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Kathleen Kittrick
Charlie Dudley
Davin Suggs

Also Present:

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

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

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

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

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

We've given you both a copy of the principles that we talked about this morning, that Gary talked about this morning so that you have those to go along with the list that we had put together for you. And then we've also given you the sheet that talks about the mission of the communication services tax working group. And I want to
apologize by saying that I may have got us off a little bit on the wrong topic of discussion this morning with respect to the report that we have to put together when I started talking about in terms of recommendations.

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

So I took a couple minutes to think about, what's the difference between recommendation and options? And I just pulled out the dictionary in
the office and recommendations, definition of that
goes towards you're commending something is worthy
or desirable, you're endorsing something. Options
are you're looking at how or right of choosing.
You're giving someone a choice. So, I want to take
a step back and say I think that's where we were
coming from, the Department, in putting this work
group together and then how that report would be
structured, that we're looking at sending out
options. We're looking to put things in there that
gives the legislature choices on what they would
do. We weren't specifically tasked with coming up
with a recommendation, something that we're
commending or endorsing.

Though, I can't understand, I think as Al
talked a little bit about this morning, does it
send a stronger message if we're recommending a
particular option? But I think that does not
preclude us from giving them, whether we want to
call it an opposing option or a different option, a
contrary option. But again, I look at the use of
the language in there and I'm not convinced that in
the past, we have been given as a working group is
to say this is what we think you should do
legislature, we're giving you some choices, some
things you can choose from to say these are things that we think you can decide to select one of them to either streamline the administration of this tax or to remove competitive advantage without unduly reducing revenues to local governments. So to the extent I got us wrapped around a wheel of thinking about, well, we've got to vote something out and say this is the way this working group thinks it ought to be fixed, I'm not sure. Going back and looking at the language that we were tasked with, that's what we've been tasked to do. We've been tasked to give them some things that they can pick from with respect to those two topics.

So having said, I'll open up the floor for anyone else to give their point of view or to see if they think maybe we can agree on some consensus on where we should go with this report. And then the last thing, again, I want to make clear, it's always been our intention to be sure that that report that is completed at the end of this comes back to this full working group and the full working group has the opportunity to say, and individual members to say, we endorse this or we don't think it is really reflective of what we think the working group either reviewed or the
options that we're presented. So there will be an
opportunity, I think, to have input at the end when
that report is put together to say we agree or I
disagree as a member of the working group with the
contents of that report.

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

MR. ROSENZWEIG: And I appreciate you going
back and taking an opportunity to look at that
language. I don't have a fine distinction in my
mind with the term recommendation and option. I
still feel very strongly that we, as a committee,
need to be -- there needs to be some structure and
some formal voting thresholds for things to be
moved into some document. Whether it's an option,
whether it's a recommendation, whatever the
language we want to use, we, as a committee, need
to have some formal votes that move them into the
document. I feel very uncomfortable that anything
that's brought up in this room, that could be an
option for streamlining administration or removing
competitive advantages, that any idea that is
raised can be moved forward to the legislature. I
don't think that's what they tasked us with. I
think the reason we're here is because they
couldn't work it out and they're looking to us to
come back with options that everybody in this room
generally thinks are reasonable. And the only way
that I think that can happen is if we have some
voting thresholds that get that option documented
in the report.

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

So, you know -- and I know we haven't started
taking motions or doing things, but that makes me a
little uncomfortable also. I think it's a lot cleaner, just when we're running the meeting in terms of how you want to move forward that it's okay for us to take formal motions and actions so that there's some history and record of what we've all agreed to and did.

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

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

MR. STRANBURG: Well, let's let others have an opportunity to discuss and then we can try to do
some motions to try to come up with some --

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

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

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

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

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

So if we're going to only move forward things that have a super majority vote, you know, we might as well get out the three by five note card and put that down and send it up. But let's give them
something they can work from out of this group. And they can prioritize, you know, who's going to be the benefactor if this goes forward. They'll figure that out. I mean, we'll know when we're talking about it. It's not a state secret. So a more complete list of options is what I think we should put forward.

**MR. STRANBURG:** Gary?

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

So I think that might be a -- probably talk more about the format of how it would end up looking. So I think there's a way we could do that where we can acknowledge the different options but
also report on the level of support that there was with the varying options that were put out there.

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

And I think to Davin's point if we get through this meeting and the next meeting or so and there's some real consensus about three or four things that should be done, then we can take an extraordinary
vote and have a recommendation that, you know, we
got this list of options but the work group really,
you know, overwhelmingly felt that they should
recommend, you know, A, B and C, and maybe or maybe
not there would be language associated with that.
But I think what we're asked to do is look at
options. We weren't asked to -- we weren't asked
to rewrite the CST. I think that was mentioned
earlier. I never felt like that was the charge.

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

And so, again, I feel a little bit like it's
cart before the horse because I felt like, you
know, we needed a couple meetings just to get educated and updated on some of the stuff. And I've been practicing in this area for 20 years and I need an update on what's going on from a technology and law and policy perspective. So that's kind of where I fit, too. I agree with Direct TV for the record.

**MR. ROSENZWEIG:** I think, Marshall, just to -- I think the issue is if we just kind of float along and we have all these ideas, is any option that anybody throws on the table will show up in the final report. I just don't understand how that works. I mean, if we just are here to present options, then why don't we all just write 20 options on a piece of paper, give it to DOR, compile in the report and give it to legislature? I don't understand what that serves. If we don't start weeding out things, then how do you decide what goes in the report and what doesn't because what I'm hearing from different people speaking is that we're supposed to give them options. Well, how -- is any option a good idea? And if every option is not a good idea, then how do we decide which ones -- unless we vote? So I'm just very confused on how you present information to the
legislature because then is every idea a good idea unless we actually stop and formally say yeah, we all think that's a good idea and we should let the legislature evaluate it further. But if not, you're going to end up with a list of a hundred things that the legislature's going to go, that wasn't a good use of everybody's time because there's been no -- there's going to be no filters, there's going to be no distinction in the list.

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

I see us all looking at each other with these
big lists and saying, how are we going to now prioritize and filter this information? I think that will be very challenging at that point because people are going to -- their opinions and they'll be debating what's the rules, how do we decide what's on the list, what's not on the list? What's minority option? What's majority opinion? I just think we all need to agree up front what's it going to take to move a piece of information forward to the legislature?

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

MR. STRANBURG: Let me just say one thing, and I think this is a concern of mine mulling this whole issue over, and that's trying to decide is the better approach, as you're saying, do we vote on what goes into the report or do we compile
things in a report and then take a vote and say these are things that this group believes are a good idea or not? Because, again, what we are doing is we're identifying those options that we are presenting the legislature with with some feedback from this group about whether they think it is a good option or it is not a good option. But if we don't put those ideas and those options out there for consideration, you know, my worst fear, I don't know if it's possible it could happen, everything could go four-four vote. We have, unfortunately, an even number of voting members. And it's entirely possible that everything that comes as a potential option in front of the working group, you don't get not even super majority vote, you don't even get a majority vote on. And then again, what have we done? Have we fulfilled our task as a group that the legislature asked us to do which is to identify options? They didn't say we only want good options. We only want options that everybody agreed upon. They didn't say we only want options that are going to pass the legislature. They just asked this group to identify options in these areas and to present them to them as part of the report.
and then the legislature would take that information from there.

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

So I'm just fearful that if we don't put something in the report that identifies options and
gives some type of viewpoint of, you know, this is the way the group came up with these ideas and these are the ideas they had, then we can decide if, as a group, we want to say this is a preferrable option, this is an option that we don't think is very realistic. I think we've done our task. But to say that we have to have a majority or super majority vote on anything we want to put as an option in the report, I'm afraid, you know, we are going to leave a lot of things off the table that might be of some value to the legislature.

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

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

**MR. ROSENZWEIG:** So any option that any committee member raises gets in the report and then there's a narrative that goes with it what the vote was, what the fiscal impact is to the local government? Because item F is clear to me that any
option in this report has to explain fiscal impact
to local government. There's really no way around
that. So any option --

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

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

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

MR. STRANBURG: Go ahead.

MR. LINDSEY: I think the intent is -- it's
not talking about just the state tax structure, it's talking about the tax structure within the state including the locals because it does reference local governments in the last part of that sentence.

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

MR. STRANBURG: I can only say from this point of view that this is a state-imposed levy, a state-administered levy, but there is a state component and a local component of revenue. And I believe that's what they were getting at is looking through -- making an adjustment to this state-level imposed tax; does it have any impact upon revenues that are either going to local governments as part of the local government component or as you heard about, there are certain revenue-sharing structures in place as well for sales tax and other taxes. Is there any impact as a result of changes to this state-level structure that --
MS. FOX: It's interesting how one sentence can mean different things to different people. I see that the state tax structure being, because this is a state statute. But to your point about it being a state-assessed tax, the local government piece is a local government assessed tax. It is not assessed by the state or the local government; it is assessed by the local governments. And it's something that is -- the rate is chosen by ordinance by the local governments. So, I perceive that is part of the state's tax structure because it is a state statute. So it goes to show you that it could be read different ways.

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

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

MR. SUGGS: Yeah, a couple things. I just want to reiterate maybe what our focus should be. If we're going to define -- earlier we were talking about the funding issues, solving the problem. If we are going to go by E and F -- program -- that's
going to take further development from everybody. I, like Gary, am optimistic. The end goal is the taxpayer and the role we play -- I mean, them as an issue. The industry as a tax collector per se, but in their collecting taxes, it affects the delivery of service and they're -- it affects their bottom line, the hoops that they have to go through in collecting taxes. It affects their bottom line, the competitive advantage or disadvantage for us. It affects our ability to deliver public services.

All of -- we're all in here together, okay. I'm optimistic. We can solve the issue. And Charlie said something very important. People like me, Charlie, I don't know if Gary and Kathleen and my friend from Direct TV, which I have, I'm a loyal customer, but either we can solve the problem now or I know me and Charlie are going to be in a room in March and we're going to call our buddies -- what we're doing right now, we're going to do the exact same thing and -- and you know what they're going to do? They're going to shove our positions right back in our face and you guys go work it out. Or we can work it out right now. Or they're going to shove them right back to us. And the discussions we had, man, we just had time in a
non-highly politicized environment to sit down and talk like civil adults, we can work this out. That's this time right now.

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

I'll give you an example. In E, with the administrative burdens, I can narrow down to options to two or three. Okay. As a matter of fact, everybody in this room knows that DOR drafted legislation last year, and I still got it on my computer on my desk, everybody's seen it. You drafted options in the appropriations process. It
removed all -- authority from the cities to say any rate. You gave it to the counties and you came up with a formula that the counties would redistribute like we do the gas taxes. We already know that option. You already know what the cities are going to say by losing authority to separate and levy a tax.

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

We really want to hear -- the industry concerns, did they further define E and F for us where we can work that out. They have been genuine and sincere and listened last time, listened today this morning, when we are talking about bonds and stuff to our concerns. And they're sincere. And we're not in a win/lose environment. And so, to
everybody, don't forsake this opportunity. We can produce an eight to ten-page piece of paper with legislation on it that might not be perfect, okay, it may need amendments or further -- we can produce a starting point that is much better than a sheet of paper with bullets that we already have arguments for.

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

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

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

And it looks to me that by reviewing information before we identify options, or if that's the word that was intended, the options that we identify are supposed to be based on the information that we review. So it shouldn't just be a bullet point. These are options. There should be some factual basis supporting those options. And I wouldn't mind a minority point, similar to a court opinion where you have the majority court opinion and then you have a minority opinion saying I disagree and here's why. But it should be reflected somewhere that that's a minority opinion as opposed to a majority opinion. But I think it's the role of this committee to come out with some general majority opinion.
I don't know what parameters we meet under. I don't know if that was set out under the statute, in terms of whether we're under Roberts Rules of Order or just Chairman's discretion or whatever. But -- so I don't know how this committee is supposed to even meet. I don't even know if one person shows up to the committee, then that's a quorum and then you can take action. You know, I don't know what's required in terms of the role of this committee and how we're supposed to perform our functions. But in every committee that I've ever been on, whether it's legislative or otherwise, they vote at some point on what's going to be the will of the committee. And I -- you know, I don't see us having four-fours on everything. I see us capable of having meaningful dialogue and coming up hopefully with good tax policy reform for the State of Florida. I mean, that's my goal to the extent it's necessary. We haven't even really identified necessarily what's necessary. Two necessaries at the same time, sorry.

But if that's the charge of this committee, I think we can do that, putting aside as I said earlier, our individual special interest in coming
up with good policy. I have no problem if somebody
explains to me why they think the tax rate that
that particular service is being charged is
anticompetitive and puts them at a competitive
disadvantage. I have no problem, you know, if that
makes sense to me in recommending a reduction in
the tax rate if they've demonstrated their case,
so --

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

So I'm supporting -- I guess it's the comments
of several of the folks on that side of the table
as well as the comments on this side of the table.
This committee should do its work and we should vote on a way to identify options that we want to go in some type of final report for the legislature.

**MR. STRANBURG:** Anyone else?

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

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

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

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

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

So, at some point, Mr. Chairman, if you want
motions, options, whatever, but we need to move this forward somehow.

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

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

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

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

When it comes to, for example, to E, I was going to suggest options for streamlining the system, that maybe we just start with E and say that after this meeting for the next ten days, we kind of solicit anyone who has an idea that would fit under E, to submit those to the staff here. And I would include DOR staff. You guys can talk internally about how you want to do that. If people have an option for streamlining the system -- it could be that someone in local government out there has an option for streamlining
the system that may be very worthy to talk about. And maybe that's one way of chopping at the tree.

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

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

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

MR. DUDLEY: I happen to think that's a disservice to what we were asked to do, myself. I think if you guys want to create some rule that says the options have to have a minimum level of support, I can support that. I can't support saying, because you didn't get six votes, we shouldn't tell the legislature that this was one idea, that X percentage thought it was something you should know and you should look at. Just like we all live in the real world. If the senate, finance and tax chairmans, mayor of its largest
city has an option or idea for CST that no one
likes, it still may get a hearing. So, that's my
thought, Davin.

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

If you want to take this concept of moving to
67 county rates with municipal sharing within it,
the first bullet point could be the League of
Cities and counties strongly oppose this because,
you know, this is usurpation of their
Constitutional home rule authority. And it's going
to lead to X, Y, and Z. And then the Department
may have some information that provides that that
option would save the State of Florida $4 million. I don't know. I think all that should be out on the table because that's what -- that's what we've been asked to do is provide the legislature some information so they can go to work in March and April, so --

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

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

**MS. KITTRICK:** Right.

**MR. RESNICK:** You're not a voting member, so
they wanted us to vote.

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

Mr. Rosenzweig: I think -- they're one in the same. The only way you can make that commitment is that you all agree at the end, a majority or super majority of us are going to have to agree. The only way to keep everybody focused to solve the problem is to say both sides of this table are going to have to agree to the options going forward.

Mr. Suggs: Six votes is an evaluation of the merit or the quality of the solution being presented.

Mr. Rosenzweig: Everybody's got to give a little. The only way to commit to what you're saying is we all got to say, yeah, we're all going to have to agree with the product to some degree.
And that gives the legislature something viable and tangible to enact as opposed to, here's a list of options that three people think might be good for you and here's a list that four think and five think and all this hodgepodge of stuff. Then they're just looking at us like, that was nice, guys, but what do you all collectively think we should -- options that you all think will solve this problem. We need to understand what it is. So I agree with you completely. If we're all working in good faith to solve a problem, then there should not be an issue with saying majority or super majority have to agree to that final report.

MR. STRANBURG: I would only say I think if there's that commitment, I'm not wanting us to get hung up on the super majority or whatever. I think if there's a commitment to work together, I think it's going to be crystal clear from the way in which this group proceeds -- either we're all working together or we're not working together. If we're not working together, there's probably going to be an idea that we drop and move on to those areas where we can work together and we can reach agreement and we can make recommendations and we
can provide options. We can do the kinds of things that I think will get us off where we've been in the past with an inability related to look at this tax and decide whether it's working or is there a better way to do it? Is there a way that you can treat local governments fairly? Is there a way that we treat taxpayers --

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

MR. STRANBURG: Well, we need to move on. We're either going to reach agreement on this right now or we're just going to have to flow on. And as the Chair, I guess I will have to make some -- this is the way we're going to do it. Unless you can reach agreement, I don't see any other place I can go but to say this is the way we're going to proceed because unfortunately, we were not given really good guidance on how they wanted -- the legislature wanted this group to operate. We weren't given any specific rules. Yes, there is an indication in there of the fact that I don't have a vote or the executive director doesn't have a vote.
There would be some votes taken. But they didn't indicate that they want super majorities or majorities on things coming out of this.

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

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

**MR. STRANBURG:** I think that's one way to look at it, sure. There's another way to look at and say we just throw all options on the table that, again, I'm trying to reach some kind of consensus here and we're not finding it, so we need to move on. It's a matter of somebody's got to make a decision and does it fall to the Chair to make that
MR. RESNICK: As the only elected official, I can count. So let me throw out something as a compromise. Why don't we try this and see if this works for everybody, that something that will be reflected as the consensus of the work group will require a super majority, but any option or call it a recommendation that obtains at least three votes from members of the work group would be presented in the ultimate report that's presented to the legislature as another option or another idea, and the discussion as to why it was -- the good points and the bad points as to that idea would be presented as well. You understand what I'm suggesting?

MR. DUDLEY: My only suggestion is that a recommendation ought to be unanimous because the legislature didn't even ask us for a recommendation. They asked us to identify options. So I'm fine with saying anything that says the word "recommended" has to be unanimous. Otherwise, we're just going to do what the legislature asked us to do which is identify options and ideas for administering -- improving the administration of the tax in dealing with the issues in F on
competitive issues without reducing revenues.

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

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

**MR. RESNICK:** Okay.

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

I'd rather e-mail or present ideas, if I have them, for different options that can be sent around to everyone a couple weeks before a meeting and say, you know, when we get to the meeting, Charlie Dudley had six options he'd like to present and...
then have discussion on those. And if any of them
have legs among the committee members, you know,
you'd have pluses and minuses at to that option.
And you'd go right down the list. You'd go to
Sharon Fox, and you'd go to Brian Smith. And you
go to whomever with their ideas and options on how
to handle E and F. And that's why I put out there
three because I understand administratively you
could have 500 options and that may be a little --
that may be a few too many. But I would hate to
keep any relevant idea or option away from the
legislature.

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

So all we're -- we're parsing language now.
At some level, we want to reflect to the
legislature what we all kind of agree to and put a
vote on that. Is it unanimous? Is it 6-2, is it
7-3, is it 7-1, 5-3? And then you can list the balance of the information as these are other options, but the majority of us didn't agree to it.

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

**MS. KITTRICK:** Right.

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

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

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

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

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

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

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

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

**MR. STRANBURG:** Which is what we're trying to
get onto right now which is talk about some of the issues with -- prepaid issue and -- most of this afternoon, discuss -- we're already about an hour behind doing that.

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

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

MR. BROWN: Yeah, this is going to just be a
quick overview of Florida and then some other
states. We did a follow-up survey to the survey
that we had done earlier this year for the work
group. So I wanted to provide the information that
we had at this time to you guys.

Next slide, please.

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

But as for Florida's definition, two of the
big things that Florida really seems to key onto --
and I'm going to -- after we get through
definitions, I'm going to talk about a taxpayer
information publication that many of y'all are
aware of just that Florida put out recently. But kind of the things we think that, you know, may be unique for Florida, may not be, depending on the various opinions, is one is the Florida definition, number one, is the advantaged payment of communication services that consist exclusively of telephone calls. A lot of states have communication service-type language in there but not necessarily exclusively telephone calls. So that's going to lead to some of the answers that we're going to see later.

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

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

Next slide.

Tax information publication. This is what we put out in March of this year --
MR. SUGGS: Can you go back?

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

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

MR. BROWN: You mean the recharge?

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

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

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

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

MR. SUGGS: Just cards. I thought it was --
so what if I got it from Wal-Mart? I have to go back -- actually recharging is not putting money on the same card. I go buy a new card with minutes or units on it?

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

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

MS. KITTRICK: Retailers always collect the sales tax.

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

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

Back to Florida's tax information publication that we put out. We kind of laid out a little bit of the history of prepaid and we laid out how the Department feels what the statutory definition means. We specifically laid out that some plans may not fall -- the Department feels that some of those plans do not fall in the definition of prepaid calling arrangements. Some examples of those would be plans that include text messages,
multimedia messaging, web, and e-mail. Unlimited calling plans that do not decline with usage. Service plans that are not sold in predetermined units or dollars or services or plans that are not originated using access number or authorization code.

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

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

Next which came up, again, at our first work group meeting was streamline's definition of sales and use tax. So we wanted to include that in this
presentation. Again, like I said, streamline doesn't necessarily use exclusively telephone calls, they use the language accessed exclusively telecommunication services, but they do have similar language, the predetermined units or dollars, which are a number of clients with use in a known amount. Also, streamline does have definitions for both prepaid calling service and prepaid wireless service. So we wanted to make sure we had both of those because we had questions about them last time.

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

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

Also, just wanted to note that as part of this additional survey, we also included other questions that had come up at the first meeting like questions related to unbundling which I think you'll hear about at the next meeting. Questions
related to bonding, which we can provide
information once we get some more information on.
Questions related to franchise and permit fees,
rights by fees, and some other information that we
just thought that y'all -- that would help you,
based on the questions that we received at the last
meeting, to make decisions, see how other states
were treating certain things.

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

So we did pretty good considering we sent our
survey out a day or two before Fourth of July
holiday. We got -- we essentially asked 26 states
and we got 13 responses. So right now, we're at
about half, so that's good. If we get more
information, we'll be sure to follow up in the
future meeting materials with you guys. But just
to note, of these states, Georgia, Kentucky, Nebraska, West Virginia, Wyoming are actual streamline states. They're all full member streamline states, so the rest are not.

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

Now on to the actual 13 responses that we received. Again, the first two questions asked about our traditional phone cards, you know, our local or long distance phone cards. Of that, ten of the 13 do treat those as prepaid. Georgia
treats it as prepaid, but only if it's local exchange telephone. South Carolina actually treats that as their ways and means tax which instead of being based on when it's sold, it's based on its use. So that's just one thing to note -- that's the way that the South Carolina ways and means tax works. And then Washington, D.C. actually treats it as a gross receipts tax.

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

The way South Carolina works, and you'll see this kind of throughout, South Carolina treats --
if it's minute or dollar, they treat it as prepaid. If it's unlimited, they treat it as their ways and means tax. Washington, D.C. treats them as gross receipts tax again. And Georgia, because Georgia just taxes the local exchange, they don't necessarily -- they don't tax them as prepaid, so those generally aren't taxed to wireless.

Any questions?

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

**MR. BROWN:** Charlie.

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

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

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

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

All right. This next slide focuses on
wireless voice and text messages plans. Again
minute, dollar, unlimited. The answers are pretty
much the same. But Florida treats -- actually this
one's different because Florida treats -- because
it's voice and text, Florida treats all three of
these different denominations as communication
services tax. The eight states treat them as
prepaid any of the three, any denomination. New
York treats its sales tax and local telecom tax.

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

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

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

This is related to -- these last three
questions were the ones related to voice, text and
data. Again, Florida it would be all CST. Eight
states were prepaid. New York, South Carolina,
D.C. and Georgia are kind of essentially the same for the last. But again, we just wanted to lay this out for everyone so that you have a good idea of how the other states are treating these and we tried to cover every possible scenario of how somebody would sell some of these services.

Next slide, please.

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

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

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

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

All right. Thank you.

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

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

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

Next slide, please.

We've got several sources of data that we used in trying to estimate the base, the potential base. And there's a couple things I want to talk about before I get into the data or into the analysis that was done. One is sort of the comment that was made earlier that these are analyses. They're not official state estimates. The Revenue Estimating Conference develops official state estimates. Another is that this is one of the challenges -- those of you who've had the fun of sitting through some of the estimating conferences and those who've
been like myself, participants and principles to the conferences. One of the challenges in doing analysis on these things is where we don't have direct information to make an estimate or propose an analysis.

And I'll give some examples. In this instance using the prepaid example, we don't know when someone remits sales tax, we get information on entities remitting it and we don't get information on the specific items beneath it that are sold. So many times when a piece of legislation come forward that exempt a certain thing or treat it different -- a certain item differently for sales tax purposes, we very seldom have direct information about those types of items. And that's the circumstance here. We don't have -- when a retailer sells a prepaid calling arrangement that meets the definition and appropriately the 6 percent state tax should apply, we don't know that among the remittences. Also where a communication services tax provider also sells prepaid calling arrangement, it's taxed for -- appropriately for sales tax purposes and meets the definition of prepaid calling arrangement under Florida Statues. Because they also sell other
items of tangible personal property, we don't know from their returns, information that we receive as a Department, what part of that might represent prepaid calling arrangement and what might represent rental, tangible personal property, what might represent other sales of tangible personal property that would be taxable for the state sales tax purposes. So that's some of the challenges.

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

And I want to talk about that for a moment because essentially the analysis that we did was
try to estimate the base, just the base, not to put any value judgment in it, who should be paying one way or should be paying another. Just if there were a switch and all of those types of arrangements that are not a part of communications services tax base today became a part of the communications services tax base today. That's what we tried to estimate in the base. So we're not trying to go in and put any judgment, these are the ones that meet the current definition. These are the ones that are beyond the current definition. Just essentially if everything were treated as communication services tax, what's the potential base for that.

Next slide, please.

Here's some of the historic data that we used. And some of this was talked about in the presentation we did at the first meeting. Using the wireless 911 receipts, we calculated out of that an implied number of handsets that the E911 data indicates or an implied number of handsets that are available or that are out there in the marketplace. And then there's another implicit assumption as we move forward that whatever's being done for wireless E911 purposes, that whoever's
providing that service is considering it the same with respect to communication services tax. So, if it's -- if they -- if they're not paying on it for purposes of E911, they're also not paying on it for purposes of communication services tax. And so that's an implicit assumption in trying to measure this.

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

Next slide, please.

Looking at it graphically, you see that the top line, the red line, is the PSC-reported number of wireless handsets where you see in that number going from 2005 forward, some significant growth overall. Then the blue line is the implied number of handsets from E911 data. And you see actually
relatively flat in that period. And so then you
look at the implied number of prepaid handsets;
that number is a growing number. And so from this
analysis, it appears that most of the growth in
wireless handsets is taking place within the --
either there's the new customer deciding to choose
prepaid as opposed to post-paid plan or there's
some switching taking place among current post-paid
customers switching to prepaid. But essentially,
the growth in the wireless market from this
analysis appears to be in the prepaid sector.

Next slide, please.

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

Next slide, please.

As with any analysis, there's certain
assumptions that had to be made in coming to this.
The first is the one that I talked about, the
difference between the PSC report of wireless
handsets and implied E911 handsets or the number of
prepaid handsets that are out there in the
marketplace. And again, without any value judgment
about what way they should be taxed under Florida
law today.

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

Looking at the historic growth rates, we put
the growth in prepaid handsets, total wireless
handsets at about just under 3 percent annually and
then constrain that to 41 percent by '20-21. Now
the -- there'll be a later presentation that I
think has a lower market penetration in the later
period. We didn't have the benefit of that when we did the analysis. We looked at the historic period. There may be other projections for that slowing down. We also are measuring the current market penetration at a higher number for the current period under this analysis than what's in the later presentation. I think the later presentation had 23 percent for the most recent period we had actual data for. I think we're measuring about 26 percent given this analysis.

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

And then to get to the actual dollar estimates we made. For the low estimate, we assumed the $35 per month service cost that would be taxable under
either state sales tax or CST. For the middle estimate, use an average of $45 per month service. And then for the high estimate, use an average of $55 per month service. And you can see these assumptions, particularly the low, middle and high, they're levers and they're meant to be levers. If data showed us that the average plan was, you know, $20 instead the 35, 45, $50, then, you know, that would be the appropriate amount to use to try and extrapolate out impacts.

Next slide, please.

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

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

Next slide, please.

Now focusing in at an implied tax base of $35, this -- these next few slides are going to be very similar to what I showed you this morning. This one, like the one earlier, says if the current rates were maintained, what would the revenue implications be? Now making it clear that all of that base fell under the CST. And so at the -- on the low estimate of the estimated base, you see at the current rate for gross receipts tax in '12-13, it would have been about an extra $61 million for gross receipts tax going out to the 91 million in 2021. At the local effective rate for the local
component of the communication services tax, you see at the '12-13, the estimate of that base size would generate about $130 million compared to 195 in '20-21.

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

MR. ROSENZWEIG: Bob?

MR. McKEE: Yes.

MR. ROSENZWEIG: Some perspective on these numbers. I'm trying to figure out what's the total now, I can't find in my book, that we're generating locally -- I'm trying to get a perspective what 130 mean, what does 15 million mean to the state, what's the total now? And then also out of the -- I saw how you have the analysis for the 6 percent for the state; what about the local option sales taxes? Does that play at all into your thought
process in terms of the local 1, 1 and a half percent we might be levying in terms of sales tax currently?

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

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

Now to answer your other question my recollection is the total collections on CST local is somewhere around $800 million. But you'll get a magnitude in a moment. I'll do rate reduction and you can get a sense of the magnitude related to the
revenues by the amount of the rate reduction. So, you'll see in a minute, I think, that under, you know, sort of a steady state, analysis current rate with the 2012-'13 estimate that's done here or analysis that's done here, what would the rate be that would generate the same amount of revenue? And that will give you a sense of the magnitude compared to the size of the base.

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

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

MR. McKEE: Okay. Go to the next slide.

This slide, again, sort of similar to the residential exemption analysis earlier today, this slide demonstrates how much the rate could be reduced given the estimated or the basic amount of the early analysis and then what would be necessary to generate the same -- back the same rate. And you can see that it's a reduction in the effective rate just under 2.25 percent for both the gross receipts and the local effective rate. So something, you know, approximating a fifth of the total rate. And then the -- of course, the reduction that can take place in the state sales
tax is much lower because the additional amount of revenues coming in would only come in because of that additional .65 percent.

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

And then the next slide.

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

And then the next slide, please.

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

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

Any questions?

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

MR. McKEE: They're not reported to us. I
mean, there's not any specific reporting mechanism
for prepaid -- specifically prepaid wireless
service. To the extent that it's been treated as
sales tax as I talked about earlier, we just get it
in as part of the sales tax returns information
from whatever entity is making that sale.

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

MR. McKEE: There's a form, DR 700019 that's
required to be remitted semiannually to report your
used tax collections.

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

MS. KITTRICK: We have that answer for you.

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

MR. McKEE: We have those powers that --

MR. RESNICK: I didn't buy one --
MR. McKEE: There are US Supreme Court cases that have defined where the edge of state taxing authority is with respect to entities that don't have nexus within the state but may be doing business with the state. And I think the analysis here for that prepaid analysis is very similar to what you hear traditionally with any sort of sale that takes place over the Internet. Where if that entity does not have a nexus within Florida, the tax may still legally be due and the responsibility of the individual who consumes the communications services, but the dealers --

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

MR. McKEE: Yeah. I mean, the purpose here is to try and estimate the size of the base. And there are -- where you don't have direct information, there are always challenges with developing the estimate. And I want to make sure it is always my place that better information makes for better estimates. So to the extent that we can
be provided any better information like the information that's in the presentation later, it results only in better estimates. So we will always consider that information. So, I just want to make sure that that's not -- whether it's this process of providing an analysis, whether it's in the analysis we do for the Revenue Estimating Conference, we will always consider information that's brought to us in developing those analyses.

But, yeah, where there's information that we -- now if that handset is -- I mean, Mr. Mayor, if the handset is reported within the FCC data and there's not a collection of the 50 percent wireless collections in that, then they would be in the numbers that we're using to extrapolate out a base. Now whether those could actually be collections or not I think is the other question. So, even if all of those things exist and are out there and not a part of the CST base today, which is what we estimated the size of the base, whether in estimating revenues does there need to be some factoring down of things that cannot be collected or where the enforcement powers can't reach them or other things, I think that's a very fair recommendation.
MR. RESNICK: Would you give an estimate as to how much to factor down?

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

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

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

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

MR. STRANBURG: Thank you, Bob. Now we will hear from Kathleen Kittrick from Verizon and John...
Barnes from MetroPCS. They're going to talk about 31 Flavors of Prepaid.

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

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

**MR. BARNES:** So 31 Flavors, I'm not sure completely does this justice. There's probably more flavors in that. And what we tried to do is paint an overview of what distinguishes prepaid wireless. There's a slide in there about prepaid long distance or more traditional which we didn't want to forget about that, but I think a lot of our discussions here in this room relate to the wireless aspect of it. We also, you know, wanted to go through some time lines in history, kind of the growth of prepaid wireless and how it's come to be where it is today and kind of where we think
it's going tomorrow as well as talking about just
the variety of plans that are out there. And then
we'll close with, you know, there's some
information we have about MetroPCS's specific
product offerings as well as Kathleen will go
through the Verizon specific product offerings.
But we certainly welcome questions along the way.

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

Next slide, please. Next slide again, please.

So what we have here is something we kind of
complied to distinguish -- we didn't put together a
counter-slide that shows what post-paid wireless
qualities are, but we really want to just give you
what is prepaid. And what are kind of universal
qualities that cut across all types of varieties of
offers, whether it's voice, text, data, whatever it may be -- whether it's by the minute, by the week, by the month, whatever. These are kind of the universal qualities that we think apply nearly across the board to all wireless plans.

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

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

The other thing to point out with prepaid, it has to be paid in advance before usage occurs. There's one exception to that, and that's because the federal law requires once your service expires, the phone still has to be able to make calls to
911. That's a requirement that's mandated from the federal government for obvious reasons. So that is the one exception that you can continue to use your phone. And this is true probably for any phone. Even if you have a post-paid phone that expires, your contract, and no longer service -- be able to make those calls.

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

So again, in prepaid, we have reduced fraud. We have very little back debt. There's probably still a little bit of back debt related to bad checks, stuff like that. But the great thing about
prepaid is as soon as the check goes bad, that service can be disconnect immediately. There's no collection effort that's involved. There would be a collection -- behind the scenes to collect on the bad check, but there's no grace period, so to speak. And most prepaid is typically card based or cash based. As you typically think of prepaid telephone cards, when I say card based. Now obviously customers prepay with credit cards as well.

No long-term contracts. And what that means is the service renewal each and every service period, whether it's a day, week, month, year, is solely at the consumer's discretion. There's no termination fees, there's no -- they're not locked into anything. In fact, they can change -- they can go -- hop from prepaid carrier to prepaid carrier as long as they have the right handset that's compatible to networks. They may have to buy a new handset each and every time, but it's -- there's no implied long-term customer relationship here. We have to earn our customer's business each and every month to keep them. And that's where we have -- the prepaid industry typically has a higher, what we call churn, prepaid churn. So in a
post-paid base, I think Verizon, you guys, what's -- your churn in the post-paid base is one of the lowest in the industry.

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

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

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

The other big thing, the other big difference, and we'll lead into the next slide, please, the
varieties of distribution. And this slide is kind of busy, but let's take a few minutes to go through it. On the right-hand side, we kind of distinguish prepaid and post-paid. But I think what you'll see is at first glance, it looks like there's a lot of similarities in distribution between prepaid and post-paid. But the primary distinction here is on the post-paid side, those channels, national retail and indirect -- you know, unaffiliated website and 800 numbers and indirect retailer, their obligation to those contract customers ends basically at activation. There's no ongoing relationship with those. But in the prepaid space, each and every service period, you know, whether it be a week, a month, a year, those customers are coming back into national retail chain to see stores, you know, any one of those to recharge, top-up, whatever it may be, that is -- all those options are available with -- variety retailers that are out there. So, as you can see, it's quite varying in the number of options that are out there. Like I said in the beginning, not every prepaid -- not every company that offers prepaid sells through all these channels. But it's the good overview of kind of what options are out there as well.
MS. KITTRICK: So the percentages at the bottom to get to the question, Mayor, that you had asked about the number of Internet sales or direct sales in the stores. We did a little survey over the last couple weeks with as many prepaid companies as we could find. An economist aggregated the information for us. 72 percent of all prepaid sales are still done in national retail stores like the Best Buy and the Target. And 17 percent are direct remote, which is the Internet -- sales over the Internet from companies like Verizon. Actually our percentage is a little bit lower than 17 percent. But we do -- you know, because we have nexus in Florida, we do collect sales tax on those Internet sales. And then 11 percent are done in direct retail stores. And my marketing people will tell you that of those 11 percent that are done in the direct retail stores, 80 percent are still done on a cash basis.

Yes?

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

MS. KITTRICK: Yes.

Yes, Davin?

MR. SUGGS: Okay. Let's just take a national
retail like a Best Buy -- Verizon -- do they like
buy inventory like from you all and sell it and
keep the money for each unit they sell or at the
end of the month they remit that to you guys? How
does that work on the initial handset?

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

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

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

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

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

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

**MS. KITTRICK:** No, we'll get into a lot of the
precharge stuff, but --
MR. SUGGS: If somebody's recharging with a company with MetroPCS or Verizon or anybody else, is there a handset or services -- some type of identifiable -- let's say you sent a text message to people at Metro saying you need to recharge or somewhere in there you identify there's a prepaid handset out there, and they need to recharge or --

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

MR. SUGGS: I assume even after -- especially on the recharge situation, Verizon or anybody else,
between the phone number and access to the network, you're able to identify what minutes you have out there and say I want to recharge my minutes to -- this person at this identified handset is recharging -- because they have contributed money or minutes. You don't wholesale minutes? Do you wholesale charge -- I guess do you recharge minutes to your cards or -- I mean, some are different ways --

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

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

MS. KITTRICK: Right. They can buy them anywhere.

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

MS. KITTRICK: And that's --

MR. SUGGS: If you're collecting wholesale -- are you making wholesale revenue and sometimes
you're making retail revenue. And I know you've
got the minutes identified and you can identify
when somebody purchases it, but depending on how
you do it, they -- it makes it complex.

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

MR. BARNES: And how they distribute it.

So --

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

MS. KITTRICK: Right.

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

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

MR. LINDSEY: I have a quick question. It's a
question or clarification on the direct remote
which is Internet. Like you said, the companies
like Verizon and AT&T that have nexus everywhere,
we would be generally collecting tax. That issue
regarding, you know, like buying it from someone
who is out of state that Amazon, that really the
same issue -- that's just a general sales tax nexus
issue; that's not really anything particular to prepaid cards. So it's not anything that could necessarily be solved in our prepaid environment; that's just kind of the nature of the beast given the Constitutional, you know, the Supreme Court issues.

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

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

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

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

**MR. BARNES:** I think that's a business practice of some companies because I know from my own experience for MetroPCS, if you activate in Florida, you're going to get a Florida area code.
But I think there's other companies out there that can give you the option of phone numbers in other states.

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

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

MR. SUGGS: Right.

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

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

MS. FOX: Yes, and where they're calling from. Don't you have to have that in order to do the connectivity --

MS. KITTRICK: I don't think that, you know -- we have a billing system -- the billing system for prepaid is different from post-paid anyway, but I
don't think we have the capability of tracking, you know, each cell site that the call is connecting to and sort of situsing from there.

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

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

MS. FOX: To make sure I'm understanding then, the current system developed because of the situation that existed in the '90's that doesn't
necessarily exist today; is that what you just said, so that --

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

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

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

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

**MS. KITTRICK:** Right.

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

**MR. BARNES:** We do not have the time to
compile that level of detail. We kind of sent out this request just a few weeks ago to try to get what we could, just a high level to demonstrate how much is sold direct versus indirect.

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

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

Next slide, please.

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

As far as I could tell, it appears that prepaid wireless was born around 1993 with a company, Banana Cellular. And I think soon after, GTE launches their other service. I think what you'll see going through this, too, is back then,
wireless was very fragmented. It was comprised of a lot of very localized carriers that had obviously since consolidated since then. So I've tried to put in here also some -- in parentheses, where companies have succeeded. But it may not be -- I may not have gotten them all right, but -- '94, Houston Cellular launches CallTrack. I kind of don't have a whole lot of information on what those service plans offer; it's just a limited number of information out there. They obviously don't exist today.

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

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

I put some data in there around 1995 just to kind of get perspective, too. The wireless plans really started to target the credit-challenged, the budget-minded. I think the over -- there was some bill shock going on even back then. Minutes were expensive. So extra minutes, you may not have gotten a whole lot and if you went over your
allotment, you paid a premium for those minutes. So prepaid was offered as an alternative to that.

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

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

Next slide, please.

So in 1996, Ameritech actually launched a top-up with a disposable card, much like what we think of prepaid cards today. But they also accepted credit cards or they would take cash at an authorized retail center, which is much like a lot of businesses including MetroPCS conducts prepaid
business today. Also in 1996, Cellular One introduced a card that came prepackage with the Motorola phone. So here you had a phone with a card. And in some cases, the cards could actually be used, not just for wireless but it could be used for long distance as well. So the cards would cut -- be used for either one. You didn't necessarily know how to --

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

**MS. FOX:** And is that the common method now or
is the common method now network based?

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

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

1999 also marked the launch of unlimited local plans. So you kind of see it early on in '96 where Rogers had their unlimited nights and weekends. Now we have a plan that provides unlimited local calling. But it's really offered as a replacement for wire line service. And it wasn't intended to be a highly mobile service although it obviously
can be used on the go. But it was intended to be used within a defined geographic area and not beyond that. But you could buy separate calling cards to make long distance calls if you wanted to.

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

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

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

Next slide.

This is some information we received from Nielsen who does analysis of consumer trends. They've kind of divided how they view the prepaid market into three tiers. And I think this fits in with some of, I guess, look at what Bob was doing in the economic estimate -- low tier, mid tier, high tier. I think the market does kind of break down that way, although I think where you have the lifeline customers with a very restricted feature phone, doesn't have a lot -- doesn't have any apps, sort of like your basic phone; I think you tend to see those customers pay a lot less per phone. The low tier is probably somewhere around -- it's less than $20 and in some cases probably somewhere in 8
to $12 range. For those customers that are
receiving that qualified under federal guidelines
typically below poverty level, they're getting that
type of reduced rate. But then you move up to the
mid tier.

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

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

MR. BARNES: Well, I can speak from MetroPCS
perspective. We offer plans and phones in the mid
tier and the high-end service tier. Our plans
range from $25 to $70. But generally from a
consolidated perspective, our, what we call ARPU,
average revenue per user, is around 40 to $41. But
I think we typically -- and this is -- we're trying to provide a post-paid experience to a prepaid customer. So we're probably towards that mid tier, upper tier end of it. But I would think that some plans that are out there are -- you see a lot of types that are $50. But I would say the prepaid average is much lower than that.

MS. KITTRICK: I agree.

MR. BARNES: Next slide, please.

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

You still see the lower end of the green chart, the minute plans, by-the-minute plans. They're maintaining a 7 percent penetration rate by
the end of 2012. All kinds of -- in between.

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

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

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

MS. KITTRICK: Paying for 30 days.

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

MS. KITTRICK: Right.

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

MS. KITTRICK: Minutes of --

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

MS. KITTRICK: Right. And I will note this
when I do my chart. I have it in here in my slides. We have -- you can buy $100 and above, you can buy a retail card for $100 and above at Verizon Wireless and the expiration is 365 days. So you have 365 days to use it. But it will expire after 365 days whether or not you used, you know, the whole entire 100 minutes. But if you used the $100, it expires the minute you get, you know, $99.99.

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

MS. KITTRICK: Right.

MR. BARNES: 30 consecutive days.

Next slide, please.

The next slide just kind of lays out just what we've already been talking about with kind of the variety of wireless plans you see today. You know, you have handsets that come with usage already preloaded. You have the handsets that don't come with usage. And then you can buy the top-up, refill or recharge through dollars or unit denominations. But generally the units would be, you know, minutes, days, weeks, and even years. I'm not sure I've ever seen a PIN that goes beyond
one year. And part of the challenge is there's phone numbers, you know, a customer hangs on to a phone number for a period of time. There's back-in costs to maintain that for a period of time, so I think -- try to deny that. At least for MetroPCS customers, you know, 30 days is typically the extent unless you charge, recharge.

Next slide.

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

Next slide, please.

Here's just the sampling of companies, just brand names that are out there. We've segregated those into two categories, one of those -- one of
those that operate their own network, mobile
network operators, which are the big names that
you -- are associated with communications. Also,
though, there's some mobile virtual network
operators, MVNOs that basically sell, resell
services on somebody else's network.

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

**MS. FOX:** John, does MetroPCS only sell
prepaid?

MR. BARNES: Yes.

Next slide.

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

The other thing --

MR. SUGGS: Question. So I've got a Verizon iPad or anybody, AT&T, is 3G and that -- that's a post-paid arrangement. You actually bill somebody; you can't get that data service prepaid -- because
that's not considered -- service. That's still sales are 3G service or 4G service?

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

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

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

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

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

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

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

 **MR. BARNES:** I think there are some companies that are out there that are already doing that. And when you say prepaid data, it's a matter of just -- I say this from my own personal experience of using an iPad. I had to pay $15 to get a certain amount of usage before I could use any of it. I had to pay for it with a credit card. And
now I did establish a recharge situation. So the plans already exist with a prepaid connotation. I'm sure there's carriers out there or companies that are out there that are marketing prepaid data. And it may not be -- it may be on somebody else's network --

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

**MS. KITTRICK:** Yes.

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

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

**MS. FOX:** I thought some of that just came out
within the last month.

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

MS. FOX: Nobody buys iPhone just to talk.

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

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

MS. KITTRICK: It is.

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

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

MR. ROSENZWEIG: I gather simplistically, all these other -- you're talking about, no CST is being collected, just sales tax? So, for example, the AT&T environment, you have an iPad and you sell prepaid plan, there's no --
MS. KITTRICK: It just depends. Verizon has an access charge for each phone. So the access charge on the post-paid side would be under the CST. It's still -- it's still taxable. If the -- if some day a company, and I don't know that Verizon will ever do this, but some day a company just says, you know what, it's -- we're just offering like Google voice for Skype. We're just going to provide these for free. And we're just going to charge for the data. I think if the Internet -- still in place, then there's an issue of whether anything is taxable if they're offering a free service of voice.

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

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

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

MS. KITTRICK: Yeah.

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

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

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

MR. RESNICK: That's --

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

MR. RESNICK: Face time or something like that.

MR. BARNES: I'm familiar with --

MS. KITTRICK: Face time is like --

MR. RESNICK: It's the iPad where you can talk
to somebody and see them.

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

    MR. SUGGS: Data packages versus voice packages.

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

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

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

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

    MR. STRANBURG: It's about ten to 4:00. We're only scheduled to 4:00. I don't know if you want to go over things quickly or if you want to come
back and finish this up --

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

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

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

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

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

Go to the next slide, please.

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

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

Next slide.

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

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

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

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

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

**MR. BARNES:** Yes.

**MR. RESNICK:** All right.

**MR. BARNES:** Next slide.

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

Next slide.

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

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

So here's kind of an example of what typical customer experience for MetroPCS is. You're going to purchase a handset from a corporate store, at one of our authorized dealers or a national retail chain. Or you could bring your own phone in. At the same time, you're typically going to pick a rate plan, by the week, by the month. You're going to pay for your first service period. And then like I mentioned earlier, we're going to send you a text message eight days -- one day prior -- here's an example of what a text message might look like. And then the customer basically utilizes one of our payment options to pay. If they don't pay by their -- what we all their anniversary date, their cycle date, their service is suspended. And if it stays in that state for the next 30 days and at the end of the next 30 days, they use -- their service gets canceled and they never receive service, but their account is canceled and they lose their phone number. They can actually come back to us, pay for another service period, and reactivate their service.
In fact, if the customer pays us, if it's a $40 plan, they pay us $50, at the end of that 30 days, they still have, quote, "$10 credit," they don't have enough to continue their service. They still get suspended.

**MR. SUGGS:** Pay reactivation?

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

Next slide, please.

I just wanted to kind of demonstrate all the variety of payment options our customers have. And this may be different for other prepaid companies. But we allow our customers to pay one time or set up a recurring debit or credit card with their account. They can go online to our own website. We don't take recharges through third-party websites, but other companies may. You can buy -- you can call up the 800 number, you can dial through your phone. There's an application we have on certain phones. You can mail a check. Drop a check off at the drop box, purchase a card at a retail outlet or authorized detailer. But the most interesting fact about our company is 70 percent of our customers pay in cash every month at one of over 6,000 retail locations. And we only have
nation -- in our footprint, 162 corporate stores. You can see our customers are paying -- mostly paying in cash and mostly paying at stores that are not our own.

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

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

**MS. FOX:** 18.

**MS. KITTRICK:** So I'm going to -- a lot of what I had to say, John has covered. So I'm not going to spend a ton of time going through my slides. But just to let you know, we do have daily plans and we have per-minute plans and we have per-month plans. You can -- depending on what kind of service you are interested in, you can pay by the minute. And you'll see the minute rates are higher. And you don't get free mobile-to-mobile calling and free anytime minutes if you pay by the minute. You can pay 99 cents and get what's quote, unquote, an "unlimited" number of mobile-to-mobile calling calls. And then the rate drops to 10 cents a minute for anytime minutes under the 99-cent plan. If you go to the $1.99 daily plan, you get more unlimited calls and cheaper texting and mobile web. We also have a $50 unlimited plan. And again, unlimited, I think Davin made a very good
point before, it's for 30 days. It's a unit of
time. The unit of time is not a day, it's not a
week, it's a month. It's 30 days. And for that
$50 limited plan, you get unlimited
mobile-to-mobile calling, again, like with the
daily plan. Anytime minutes, text message, and
mobile web. And mobile web refers to just sort of
the basic ability to go online and search
something. It's not video streaming or watching
movies or anything like that. It's just very
basic. This is what --

I'm sorry, next slide.

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

Next slide.

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

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

Next slide.

To activate the service, you basically just install your battery, turn the phone on, select your language, press send for instructions. You put in your zip code. That's the only information we have is where your zip code is. They give you -- they ask you for a phone number if you don't have one attached and your account security code that you select and then you make a call and listen for instructions. One of the key points about this is if you have signed up for the monthly service and after 30 days you don't have enough money on your account to pay for another month service,
unlike John, where if you had $10 left over, you
didn't have to -- cut you off, we will allow you to
drop down to a daily plan. So, as long as you do
have some money in your account, you can drop down
to a daily or a minute plan until that money has
run out.

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

MS. KITTRICK: I'm sorry, what?

MR. ROSENZWEIG: The purpose of the zip code.

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

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

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

MR. ROSENZWEIG: Where you are.

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

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

MS. KITTRICK: No, we do.
MR. RESNICK: You comply, but you don't have any information?

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

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

MS. KITTRICK: Right.

Next slide, please.

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

MR. SUGGS: Question.

MS. KITTRICK: Yeah.

MR. SUGGS: This $50. If we -- voice -- some stuff is not taxable, like Internet stuff is not taxable.
MS. KITTRICK: Right.

MR. SUGGS: How much is $50 --

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

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

MS. KITTRICK: You can't put prepaid in Internet?

MR. SUGGS: CST on Internet, I'm sorry. CST on voice per se, voice for prepaid or whatever else. How do we put CST on a $50 recharge? How do we -- I mean --

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

MR. SUGGS: Yeah, how --

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

MR. BARNES: Who would collect that?

MR. SUGGS: No, collection is a different
problem. This is a new problem. I'm seeing a new problem here. If you're selling a prepaid card for 50 bucks, we have to figure out what does that 50 bucks -- what's the value of the voice versus the value -- because what -- apps, tones, e-mail, mobile broadband --

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

**MR. SUGGS:** See, this is my point. And, Bob, if you're listening for next time. Great numbers, the great revenue numbers, they're missing prepaid -- if we were ever to tax prepaid, that creates a problem. I don't know, next time, can you talk about looking at that screen and your
numbers, do your numbers contemplate -- are you only taxing the talk part of it or do your numbers contemplate -- you're just taxing the 50 bucks?

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

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

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

**MR. SUGGS:** Okay.

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

Next slide, please.

I just wanted to, again, go to the information that I have underlined. So if you don't have a sufficient monthly balance for monthly access, you can still get a plan to cover -- you'll get sort of drop down to 25 cents per minute or 20 cents for
text, 25 cents per-picture-plan till that money runs out. Again, like with John, if you have no money in the account, the account is suspended. We give you an extra 60 days, though, to put more money on or your number goes away. And -- again, roaming, peak tax is an additional charge. And you have to have money in your account. We don't back-bill for that stuff. It's got to be in your account, prepaid.

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

**MS. KITTRICK:** Okay. So if you could go to
slide 41, I promise this is my last slide.

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

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

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

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

**MS. KITTRICK:** No.

**MR. SUGGS:** Last question for me. MetroPCS,
you're 100 percent prepaid. One of our missions
here is talking about competitive advantages. Do
you have a competitive advantage based on our tax
structure over Verizon and AT&T over everybody
else? You pay no CST at all or do you?

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

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

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

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

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

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

    **MS. KITTRICK:** I mean, I don't know that I can
really answer that question like that. I think
that from our perspective, we strongly believe that
this is such a complicated product and because it's
a complicated way of selling the product that it
really truly does belong under the sales tax. And,
you know, when the CST was drafted and enacted in
2000, I mean, this was a very well discussed topic.
I mean, you know, prepaid was included in -- sales
tax because of the sourcing issues and because of
the difficulty and how it's sold. Whether you look
at the 31 Different Flavors or prepaid, the same
principals apply then, apply now. It's sold
primarily in retail locations. It's sold on a cash basis. I mean, it's -- nothing has really changed from that.

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

MS. KITTRICK: Keep being consistent.

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

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

MR. BARNES: We do not have a way in which our network communicates to our tracking system where that customer -- somewhere in the network we know where that customer was, but to marry that up with the tax would be an extreme complexity because even -- originated call in one jurisdiction and terminate that call in a whole different jurisdiction.
So, we do the best we can with the information we have, which is, you know, if we have customer information, we use it. If we don't, we have, you know, some call-back mechanisms in order to determine where the customer is. But it does not -- it's not precise enough to know that customer originated that call on that tower and therefore we're going to charge tax because the tower was in Leon County, we're going to charge tax in Leon County, even if that call terminated when they were one county over. Or ten minutes of the call were in Leon and 20 minutes of the call were in the next county over.

**MR. SUGGS:** Question.

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

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

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

**MR. SUGGS:** So the contract messes up
according to our statute, the contract -- what makes it not --

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

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

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

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

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

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

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

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

MS. KITTRICK: Yeah, if you --

MR. RESNICK: If you keep that card.

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

MR. RESNICK: You can port a number --

MR. BARNES: In and out, right.

MR. RESNICK: Oh, really? Okay.

MR. SUGGS: The only thing I was asking is migration from post-paid to prepaid because, I mean, it makes more sense.
MR. BARNES: Well, I think what's interesting is Europe is predominantly prepaid -- SIM cards of the stuff -- Europe's been primarily prepaid for a very long time. It just hasn't taken off in the US as it has in Europe, primarily because of the inducement offers of cheap phones with the contract. Nobody wants to pay $600 up front.

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

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

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

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

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

MR. STRANBURG: That's why we tried to angle this a little bit. The problem we have, though, is the WebEx. If we put face to face, somebody's back is going to be on the WebEx all the time. So that's --
Just a couple things real quick because we are past time. Our next meeting is August 14th. I wanted to --

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

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

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

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

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

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

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

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

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

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

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

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

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

MR. DUDLEY: They may not want to come.

MR. STRANBURG: Right. And then also mentioned previously if there is a feeling that we need to have some additional meeting times blocked out sometime, I am guessing now we'd probably be in September. Because after our next meeting on the 21st, we don't have anything scheduled until
October 31st. So there is feeling that, again, doesn't have to be an in-person meeting, but if there might be a telephone conference call where we could start further fleshing out some of the options.

MR. SUGGS: What's your notice --

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

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

MS. MORELAND: Ten days.

MR. STRANBURG: Ten days.

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

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

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

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

*   *   *

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STATE OF FLORIDA:
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I, TRACY L. BROWN, court reporter and Notary Public do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated, and that the foregoing pages numbered through are a true and correct record of the aforesaid proceedings.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the foregoing action.

DATED THIS day of , 2012.

__________________________
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