MR. RESNICK:** Oh, really? Okay.

23 **MR. SUGGS:** The only thing I was asking is
24 migration from post-paid to prepaid because, I
25 mean, it makes more sense.

1 **MR. BARNES:** Well, I think what's interesting
2 is Europe is predominantly prepaid -- SIM cards of
3 the stuff -- Europe's been primarily prepaid for a
4 very long time. It just hasn't taken off in the US
5 as it has in Europe, primarily because of the
6 inducement offers of cheap phones with the
7 contract. Nobody wants to pay \$600 up front.

8 **MR. SUGGS:** In ten years, will we be back here
9 on the prepaid relationship when we have nothing --

10 **MS. KITTRICK:** In ten years, we may have
11 different issues.

12 **MR. BARNES:** My company's exclusively prepaid,
13 I hope so.

14 **MR. STRANBURG:** Thank you, Katherine and John.
15 I appreciate your information.

16 **MS. KITTRICK:** Just a suggestion -- I don't
17 know how hard this would be to do, but it's really
18 great to sit across from you, see your faces, and
19 have a conversation. I think it makes the
20 conversation --

21 **MR. STRANBURG:** That's why we tried to angle
22 this a little bit. The problem we have, though, is
23 the WebEx. If we put face to face, somebody's back
24 is going to be on the WebEx all the time. So
25 that's --

1 Just a couple things real quick because we are
2 past time. Our next meeting is August 14th. I
3 wanted to --

4 **MR. RESNICK:** Question about that. Not only
5 is it the third meeting that coincides with my city
6 commission, but it is also election day. And I'm
7 not going to be here. There's important races in
8 my county as well as around the whole state. So I
9 was thinking, it's up to obviously the pleasure of
10 the committee, but is there any way of changing
11 that date?

12 **MS. MORELAND:** I think part of the problem is
13 it's already been noticed and I don't think there's
14 enough time to do another notice in the
15 Administrative Weekly.

16 **MR. RESNICK:** Move it further out? I was
17 thinking two weeks after that actually, the 28th or
18 whatever -- it's up to the committee.

19 **MR. STRANBURG:** Well, we had tried to solicit
20 input from people about what their calendars were.
21 I don't know, especially our folks who are coming
22 from out of town that seemed to be somewhat
23 problematic of getting them in and out of town from
24 other commitments.

25 **MS. KITTRICK:** Yeah, I --

1 **MR. RESNICK:** First of all, I mean, to
2 schedule something on election day I thought was
3 not great planning. But, I mean, it's -- because
4 we do have local school board and judicial races in
5 our county as well -- I'm sure every county does --
6 as well as congressional primaries and things of
7 that nature, so --

8 **MR. STRANBURG:** Do you want to -- do folks
9 want to see if there is an available convenient
10 date towards the end of August?

11 **MS. MORELAND:** We can have the notice
12 published Friday the 3rd to extend this meeting.

13 **MR. STRANBURG:** We will move to the 21st.
14 The topics that we intended to have -- the topics
15 would be we would have some more discussion of
16 developments of technology. We've got, I think,
17 AT&T is going to have someone that's going to talk
18 about some things that they see that might be
19 taking place in the future. We're going to have a
20 discussion from DOR's staff on some of the auditing
21 issues, some of the distribution issues, some of
22 the situsing and other administration issues.
23 We're also going to have a discussion about
24 unbundling. And those were what we had ready to
25 talk about on that. Now it's the 21st instead of

1 the 14th.

2 Are there some other things that the group
3 would like to have us try to prepare for at that
4 meeting?

5 **MR. SUGGS:** Marshall, after that, because that
6 still sort of takes care of reviewing stuff but
7 some portion of that meeting we need to get to E
8 and F, start defining the issues on the
9 requirements for E and F. Putting some meat to E
10 and F, what does that mean to us. Because then
11 that gives us a target for trying to come up with
12 some solution. I think we need to agree on E and
13 F, what are the issues. If that's the agreeable to
14 the rest of the --

15 **MR. DUDLEY:** Just a suggestion -- one is, I
16 think it would be good to start the next meeting to
17 see -- I don't know if John can be here or not, but
18 if there's any -- because we kind of rushed through
19 the prepaid here at the end -- to see if there's
20 any questions after people digest the material.
21 I'm wondering if it would be good to hear from the
22 retailers because I think part of the issue of
23 prepaid is we talked about some of them, we really
24 didn't get into the actual collection, if you were
25 to apply CST to it, how a Wal-Mart or Publix or

1 someone would handle that.

2 And I don't know if that's something the group
3 would want to hear their perspective on it if we're
4 going to talk about how you actually administer and
5 comply with it. It may be good to reach out -- I
6 know -- I think the retail federation was here last
7 time. I'm just suggesting that before we close the
8 door on prepaid and jump into these other issues,
9 we may want to talk about some of that or at least
10 put it on the table. And I like -- and I'm fine
11 with Davin's suggestion on E and F, if maybe we
12 leave time at the end for anyone, audience or
13 members of the task force, to maybe potentially
14 start putting out some options or ideas that fit
15 into E and F for discussion. That's just a couple
16 thoughts.

17 **MR. STRANBURG:** We will reach out to the
18 retail federation again and see what --

19 **MR. DUDLEY:** They may not want to come.

20 **MR. STRANBURG:** Right. And then also
21 mentioned previously if there is a feeling that we
22 need to have some additional meeting times blocked
23 out sometime, I am guessing now we'd probably be in
24 September. Because after our next meeting on the
25 21st, we don't have anything scheduled until

1 October 31st. So there is feeling that, again,
2 doesn't have to be an in-person meeting, but if
3 there might be a telephone conference call where we
4 could start further fleshing out some of the
5 options.

6 **MR. SUGGS:** What's your notice --

7 **MR. STRANBURG:** We will have to check on that.

8 **MR. SUGGS:** What's the time period? How long
9 do we need before you notice?

10 **MS. MORELAND:** Ten days.

11 **MR. STRANBURG:** Ten days.

12 **MR. SUGGS:** So we can decide in August if we
13 want a September meeting.

14 **MR. STRANBURG:** Yes. September or earlier
15 October. So let's think about that to see if again
16 we want to schedule some other meetings.

17 Other than that, I just want to thank staff
18 for the work they've done, for our presenters, the
19 work they've done. Thank you all for your
20 participation. And unless there's any other
21 business to attend to, we'll adjourn.

22 (Meeting concluded at 4:23 p.m.)

23 * * *

