FLORIDA DEPARTMENT OF REVENUE

PUBLIC MEETING

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MEMBERS:

Marshall Stranburg, Chair

Brian Smith

Gary Resnick

Sharon R. Fox

Alan Rosenzweig

Gary S. Lindsey

Kathleen Kittrick

Charlie Dudley

Davin Suggs

Also Present:

Andrea Moreland

PROCEEDINGS

MR. STRANBURG: Well, I think we're going to go ahead and get started. Good morning everyone. I'd like to convene the fourth meeting of the Communication Services Tax Working Group. My name is Marshall Stranburg and I'm the interim executive director for the Florida Department of Revenue. I will be chairing this meeting.

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

MS. MORELAND: Charlie Dudley?

MR. DUDLEY: Here.

MS. MORELAND: Sharon Fox?

MS. FOX: Here.

MS. MORELAND: Kathleen Kittrick?

MS. KITTRICK: Here.

MS. MORELAND: Gary Lindsey?

MR. LINDSEY: Here.

MS. MORELAND: Mayor Resnick?

MR. RESNICK: (No response.)

MS. MORELAND: Alan Rosenzweig?

MR. ROSENZWEIG: Here.

MS. MORELAND: Brian Smith?

MR. SMITH: Here.

MS. MORELAND: Davin Suggs?

MR. SUGGS: Here.

MS. MORELAND: Marshall Stranburg?

MR. STRANBURG: Here.

Before we get started, I'd like to address some of the administrative or housekeeping details for the meeting. This is a non-rule public meeting. It is held under Section 120.525 Florida Statutes. A notice of the meeting was published in the Florida Administrative Weekly on September 28th, 2012 in volume 38, number 39. The meeting agenda and materials are posted on the Department's website.

We have a court reporter who is creating a transcript of the meeting today. The transcript will be posted on the working group's web page. If you wish to speak today and you are present in the room, please provide a completed speaker card to Lynne Moeller or Jamie Peate. Lynne. And Jamie is in the back. Speaker cards are located on the side counter. Before speaking, please state your name and the organization you represent.

We have created a web page on the Department of Revenue's website for the working group. Agendas, meeting materials, transcripts and other information relevant to the working group will be posted to the website. We do have some hard copies of today's meeting materials available on the side counter. If you would like to receive updates about the working group by e-mail, please provide us with your e-mail address. A sign up sheet is located on the side counter. Please be aware that your e-mail will be considered a public record and subject to disclosure if requested.

If you are participating in today's session using WebEx, please do not mute or unmute your phone during -- using the instructions given by WebEx's automated system. To ensure today's session goes as smoothly as possible, our staff is managing the WebEx mute and unmute feature. For those using WebEx, you should see a telephone icon next to your name on the computer screen. If you wish to make a public comment, please click on the hand icon located below the participant panel list. Our staff will let the facilitator know you have your hand raised so you can be called upon to comment. Those not using WebEx can make a public comment by sending an e-mail to CSTworkinggroup@DOR.state.FL.US. Again, that's all one word, CSTworkinggroup@DOR.state.FL.US. In the subject line, use CST working group. Please keep your comments brief, your e-mail will be printed and read into the record.

We ask that you please turn off your cell phones or place them on vibrate. The meeting is scheduled for all day today. We will be taking breaks throughout the day and a lunch break around 11:30. We have another meeting that is being held in the room that is just directly across the hall, so we ask that you please be considerate during the breaks and lunch hour when exiting this room, that there is that meeting going on next door. Restrooms are located in the hallway that runs directly behind our room. The men's room is located at the west end of the hallway, the lady's room at the east end. Vending machines are located at the rest end of the hallway right beyond the double doors. Areas that are closed off to the public should be designated. This is a secured facility, so please stay in the main areas.

One of our members, Brian Smith, has got to leave today around 3:15 today to catch a flight, so please keep this in mind as we work through our agenda. After Brian leave, if there's anything that requires any kind of vote or final action, we will either defer that action to the next meeting or if Brian's able to continue to participate through telephone, we'll have that as an option available. Again, we can continue discussions on things after Brian has left if need be at our next meeting, but I think our -- the decision is we're not probably going to do anything once Brian has left in the way of taking any kind of official action, any kind of votes or things of that nature.

Does anyone have any questions before we get started?

I guess for purposes of our attendance role, Mayor Resnick is here now.

MR. RESNICK: Sorry I'm late. 20-minute walk. But it's fine. Thanks.

MR. STRANBURG: Okay. We've got a couple of follow-up items from our last meeting. They are under your materials as agenda item number two.

I'm sorry, I'm stepping ahead of myself. Agenda item two, our meeting minutes from our previous meetings. We have the meeting minutes from the meeting that was held in July, July 25th, and also the meeting minutes from our August 21st meeting. Does anyone have any changes that they wish to recommend be made to the minutes? You know, we can either take a couple more minutes for you to look them over, or if you'd like, we can maybe come back and approve them right after lunch. What's your preference? If you'd like a little more time to look at them? Okay. Why don't we do that. We'll defer approving the minutes until after lunch so that over the lunch break, if you would, we'd appreciate it if you would take a few minutes to look at those and see if there's any recommended changes that need to be made.

All right. Moving on to agenda item three. We had some requests for some additional information made at our last meeting. That information is contained in the materials that are noted as agenda item three. One of those where there was a request for information on franchise fees imposed on cable companies and applicability of those franchise fees other services, Charlie Dudley provided us some information on that.

Charlie, do you want to make any additional comment about that information or does anyone have any questions about that information for Charlie?

We were also asked if we could provide potential revenues from the position of a franchises at a 5 percent rate. Mayor Resnick asked us to provide some information on that. We've attached that as well. Please note in looking at that, there were some assumptions our folks had to make in order to come up with those numbers.

Does anybody have any questions about the estimates?

MS. KITTRICK: Can you tell me which providers you used in base for the estimate?

MR. STRANBURG: That would be confidential taxpayer information, so I'm not able to do that.

MS. KITTRICK: -- companies? Did you include wireless companies?

MR. STRANBURG: I believe if you look at that, we used -- if you look at the paragraph that's titled methodology, the services were assumed to be those services of land line and cable services. But as you look down through the cautionary materials as well, there's no way to break out if a provider that we believe was a landline or cable service also provided other services. It would be hard from the information we have to distinguish what would be those thing that franchise fees might be applicable to, and other services that franchise fees might not be applicable to. So again, it's the best estimate we could come up with given the data we had.

MS. KITTRICK: Uh-huh.

MR. RESNICK: So can you -- is someone going to go through some of these numbers at all or -- can you just look at -- just so we're understanding what we're looking at, look at one specific year and give an indication --

MR. STRANBURG: Would you like some of our people who put this together to talk a little bit about it? Okay. We could get Bob McKee, our chief economist at the Department, to come up and maybe give a little discussion and answer any questions you might have.

MR. McKEE: Good morning. I'm Bob McKee with the Department of Revenue. I'll be happy to take questions on it. I think Marshall talked about the methodology. He gave a fair description on methodology. We had to look at communication services tax receipts, try to identify those providers who have a presence in the right of way. So there was effort to take those out, who would be providing services that did not have right of way access. And then looking specifically at their CST tax base and applying a -- the 5 percent. So it was not making any other assumption about what was the taxable base under franchise fee scenario just working with the existing CST base, the 5 percent rate for essentially a subset of providers that are paying CST today. And it's really -- when you look at it, compare it to the local government revenues, about 800 million, effective rate at about 5 percent, I believe the number were slightly than 50 percent of those numbers.

MS. FOX: So in essence, you're saying they're overstated? Because if you're using the current base and there are some providers that provide -- that provide, let's say wireless services as well as landline services, then it would be an overstated base from a franchise fee perspective?

MR. McKEE: And I think there are some notes that -- I think the way I put, Ms. Fox, is that should there be services that don't pertain to the right of way, then that would result in an overstatement. There's things that might result in an understatement as well. My recollection about franchise fees were that they were individually negotiated bases, that there were other things that at least historically may have been included in those negotiated bases, than things that are a part of the CST base today.

So whether the world will turn to at a place where franchise fees were negotiated, whether those bases would resemble the CST base or not, is just not there. We weren't given the specific scenario under which franchise and the parameters under which franchise fees came back. So we tried to do as close a comparison as we could with the data that we have and the information we received off the returns. Which the only part that really lent itself to this analysis is the identity of collecting it.

MS. FOX: Thank you.

MR. LINDSEY: So the idea here was really just looking at kind of a what if. If you took the base, applied a franchise fee, it made no attempt to then look at the CST and say what you might do to the CST to reduce it or to carve something out of the CST, this was really just an inquiry to see what kind of revenue that would generate if franchise fees were to be --

MR. McKEE: Yes. For those specific providers with presence in the rights of way.

MR. LINDSEY: Thanks.

MR. RESNICK: Did you go back historically to look at what franchise fee revenue was before CST? Because the CST was supposed to be -- one of the replaced revenue sources was franchise fees, so did you look at what it was before it was replaced?

MR. McKEE: The short answer, I guess, would be, no, we did not look back at the replacement revenues. There were certain information that were reported back in 2000 when the switch took pace, prior to that, there wasn't a separate reporting. Franchise fee revenues weren't reported to the Department, they reported in a broad category, I believe, to financial services. But not something that was simply identifiable. And my understanding of the scenario that we were given didn't match up entirely with the replacement revenues. My understanding of the replacement revenue at that time, cable franchise fee was a maximum of 5 percent, but that the telecommunication franchise fee was a 1 percent franchise fee. This analysis looked at a 5 percent franchise fee for every one that was in the rights of way. So my understanding of the assignment we received at the last meeting.

MR. RESNICK: Not on internet service, though?

MR. McKEE: We looked at the existing CST base. So we did not get into an issue of whether there were services that may not be subject to the CST but that might be able to be pulled into the franchise fee. We didn't examine where the edge of that is, nor did we make assumptions about what type of revenues that were legitimate. It was just a straight up CST revenues, 5 percent application.

MS. KITTRICK: I have a question. Before reform, wireless didn't pay the franchise fee, but after, the 5 percent franchise fee was baked into the CST rates, there revenue raised from wireless at that point presumably, right? So wouldn't the CST revenues over the last ten years be higher because that 5 percent franchise fee was based on the CST rate? Doesn't it now apply to wireless?

MR. McKEE: There were a number of replacement revenue sources across -- and I guess specifically talking about local governments here. For non-chartered counties, the primary source was cable franchise fee, the 5 percent. But for chartered counties and municipalities, there was also the public service tax, whether it's a 10 percent or 7 percent option which applied more broadly. And my understanding is that prior to the CST, that that applied to the wireless service. So there was a 7, 10 percent option.

And that's -- when you look at the rate structure for the current CST, the current rate structure difference between non-chartered counties with a 1.6 CST proper maximum rate compared to the 5.12 potential maximum rate for non-chartered counties. And for chartered counties and cities. So I think there's some reflection from the history in the current rate structure for some of those differences going back into the prior one.

MS. KITTRICK: Okay.

MR. McKEE: Questions?

MR. RESNICK: You also said in your notes here that you did not include total revenue, only the communications revenue. So you didn't include ad sales, other revenue sources.

MR. McKEE: Yeah, we did not look beyond essentially the CST base.

MR. RESNICK: Because that's all you --

MR. McKEE: That's a battle we have available to us.

MR. RESNICK: For ad sales now from these companies, I mean, is there a tax on it? Based on CST, is there sales tax on that or some other tax on that?

MR. STRANBURG: No, there's no tax on advertising services.

MR. RESNICK: Wow. That's a few billion dollars that the state's losing.

MR. STRANBURG: To the extent they may be a corporate taxpayer, that revenue may be included in some -- incorporated in the corporate income tax. But probably since 1987, there's not been a sales tax on services.

MR. RESNICK: Would there be a way to determine what type of fees or taxes were on that service before -- because franchise fees generally included revenue from ad sales. So would there be some type of historical data that would have that kind of information?

MR. McKEE: I think when we look at historic collections, some of the challenges with working with pre CST data from my office's perspective is that, one, the instruments were different. So they're individually negotiated instruments. So the degree to which things might have been included or not included in the franchise fee makes them non-consistent. And so comparability becomes a challenge across the base.

The second is the revenue stream because other than when we had the reported revenues from the replacement period calculation, the rates, to my understanding, we don't have a consistent stream of historic revenues specifically associated with franchise fees across the various jurisdictions in the state. So it creates some challenges. And then once we -- if we have those, it would then be a matter of being able to separately identify what's in each agreement. And then, only then if we're able to, you know, get some idea of how much ever those dollars are associated with the various pieces. My expectation is that checks came in to the local governments without necessarily the accounting for how much of the revenue went to various places. Now that could be a bad assumption. But without something -- I mean, there might be ways to look at available national data or other things or other attributed amounts to try and derive an estimate. Getting it from historic collections, I'm just not aware that that is available to allow us to really tease that out.

MR. RESNICK: I mean, it would be available, you'd just have to go to do work to get it. Because especially large jurisdictions do audits, so there's definitely accurate information from prior to CST as to what amounts from what pots were going into the franchise fee, probably Tampa. I mean, you name the large jurisdictions, I'm sure they do audits.

MR. McKEE: Do you know if those audits are confidential?

MR. RESNICK: No. Totally public information.

MS. FOX: The one thing I would say about that is that a lot of those jurisdictions may no longer have that data because it's quite old. And storage costs. So things that go beyond the storage requirements of the state would not necessarily be -- particularly something that no longer is relevant to current statute.

MR. STRANBURG: Any other questions on this?

Thank you, Bob, appreciate that.

And the third follow-up item from the previous meeting deals with a request that Mayor Resnick made about some discussion or information on the issue of competitive advantages between the cable and the satellite industries. What we've done is due to pending litigation on that issue, we've given you copies of some of the pleadings from that pending litigation. And that's been one of the reasons why we really haven't delved into that topic a great deal was because of the pending litigation that's the ongoing. It's been ongoing since 2005.

You know, information about the litigation has been in the significant litigation report that is part of the -- handbook every year. I believe that cases have been in since 2006. So, you know, it was going to be difficult if not impossible really to discuss the issue fully given the fact that this is something that is in litigation. And I think we've got the potential either benefits or jeopardizing one side's argument or the other by presentations and statements that could be made here, so that's the reason why we stayed away from having a broad discussion of that due to pending litigation. And as I said, we've included copies of some of the pleadings.

Right now, the last pleading is the Department's motion for summary judgment. If there are additional pleadings or further developments in the case, we'll bring them to your attention during this group's effort. But at this point, I think we were all feeling a little reluctance to really dive into this issue because of the pending litigation. And I think can you understand that, Mayor Resnick, why there was some concern about that.

So hopefully that will give you some background information. You know, for those of you who may have followed this, you know there's been litigation in other states that's been ongoing that is currently ongoing. So there's some other cases you could look at from other states and pleadings in cases in other states if you also wanted some more information on this particular topic.

Don't know if anybody wants to add anything more to that.

Okay. If there's no additional questions on that, we'll move on to the last follow-up question we had. Davin had asked at the last meeting if we could possibly reach out to the legislature to find out if they had some insight they could provide us regarding the procedures of the working group. We've had some discussions in previous meetings about whether we should go forward with all the options that the working group comes up with, with only a certain number of options, we need to look for some type of majority, super majority consensus among the group in order to move something forward as an option in the report. So we reached out to the sponsor in the House of this legislation and the sponsor in the Senate of the legislation to get their in put on what they felt would be a benefit to have provided to us. And so we contacted their staff who spoke with their representative bosses. On the House side, Representative Grant. And of the Senate, Senator Bob --

We got two clear messages back from them. One was a request that we capture in our report all options that were brought forth by the working group members. But they also requested that we provide an indication of those options that have broad support from the members of the working group.

So what we're proposing to do is to have in the body of the working group report, options that have a broad consensus of support. And I think that broad consensus of support, a number that works well is six members. Because that either gives us three from both sides of the table or at least all from -- four and two from the various sides of the table. And that we indicate those options that have that level of support. Also, indicate those options that at least have a level of support among at least half of the members of the working group, indicate that in the body of the report as well.

And then otherwise, include the other options that were put forth by members but that did not get that level of support of at least half of the members of the group, we would just include those as an appendix to the report so that they would be included so that we would be fulfilling both requests that were made of us to give an indication of all options but also give an indication of those that had broad support from the working group members.

Anybody have any questions on that?

MR. SUGGS: Thank you for reaching out.

MR. STRANBURG: We appreciate that.

What we've got on the agenda for today, then, is to take a look at the options and start working through them. I want to thank everyone who submitted their options. We appreciate the work you put into those. And what we attempted to do is to try to capture those options in some categories and to set them out. And that is the -- y'all were provided a list today of those options. We want to make clear that these were just our best effort at trying to capture them into one document and to put them in a very short and succinct statement of them. Please, we have no pride in authorship in this. If there's something you feel that we've left that's very important that needs to be considered or if we've missed something with respect to an option that one of you submitted, please, as we're working through them today, let us know, bring that to our attention. We want to be sure that we are capturing the essence of what you have put forth. Because what we would like to do today is to start looking at these, see where we've got some options that are similar, that there seems to be a couple of members that have submitted something that looks to be alike. Eliminate some of those repetitive options. See if we can consolidate some options. Or see if there's some options where we need to keep them broken out as, while it may be like, keep them out as two separate items for the group to consider and then put them in a format where we can then have them available for the group to then determine what level of support those options have for members of the working group.

Then I think what we would look at is after we have that option fleshed out, either we can have the member that submitted it, or if the preference is to have Department staff work on it, maybe work on a brief paragraph or two summary of what that option is about to capture the relevant main points of the option, then we would, at the Department, go back as we've had some requests made of us to try to take a look at, is this likely to have some type of fiscal impact if this option would be one that would go forward and be adopted.

And I think our perspective and our ability to do that, we're going to be limited in what we can do because most of these options are not going to have precise statutory language that we feel would be necessary in order for us to try to attach a specific dollar amount. And even when that is looked at in the process in Florida, it is not something the Department does. There's a whole separate process that's handled by a consensus revenue estimating process, actually put a number on legislative proposal.

So what we feel is probably the best thing we can do is we can give you all some type of potential fiscal magnitude option kind of discussion that we could say that we think it's likely to have a broad area of application, and it has the potential to have a significant revenue impact, a minimal revenue impact, something of that nature. But trying to put an exact dollar amount into it, I think we don't feel as though we've got any confidence that we will able to do that.

Davin?

MR. SUGGS: Right. I understand what you're saying, but I think depending on our time line, if we produce something and we really want to analyze it, we can request a date maybe in a week and we can submit this.

MR. STRANBURG: Certainly.

MR. SUGGS: And just for the benefit of the group, the group that he's talking about if we asked them to put something together, they can meet and analyze -- since they're an official group that puts a number on stuff.

MR. STRANBURG: We were looking at this, too, from the perspective of before asking the members if they felt as though there was some support that they could indicate for an option, that they would like some idea of whether this may have a significant -- whatever that revenue impact might be without getting into an official number. So we'd like to have the opportunity to do that before we would ask the members to indicate whether they thought an option was something that they could support, that they'd have some indication from us that this looks as though it may have this kind of magnitude of a revenue impact, whether it's a positive, a negative, whatever that might be.

MR. ROSENZWEIG: The way our language reads on our responsibilities, that language I keep going back to, unduly local governments. Are you also looking at the impacts of the state or just strictly looking at the local government?

MR. STRANBURG: I think we would look at what the overall revenue impacts would be, so that would cover both the state and the local governments.

MR. ROSENZWEIG: Can you give us an indication, though, state and local at least while you're doing your language?

MR. STRANBURG: I think we'll do the best we can.

MR. ROSENZWEIG: But we don't need numbers but just -- Bob just needs to say, hey, it's going to hurt you or it's not.

MR. STRANBURG: Yeah. I think that is what our intention would be is to do that. Again, whether it's our best estimate, whether it may have, you know, it looks as though this would apply to a broad number of providers which might have a greater likelihood of having the higher revenue or lower revenue impact.

MR. SUGGS: Ask a question about time line. How much time do we have -- I mean, how many -- I know we have another meeting this month, but then what else is potentially planned?

MR. STRANBURG: I think what our plan had been, if you'd even go back originally to at your first meeting, I think the plan that Lisa, when she was chairing this group, was to have a last meeting potentially be that October 31st meeting, and that a report would be ready or pretty close to being ready. I don't think we're going to hit that. I think what we're more likely have to do is to probably at that meeting on the 31st, that would be a point in time where we might start seeing what level of support any of these options might have and take some -- whether you want to call it a vote, whether you want to call it a test, what that level of support would be, then we would be putting together the report after that including those -- as I indicated, those that had that significant amount of support. And then probably sometime thereafter, maybe towards the end of November, beginning of December, hopefully we would have that report together to disseminate out to the members for them to review and then we would have another meeting. I think that meeting possibly could be done by phone rather than in person to indicate the group's agreement to move that report forward to the legislature.

I'd like to also put on the table as part of this process, too, that once we've gone through and had that opportunity to work on these options, get the feel of the group about the level of support for the options, what's going to be those options included in the report, those that would be part of the appendix of the report, to allow the individual members if they wish to submit something in the way of a statement or an opportunity to present their view maybe of what they felt about an option or an option that may have not been put forward as one that had significant support. Allow the members to have an opportunity to put forth their viewpoints about some of the options as well as having a report that contains information on what the group did.

So I would envision again, given that, we're probably looking at sometime in the December time frame to get some of this done, put together, send it out, and then reconvene to then have the group give its final okay for moving that report on to the legislature.

Any questions on that or anything else we can help you understand?

MR. SUGGS: Can I ask the group something?

In terms of government or industry, is everybody comfortable where it has a good general sense of where everybody's at? And the reason I ask that, I think, given the time frame that Marshall just went over, I think if everybody was comfortable where -- I mean, from looking at the stuff and knowing what my folks said and our policy conference, I think we're real close in the area of we could get a consensus on some stuff if we kept it simple at this point. It's just a recognition of, I guess, everybody's goals and, I guess, from the industry side, how fast is the time line? Because there's a big difference if this group produces something that keeps things moving forward in the right direction versus, do you feel we have to solve all 100 problems in the next two or three meetings and by phone and get it to the legislature. I.e. hypothetically if this group recognized on a consensus basis that there needs to be some significant change and here's how we need to continue as a Board addressing that change. And sort of define that. I mean, working within our time line, that may make our discussion easier. I think that's more approvable than moving, shifting, rates changing, technical administrative stuff in the next three or four meetings at a very detailed level.

I don't know, does that make -- I guess the initial questions, is everybody, especially in the industry or you guys, is everybody comfortable with everybody's position to where we can go into that discussion or does there need to be sort of general elaboration on where everybody's at?

MR. LINDSEY: Seems to me as far as positions, I mean, we've laid out the options. I think we do need to have, I imagine what we'll do today, a lot of the discussion about looking through these options. And I think part of that is trying to determine additional observations about the options. You know, each one of us may have outlined some things about a particular option, others may have some other insight on it. You know, that option -- one of the limitations of this option is this. Here's another thing, another attribute that we need to consider, et cetera. So, I think we need to do that. I think that's just kind of a natural way that we need to go through it.

And when we start looking at the ones that have the above 50 percent, you know, and we all say the state-wide rate looks good -- I'm just picking one as an example -- and that has broad support as an option, then maybe we spend a little more time on elaborating on that one. And the ones that we weed out that might end up in the appendix, we don't. So I think we kind of end up doing -- if I'm understanding, I think that's kind of what we're going to end up doing probably today. We'll a pretty good idea probably in a few hours.

So I'm not sure if you were suggesting we go ahead and start voting on these, but I think we need to talk through them.

MR. SUGGS: No. I'm not talking about voting on them right now. I mean, essentially here's what I'm asking the group is: How much of this problem do we need to solve for you -- I'm looking to industry? Is this something that needs to be -- we put something forth and it needs to be solved between March and May of 2013, this session coming up? Or knowing that there's a general consensus that there's a major change and overhaul that needs to be done, what is your time frame in the process? Could this extend or were you inclined to whatever -- into next summer and getting it done correctly but meeting all your overarching goals?

MS. KITTRICK: I mean, I think there's a lot of things on the table that are really big-picture items that would be unlikely to get done now. I think from our company's perspective, the prepaid issue has to be addressed this year, like this session. I think that, you know, the funding structure for local governments and, you know, the bonding issues, I mean, those are big issues. Those are big issues that I don't know that we can address by ourselves with this group. I mean, I think they're going to be hard issues. I don't -- I don't know that --

MR. SUGGS: I agree with you. And see where -- like where our conflict in our policy meetings, we don't see how the state can address prepaid until they address us. Because I told our members, I said, I mean, we think we're part of the problem -- in terms of we just talk -- counties and say there's 67 different rates. That's part of the issue the state has to figure out. But I think the two are connected. The ability to broaden the base and the ability not only protecting our revenue but right now our local discretionary authority. I mean, there's more than one way to do it unless you break off prepaid as a separate flat rate, separate and apart and as a separate part. But then again, that makes the CST still more complex because now you got satellite DVS state rate, you got satellite DVS gross receipts. And then you got local CST, and then you're got prepaid hanging after you. The matrix keeps getting bigger and bigger.

MR. DUDLEY: It was clearly done, you know, 12, 13 years ago. It was -- I guess year one was the skeleton and year two was, you know, all the connecting tissue. I mean, year one was the, this is the definitions, this is the structure of how it's going to work. And then year two was a lot of interim work on what the rates need to be from a perspective of the different governmental entities and their bonding issues, the needs, and crunching numbers. And that was done, as you all know, in the interim with a lot of reporting and a lot of meetings that the Revenue Estimating Conference -- but if that's what you're suggesting, I think there's some structural stuff you could -- that you need to address at some point. I mean, if you had, for example -- and I'm not saying people are going to agree with this, but if you had a single state rate, that does change the perspective of how you potentially handle prepaid in the long term as opposed to having 470 different distinct local rates. Some issues become bigger, some issues become less, I guess.

I still think there's going to be an issue from a policy perspective, and not to mention a political perspective of subjecting a 6 or 7 percent service today to 15 or 16 tomorrow. You know, it's going to be an issue well above our pay grade. There's going to be a lot of legislators very interested and the types of people that use those -- customers that use those devices in this economy and what you're doing to them. Regardless of whether it's fair or not fair, the policy of it, again, that's something that we probably can address as options, but it's not something we can solve.

MR. SUGGS: And I think -- and Charlie and Sharon, you've been here, too, I think the type of revisions or amendments or changes and I think

Charlie -- I think we've sort of got to walk slowly because probably the biggest player has not been at these meetings in terms of -- even if we all agree, we've got to go convince the legislature.

MR. DUDLEY: Oh, sure.

MR. SUGGS: And we may all understand it and come to understand that consensus, but I think the walk has sort to got to be slow. And you guys have been through it before, so --

MR. DUDLEY: I think Gary hit it right. I mean, obviously I just saw this two pages this morning that the Department put together. And people may have some issues with how they've been portrayed. But I think we ought to go through it because I think if we go through this two-pager and go down and talk about some of these things, there may be areas that there is majority or consensus on and there may be some that are just very contentious. And that will help us sort them out for our next meeting. I mean, that's kind of --

MR. SUGGS: And I guess at the end of the day what I'm asking, I know we just -- because until Marshall made that statement, that's why our group, we decided to have a policy conference when -- was handing out this morning. But we were very concerned about sort of the consensus process. So that's why our group was sort of held back until --

But our first option was that sort of continue in a more detailed work group. And what's not on here is sort of -- hypothetically, if we could reach consensus on a very narrowly, highly-defined scope moving forward, this group or some group similar to this -- could be larger than that -- needs to keep working to fill in. If we put on ourselves, look, we can -- if our recommendation is to keep this group going but here is -- we've done all the prework, here is our narrowly defined scope to reach solutions, A, B, C, and D. The group needs to continue to work to figure out A, B, C, D, I mean, very specific. And I think that we could do that still addressing the goals in this legislature which we're streamlining the administrative system and competitive issues. But we fill in those details of the narrowly defined scope and keep it moving. And I think if you read my statement, number two, I think you understand where the penalties are, that's probably better than what you gays thought where we were going to be, maybe.

MR. DUDLEY: If it's appropriate, could we maybe start with your statement this morning since we're on it? Because I've got some questions about it.

MR. SUGGS: Okay. If it's okay with the group.

MR. DUDLEY: If that's all right with everybody.

MR. STRANBURG: Let me just add one thing real quickly before we get started. We've got a facilitator here today, Jeff Stachnik, to help us in the process. If we can feel as though he would be of some use to do it, he's a trained facilitator. So as we're starting to talk about things, he can capture them, help us keep moving. I think that would be a benefit to -- have him available so we can call on him as need to be to do that, so --

MS. KITTRICK: Can I state one thing for the record just before we start?

Some of the issues -- in the tab for our options listed as my name is something that our company worked on with the wireless industry, and Gary's company did as well. But Gary and I were not part of those conversations, just so you know. We were not -- we were not invited to any of the meetings. We were not in any way engaged. And, in fact, I didn't see this until it was posted on the website. Just -- I just wanted to make that clarification for the record. Neither one of us were part of those meetings that created this document. Okay.

MR. ROSENZWEIG: And I obviously need to mimic that from the county's side. Obviously, Leon County is a member of the Florida Association of Counties. I intentionally avoided the policy conference, all their webinars, all the discussions. I have a staff person here in the audience who did attend. And actually I was given these documents -- I mean, I didn't see this until this morning. She briefed me on what was occurring, but I obviously stayed away for all the Sunshine reasons. Which made it pretty complex.

MS. KITTRICK: Yeah, kind of hard to -- I just want to make that note.

MR. STRANBURG: Okay. And again, we want to be sure you're aware, you know, there were two things you got this morning. One was the Department put together, the two-page put together of ideas. And then the other one is the one-pager that came from the counties yesterday. Davin, we appreciate you getting that in. I guess if you want to, we can start working through that one. Charlie recommended --

MS. FOX: I wanted to also indicate that while Mayor Resnick's comments and mine had some overlap, it was purely coincidental as we had no conversation about any of this.

MR. RESNICK: Great minds think alike. But I guess just for purposes -- I'm sorry, I didn't want to interrupt, but for purposes of DOR records, this should be revised to reflect that they're not Kittrick's comments where it says Kittrick, it is the wireless industry.

MS. KITTRICK: Or the Telecom industry, yeah.

MR. RESNICK: Wireless or Telecom.

MS. KITTRICK: Yeah, it's Telecom.

MR. STRANBURG: Again, to again clarify, we struggled with that because we did not know what would be the best way to identify it because even though we knew it was coming from the industry, it actually -- you were the person who provided it to us as a working group member.

MS. MORELAND: No, it came from --

MR. STRANBURG: It came from -- okay.

MS. KITTRICK: It came from something.

MR. STRANBURG: Okay. So --

MR. RESNICK: You didn't submit comments?

MS. KITTRICK: No, I did not.

MR. DUDLEY: While we're on that, Marshall, I will be at an industry tax meeting next week that none of these folks will be at. But their companies will be, so --

MR. STRANBURG: Why don't we start working down through looking at what the Association of Counties submitted first.

Would you like to take it now?

MR. SUGGS: You guys want to take a break now and then get into this, or do you want to get into it?

MR. STRANBURG: Or just talk about this one and then -- why don't we get started on this, see how it goes, and then we can maybe take a break if this doesn't take too long.

MR. SUGGS: Jumping to number two in ours, what I put in, this is normally how -- this is association speak, we -- but I can sort of talk in between the lines a little bit here. Just so you guys know, I contacted Andrea before our conference because I sort of wanted to recreate a mini type of group and have a discussion panel discussion in front of my members so they could get a full editing of the information. In talking with Andrea, it became too difficult in terms of Sunshine laws and in short notice in trying to schedule to have good representation from everybody there. And so what I did, I just sort of took a summary of all of the information we had put together in a presentation. I did it to the members, and we took about two or three hours. Presented sort of factual stuff and then sort of both sides, what caused problems for you all, what our concerns were. And we went through a presentation and discussed it.

And one of the slides at the end for us, to be very honest, we put it up -- I put up a slide, and it was just an arrow, one pointed to the left and one pointed to the right. And the arrow that pointed to the left was trying to fix this tax. And the arrow pointing to the right was get out of the tax, find a replacement for some of the different reasons. And then we crafted a policy statement, just sort of reflected gibing the counties both of the options details.

And the thinking from my group is there are several issues that we are faced with today that we can try to fix. I mean, our issue, number one, when you see number one is revenue. Maintain the revenue. What is so wrong with this revenue source, what's it going to look like three, four, five years from now? Because none of us in the room believe the revenue estimates and REC for the next five years -- it goes down a little bit the next two years and then it sort of flattens out and goes up and we don't believe that would be -- go down. And so we discussed current issues which are affecting them, like the tax base is not broad enough, there is stuff escaping the tax base. It's not just the exemptions, but prepaid, talk about prepaid and put together the share -- the share of the wireless market to all the land lines, to all the lines in Florida and the share of prepaid of the wireless market. And everybody was like, oh, my goodness, yeah.

And then I put up how many different rates we had and some of the problems where I thought that caused although -- and I asked my members, is money our own rule? That's what I asked them.

And so, I mean, number one for us at this time, I mean, is maintaining revenue. But it's not just revenue. It's current revenue, revenue capacity. If everybody's not utilized their full rate capacity. And stability, and what -- market base grow. Also the ability -- most government practitioners would rather grow the revenue through market-based growth than raising the rate. There's two components to a tax revenue. There's the base and then there is the rate. We would much rather see the base grow. So we don't like -- and our bosses don't like being in the meeting raising our hands saying vote for a tax --

And so, options of looking to fix this tax which are on the table, our guys are serious about that. But then the issue came up of how many time are we going to have to do this? We're going to have to do this every four or five years. Because we discussed it and we're constantly going to have to chase technology. And we're going to have to reconvene in three or four years to try to do major fixes. And so we looked at arrow one to the right which is more now, not that we have any concrete ideas. A lot of the stuff, like Charlie said, is above our pay grade, over our head. This is a lot of conversation with people that aren't in the room.

But the arrow to the right was looking for some type of replacement in the future. Something we -- I mean, I used to be a budget director. I know Alan used to be a budget director. Stability. You got bonds out there, number one, it's got to be a good revenue source -- got to be -- tax has to do its job and produce revenue. But for us stability, reliability, predictability, those things are important. So it may not be another revenue souce, we may be stuck in here. It's not saying that we want to get out. We may be stuck in this CST. But for the counties at the conference, paramount is the ability of the CST to produce the revenues that we've grown accustomed to. However we get our strength from it. It has to produce that in --

If we're stuck in there short term, short term being the next three to five years, it needs to be fixed in a manner that it continues to produce that. We give it every opportunity to produce that. Some things, I mean -- like I said, your market, your world changes every six months, three to four to five months. But we need to push, we need to put the state in whatever the tax, the best possibility to where we can keep up as much as possible if we're going to stay in it. My guys can't afford anymore to take 10 to 15 percent losses. You know, or even 5, 10 percent losses. I mean, we'd like to see some market-based growth. And the thing is, maybe the problem right now is the tax and not the market. I mean, the tax is not capturing the changes and whatever's going on in the market. The Telecom market is not shrinking. No, it's just changing and evolving and we're not capturing it.

So, the message from the counties to the industries is that in terms of any concerns, there's a light at the end of the tunnel. We hear all of that. And we understand your issues affect us because it portrays itself in our -- us losing revenue. And some of the things in the past which were popular ten years ago, they're still popular. I mean, home rule for us is still the number one manifest doctrine of local government. But also, I can't be a hypocrite and complain that I need the ability to provide local services. And I can't get in my own way to jeopardize that type of revenue. So there's got to be some type of mix and balance. So that's what our statement represents.

Just real quick, one, I said is whatever we do in the short term here, has got to be revenue neutral for us. That's imperative. And that includes what we get in capacity. And for us, as we try to do that, please keep in mind it's not just the bond, okay, but we got to look at this ballot. And for those of you who are not in Florida, the upcoming ballot in the general election, there's at least eight amendments for property tax or some tax-related type of amendments. If I add all those up over the next four years, I'm talking over $2 million in revenue. Not base, just revenues. So you know what it will do to the base. And that's impact to counties and cities.

But, I mean, you have multiple -- at least six or seven that are directed at local tax. And there might be one or two that get it at the state. But a lot of these carve the state out. Carve schools out. And they're directed at significant -- and we have to look at everything in the big picture. And especially when we're looking at our general revenue, a big portion, property tax is about 33 percent and then we add everything else up. We're being attacked on our most major fund. And so for this one, we're willing to listen and work and get to a common goal for everybody, but -- and I told Charlie this last session, I'm not trying to make ten bucks off of you, I'm trying to keep the ten bucks I have. And that -- that's as honest as I can do. But it's varying, just me not want to lose on CST, it's because I'm losing in other places where I know I'm already losing.

Two, we understood simplifying administration and the collection of current tax. Part of it might not -- with the situsing and our guys that had to fill out the a little paperwork when it comes in when somebody has moved across the street in between in the city and the county. I'll give you an example, we talk about administration in Broward County. They've got almost 36. I mean, they understand. And they probably all figured they're not getting the right amount. They know there's some slippage there in between the cities and stuff. But they know it is a nightmare. So everybody understands that. They understand that in our attempt to run the base, they've got -- when I talk about Wal-Mart, Target, and everybody else and talk about prepaid cards and -- oh man, Metro PCS is big out there. So they understand that and how the two of them relate. They understand what it does to DOR, too, okay. So that statement number two is we recognize that. To the extent --

everything is to the extent we preserve and up -- over number one we understand what we can do.

Three, we get, is for prepaid and everything else. It covers prepaid, which is one of the broader, equitable tax base. That's prepaid. There's been talk of reducing or removing of certain exemptions like the residential exemption. Things that you can do in terms of your industry sort of puts you guys on an even ground to -- we know there's some unfairness right now with -- I think, when we have the technology presentations, those were helpful. Not only the prepaid ones but I think we had a lady from AT&T came and talked about it. So I know there's other people out there. The RedBox at every gas station, NetFlix, Hulu TV, all of that stuff. Skype, Rega. I mean, it's either we provide a fair and competitive environment, or sooner or later you guys are going to move to where they are. Either you're going to get competitive with them or we can provide a competitive environment and treat everybody the same. And hopefully at the same time, broaden the base and get where we can get in our base and then compare. I mean, I know it's tough to translate between Telecom and video and Tel -- but as much as possible.

And then I think two and three sort of go to number four, which is putting this thing in a more stable and reliable position, which for me goes back to number one. These things go back to support number one. The more stable and reliable that we can make this whole environment helps me achieve number one.

And then five is, I mean, if we get somewhere close to it being right, and the bass is broadening and we capture more folks or more things in the base, then it opens that back up to the market group that you guys really are seeing. Okay. And so hopefully this stuff allows you to be more competitive to people we do have in the base and hopefully it all works. That's sort of what I think right now.

And so with all of that, that leaves us. In terms of the counties, a lot of room and discretion to talk but with the understanding that number one is paramount. Satisfying and staying close and recognizing number one gives me a lot of leeway now during session with our members to reach some type of consensus and really work together towards -- we really don't want to be in the way, okay. And we understand that sort of getting out of the way helps. So hopefully -- and so -- and our members and, at this meeting we had about 100 members and my presentation, 100 elected officials. And there was a lot of staff, too. So I had about a third, I had a hundred -- roughly almost -- for our state.

And hopefully we can talk a little bit and then we get back together in Sarasota the week after Thanksgiving for our final -- to make this final. Right now this is tentative. I'll report back to them on whatever we decide, and then we meet the 20th or the 30th in Sarasota. And whatever we decide there, that's what we'll take to the session as an association. But I think we're in a pretty good place from your perspective. I think for this group's perspective or for this tax perspective I think right now this is getting pretty good stuff from our members.

MR. DUDLEY: I have some questions. In number one, you say revenue neutral, does your group define that on an aggregate, a state-wide aggregate basis or a county-by-county basis or what is the test in -- from your folks? Maybe you didn't get this detailed. I'm just trying to understand that perspective.

MR. SUGGS: It's always both. Because me, because any association work, me -- so if in the first meeting Bob put up a number. Let's say the number is 22 -- we'll just say 275. 275 million. All right, for me, I got to fight it for 275 million. Okay. When I get to those meetings, if Broward was 9 million and then Miami-Dade was 25, at the end of the day, that's what they better be bringing home or me would be replaced. But I mean for them, too, it's important because if they've got bonds, their bonds are let on a very specific number.

MR. DUDLEY: So that test has to occur at two levels?

MR. SUGGS: Right.

MR. DUDLEY: One in the aggregate and one jurisdiction by jurisdiction within some, I guess, reasonable test of something.

MR. SUGGS: And whatever method we get to, what I always tell folks up here in Tallahassee is if, we as the aggregate group, have been producing or receiving 275, 280 or whatever the number is -- let's get the aggregate number right first. And then if we got back into it -- to make sure that the right amount got back to everybody. That's --

I would never get two right, I would only get one right. If I don't to 280, I can't get you back. And so I always go aggregate and then go detail from this perspective of where I am. And you asked Alan, Alan cares about his 4 million bucks. He doesn't care --

MR. ROSENZWEIG: That's where we will diverge this conversation because believe me, this policy statement's good at some point.

MR. DUDLEY: I understand. Then, I guess one small complexity I guess we have to keep in mind and I didn't know how it affected your group was several years ago, the legislature decided to take some of the DirectTV from the DVS money and give it to the rural counties on a different ratio than they distribute it to the other counties. I don't know the details of that. I just know that there's a pretty significant chunk of that money, I understand, that goes to certain counties that are designated maybe as rural areas of critical --

MR. SUGGS: Fiscally constrained counties.

MR. DUDLEY: I guess there's a statutory list.

MR. SUGGS: Fiscally constrained counties are counties -- we look at our mils and our property taxes, pretty much if you can't generate $5 million per mil. It's a threshold of what you can generate, and roughly there's 28 or 29. It fluctuates because we have counties on the fringed, based on property values will go up and down. I think the highest it's ever been is 32. It might be about 29. And, Bob, you can correct me, that -- their distribution comes from the half cent. But you want to explain how whatever satellite money flows into that pocket and then flows into their distribution?

MR. DUDLEY: I just wanted to understand that issue --

MR. SUGGS: I think, Bob, were you at --

MR. ROSENZWEIG: It's a distribution formula issue.

MR. DUDLEY: Right.

MR. McKEE: This is operating some on -- or mostly on memory, so --

MR. SUGGS: Your memory --

MR. McKEE: Put that out there first.

Out of the 13.17 that is applied to direct-to-home satellite, there's 4 percent of the tax that is distributed to local governments. There's -- I believe, of that 4 percent, I think it's 70/30 split. 70 percent of that 4 percent goes into the half-cent revenue sharing and is distributed to all local governments proportional to their, I believe it's a prior year half-cent distribution. The other 30 percent of those revenues, which I recall to be about 17, the magnitude of about 15 to $18 million, goes to the fiscally constrained.

Now, prior to the law change, which was in 2006, that full 4 percent went through the half-cent distribution to all local governments. In 2006, 30 percent of it was split off and directed to the fiscally constrained. It's a separate distribution formula that's based on essentially revenue rates and capacity within those local governments. It's based upon the millage that they levy -- I'm trying to remember the other factor. There's a factor for number of mils. And I believe there's a factor for amount of revenue that can be generated, I believe, is how the factors work to distribute the monies among the various eligible fiscally constrained counties.

MR. DUDLEY: So I mean, just something to keep in mind, but I guess from a distribution standpoint so there's -- the legislature has a track record of tweaking distribution formulas in order to address inequities or needs. Just something to keep in mind if there's ways that it's been done and can be done, you know, to address both the aggregate revenue neutrality concerns as well as potentially regional or unit-level revenue neutrality tests, right?

MR. SUGGS: And we've seen it done before, and I think our first job is to focus on the big picture and get into the details. Either we've done it, or there's been people before us that -- for a lot of the stuff, a lot of the stuff isn't -- even now with this tax --

MR. DUDLEY: I just wanted to put that out. I appreciate that.

MR. SUGGS: I guess in summary back to number one, I guess my initial question is not explaining -- and this is the county's viewpoint. I think I've got my folks come a long way over the last -- but, it's still a process that's got to take one step at a time. And that's why I put number one, option number one, which is to continue in this group with a more defined scope. I think I've given you enough from the counties to know that if we sat down and said, for the next three meetings, let's define that narrow scope of changes that this group will continue to work on, we could probably find some type of consensus. But I think it's got to -- and I know the issue of prepaid is -- look, prepaid is hurting me just as much. Prepaid not being is hurting counties just as much as, from the competitive issue is hurting you, because it's killing my 911 rates with no solution for people --

MS. KITTRICK: But I think we're working on that.

MR. SUGGS: Right. And they've called me and they said they're working. So finding a solution for prepaid is imperative to -- for county governments. Because right now all money we're not getting for emergency communications, we're having to backfill which we don't have. And -- but we take this thing slowly, and I just -- throughout the day, really considered keeping this group up. And I think we would find much more progress getting the solutions here and crafting them to a certain point before we take them into the global process.

MR. DUDLEY: Well, I think to that point, and I know the Department reached out to the bill sponsors, one of whom will definitely be back and the other one still has an election. But, you know, for those of us that wear multiple hats here, we will have a whole new lineup after elections. And November 20th, when they organize the chambers, we will probably get chairs of the tax and budget committees that will be focusing on these issues. And, you know, they will finalize all the staffing of those committees. And, you know, historically when we've moved from having these types of discussions or reports to more of a legislative centric process, which obviously will have to occur here in this one area. And in the new year, you know, you'll want to know where the presiding officers and their chairs that have been assigned to these areas, how they'd like to handle the issue and how often, you know, that they want their staffs -- you know, if they want this to be a process driven by their committee staff and their committee members or driven outside of that. And, you know, I just kind of feel like at some point, that we have to produce the best report we can with options, develop as much consensus and recommendations as we can, not leave anyone's opinion out like we've talked about here today. And at some point, we're going to have to find out from those folks, you know, after they've digested the report, how they'd like to go forward. And, you know, historically they've welcomed input from interested parties and had a very open process of people working with them and their staffs on how you go from, you know, consensus in certain things and maybe not in others and how that -- process, whether it's done in one year or done in two years or whatever.

So, I mean, I don't think we're on different pages. I think it's just a bit of a timing issue in my mind of finishing this charge and then moving on to that process.

MR. ROSENZWEIG: Amd as Marshall laid it out, though, the Roman Numeral I, ultimately we'll get to a point where we may all decide, six of us may agree that Roman Numeral I is something we want to put forward in the report.

MR. DUDLEY: Yeah, it may be.

MR. ROSENZWEIG: But we might have a lot of other options, but we might to say, hey, as a group we still say narrow it and keep going.

MR. DUDLEY: Yeah. I know we have a professional facilitator. I've used a lot of them for clients and stuff. And one thing when listening, and I'd welcome his input, but listening to Davin, you know, Davin was kind of doing an enviromental scan, so to speak, of the current situation. And, I mean, I wrote down some notes, and I can just begin to see that as you're doing this enviromental scan of the way things lay out today, there's a lot of consensus, I think. I mean, there's consensus that the CST is broken. From the local government perspective, the revenues aren't stable. There's new technologies that aren't in the base. And it's been going down. And regardless what the REC projections are, there's a lot of people concerned about that trend.

From the industry's perspective, we would agree with all that and add to that that we think from an administrative perspective and from an audit and an administrative records perspective, it's broken, too. It's just too cumbersome, too expensive. There's already an existing model that alleviates a lot of those costs and expenses.

I think we all see that this is going to be an evolving tax. It's going to be because it is so technology driven that we've now gone 12 years without a substantial rewrite. And that's probably, you know, many, many years too long in between having a group like this meet every three or four years to just kind of see what issues are out there and what needs to be updated.

I spent some time going back through the AT&T presentation, which I really want to say I appreciated, because it showed me a lot of the trends that I read about, and it helped visualize that, quite frankly, a lot of the services that these companies are offering, they're becoming applications on the Internet. Everything's being driven to IP delivered. And it's a video app or it's a voice app or it's a text app. It's really amazing. And I can only imagine what it's going to look like in another two or three years as well.

And then finally, you know, we're throwing out some details like the existence of a residential exemption where, a lot of people, really, young and old, are moving away from land line phones to wireless phones. And that wireless phone really is their life line phone or really is their residential primary line. So why do we have a, why do we still have this kind of relic of a land line exemption when it's really not as relevant as it was maybe 12 years ago when it was enacted. People seem to be agreeing with that, that we need to maybe undo that. In that while there's concerns about maybe what's going on over the Internet and whether or not they're taxable or non taxable, some of that we can't do anything about because of the Internet Tax Freedom Act in Washington is pending. And also we may not be able to do anything about it because of the Amazon-like issues that the Department and the legislature are on a parallel track wrestling with as well, which I think we all need to monitor and be involved in because I think there's a lot of correlation between that remote sales use tax that may be currently a use tax that may be owed on commmunications that's not being paid either, as we learn from the AT&T presentation -- or not learned, but I think the AT&T presentation, to me anyway, helped just illustrate -- you know, bring to life some of those issues in a tangible way.

So from an enviromental stand perspective in putting together this report to the legislature, you know, I think those are five or six things that there is -- maybe I'm wrong, but I hear a lot of consensus on those things. Maybe not how to fix them yet, but at least that they're out there and we need to figure them out.

MR. STACHNIK: Marshall, can I just jump in real quick? Again, I'm here to help and assist you in this process of getting these options out. So that we can get consensus.

But I'm hearing some functional things that as a group that Mr. Suggs did well. And just, I'd like to run those back real quick to you all what -- as we go through each one of these options.

We discussed the genesis of the option: Where did the option come from. And that was the first thing that he started out by doing was talking about where it came from. Following that, he gave an explanation of the option to the group. He talked about all the characteristics of that. Within that is the situation where you currently are now. He talked about where you currently are right now, but also talked about all the potential impacts this option could cause. Following that, you all as a group discussed any clarifying questions that you had for him as he brought that option forward. Asked a few questions. And he provided further clarification back of those options. And then there was also some discussion whether or not the language itself that was in there was something that could stand the test of time or make it into a report and all of that.

I think that's a good start of how you all could discuss these options as they come forward, and it may be helpful. Again, going back talking about where the option came from, who it came from perhaps, discussing an explanation of how you see that option working, talking about the situation that you're in right now, talking about the potential impacts that the legislature, the ultimate audience of this report would be, asking any clarifications that you may have, providing back that clarification, if you can, whether it's from y'all or whether it's from the Department. And taking all those things and adding all that to your options, and that would be potentially the discussion within that. And it also gives y'all a basis of something that you can vote from.

So I think that was a good example that you all might want to consider as we're going through these options systematically, that that could be a potential good framework to start the discussions.

MR. STRANBURG: Thanks, Jim. Why don't we take our morning break right now and then come back and keep talking about this. Let's be back at 15 minutes, be about 10:50. And please remember we've got another meeting going across the way. Keep the noise in the hall -- we'd appreciate that.

(Brief recess.)

MR. STRANBURG: For those of us that are up here at the tables that are engaging in discussion, we've had a couple of requests. Please be sure to speak loudly. It's hard for the people participating by WebEx and actually even some of the other folks here in the room to hear everyone. So please try to project a little louder. We've got microphones on the table in front of you, but please be assertive. Don't be afraid to speak so that everyone can hear.

We've got about -- as I counted, we've got about 40 options, over 40 options that members have submitted that we need to start going through. And I guess there's probably any number of different ways we can look at them. We sort of got a little bit of a framework for looking at them, and Davin's discussion was very good, but I think what we may -- we might want to consider doing is taking a look at some of the options that have been submitted and how they fit within the framework of what you're talking about. Because, you know, how do we get to: What things can we put forth to help simplify administration and collection? What can we do to provide for a broad and equitable base? I think we have got some ideas that folks have submitted here, so maybe if we start working through some of the things that have been submitted and see how they fit within the categories that we've talked about. But I think there's some feeling that we can plug them in there and have some ideas that we can put forth that we can start talking about, seeing what kind of consensus is -- is this a good way to simplify administration? Is this a good way to broaden the base? Is this a good way to ensure that there's revenue neutrality? Is this a good way to achieve the stability the local governments are looking for, and also the stability, I think, that the industry's looking for so that they have some certainty concerning the taxability of the products that they have.

So, maybe we ought to start working through some of these ideas, see how they fit within this framework that we just spent a little bit of time talking about, and get some discussion going on those.

MR. SUGGS: Can I just ask one? Based on what Kathleen said, she expressed on option -- we were just talking sort of hypothetical -- some immediacy. And then Charlie also expressed some stuff. Just as we go through, maybe if everyone takes little notes on what they think needs to be done, it may take some time, we take mental notes, that may help us at the end sort of deciphering something can be done in the next three or four months going -- particularly on the upcoming session or is it something that may take, you know, six, eight, nine, ten months.

MR. STRANBURG: Okay. Maybe a good place to start is maybe we can start taking a look at prepaid since that seems to be an issue that we've talked a little bit about this morning, that there's some immediacy, as Kathleen pointed out, that they're coming up with that. What are some of the things that we can do? If you go to page two of what the Department put together for you, we've got one of the sections there that talks about some of the ideas related to prepaid. Maybe we can start working through some of those and see how they fit within our framework of is this going to be something that will provide some stability? Is this something that is going to simplify administration, provide that at that broad and equitable base, the kinds of things that are going to give you some ongoing certainty?

So we'll just start off with first one which was submitted by a couple of different members or other groups to say, you know, is there some way to amend the definition? What would be a good option for that amended definition to bring it current with what the model is now that the industry is using with respect to prepaid plans? Because I think there was some indication in some of the presentations we had earlier on this topic that the current statutory definition really was on a model that was used at that time. But now that we're almost 15 years out from that, creation of that definition, things have changed a little bit. So I don't know if Gary or Kathleen, if y'all want to maybe talk a little bit about what you had put forth as an option, or Kathleen, on behalf of the industry, you can talk about that.

MS. KITTRICK: Sure. This kind of goes back to some of the earlier presentations that were done by the Department of Revenue when they were doing this sort of state-by-state surveys of how prepaid is taxed in all of the other states. And virtually in all other states, it is taxed under the sales tax. And we, you know, spend a lot of time talking about why that is. It's taxed through the sales tax because of sourcing issues and the inability of retailers to know where that service is being -- that card is being used when it's being purchased in a store. It makes perfect sense to keep it under the sales tax, we believe. And I think that from a consumer's perspective, you know, having it go under the CST would be quite a big tax increase, and I'm not sure that there would be a lot of strong political will at the legislature to put that kind of tax increase on consumers that use prepaid services.

So I think from a wireless perspective, we strongly believe that the definitions should be modernized to maybe follow some of the other state statutes or the streamline sales tax definition that encompasses the product that is sold today.

MR. LINDSEY: I think that -- I agree. I think that as we consider this as an option and look at the attributes, the characteristics, I think it really is important to understand that really this is being looked at as found money because of failure to update a definition when it was adopted initially for the reasons that Kathleen mentioned. There were very good policy reasons to do that, very good practical reasons because of the retail sales nature. And as we heard, in some of the earlier -- the presentations about prepaid, it's very complex and you can't just say, well, let's go find out where they're making the calls. We can't even -- that's even difficult to do with post paid.

So, there's many good policy reasons, and I think that, you know, it's been zeroed in because there's been a fiscal note attached to it. But again, it's primarily because of failure to update the definition. So I think we do want to include that in the report.

And again, the trend, Florida would be an outlier if it were to adopt a higher tax. So it's almost as if there was an error in a piece of legislation that all of a sudden said, well, the language said that, you know, erroneously that something else could be taxed and everybody knew that it really shouldn't have been taxed, but it was an error. But you still apply fiscal note and you just kind of hammer on it and say, well, that's money that we're not getting that we ought to be getting. Well, I think that money shouldn't have been there in the first place. And certainly, if it were, if the tax rate -- you know, if we did adopt the CST to be applied to it, that would certainly be a tax increase to the purchasers, I think, the legislators, even though you could still look at the statutes and say it ought to be in there. So I think that's -- you know, as far as reflecting in the report, the reason and the attribute for considering adopting this streamline sales tax definition or something akin to that, to modernize the definition of prepaid, I think, you know, that we should strongly -- you know, that that should be reported in the details of how we consider this as an option.

MR. SUGGS: Okay. I think you guys are right to one point. The legislature is probably adverse to the appearance of a tax increase. But I think in the past couple of years, the legislature has shown to -- the will to even out, equalize, or redistribute tax burden. We look at a group as a whole. I.e., if the application of -- whether it be a CST or some new version thereof or some type of flat surcharge or rate on prepaid in order to broaden the base will provide enough funding or resources to bring down other rates in other parts of the equation.

Let's say, if I'm from the state's viewpoint and I'm looking at the bottom line number of -- so in terms of not necessarily increasing my revenue but more we look at distributing the burden of the tax generation. And it goes back to me when I show my guys that here's a number of lines in Florida. Here's a number of wireless lines. Here's a number of a subset of wireless lines. Here's a number of prepaid lines. And we have to look at those segments and who's generating those tax revenues. And I think if we're more looking at it as -- I mean, if you guys wanted to buy down local rate, you need money to do that in order to buy down local rate and keep us revenue neutral. You need resources to do that. And sort of we need to shift the burden or move the burden around a little bit in order to accomplish those things. So I think that's how we were looking at it is that one way of doing that, which even got my guys into the discussion of simplification of administration. Sort of got to do that, so that's even a possibility to broaden the base. Which by broadening the base may allow you -- I mean, we have -- numbers, what does that do? Does that generate -- allow you to bring down some rates in some other parts of the equation. So I just want you guys to keep that in mind.

A lot of that, what our guys are thinking and possibly put it on the table or reaching consensus, sort of deals with a lot of making sure -- that's part of making improvements but sort of keeping us revenue neutral. And so I know through the process of trying to find win/wins. But that's sort of the angle. Because I really still only think -- CST as it is now, it would be very difficult to apply to prepaid. It would be a nightmare for you guys, for us, for everybody. Some type of simplification so it could be applied, can maybe it broaden the base, potentially buying the rate down or whatever, however they want to apply it. I think that -- we need to consider that.

Can I ask, Bob or Marshall --

MR. STRANBURG: Let me ask you one question first, Davin, I heard you say it's complicated to apply CST to prepaid. It's complicated under the way the CST is currently structured. Now, if we went to one of the other options that was put forth, we were -- one of the members have put that forth was if you went to a state-wide rate, a flat rate, some defined rate so that you would not have the varying rates, the situsing issue that you have currently in CST, as I think reference was made earlier, you know, there's a distribution methodology for handling direct satellite now. Could you apply a similar methodology to prepaid so that you could capture prepaid under the CTS, you could take it out of the sales tax, but it would have to be at a different, what I call, rate calculation rather than the current CST rate calculation? Or another option that I'm hearing, too, is you leave it in sales tax. You just apply it to sales tax.

But again, I'm just wondering, do you agree with me that it's really -- under the current way the CST works, it's problematic. But if there was a change in the way the CST calculation is done, it could be something covered under CST?

MR. SUGGS: I think there's two ways, and I think I said this in the beginning, and I agree with you. To say the CST did not change, what we were doing now? I think the best way you could probably do it is to say if there's three legs to a stool now, you would have to add a fourth leg and say, we're going to do prepaid but it's going to be a separate, you know how we have state rate -- we have state rate on DBS and communications. Then you have gross receipts on DBS and communications. And then you have local. And then it would be a fourth column, prepaid, with a separate formula or calculation which could be a flat rate. But it's -- and you could say, okay, local CST, state CST, local CST there's situsing. But prepaid is just going to be one flat rate and hang it out there. And then we figure out how to divvy up prepaid, what goes to the state, if any, if any goes to the locals, if any, and keep it out there. Remember I said we just add to the flowchart of what the CST has accomplished now.

So, yes, it can be done now but differently and just add it to the mix. Or I think an easier way, and we're trying to simplify the whole tax, is simplify sort of everything so it's applicable to prepaid. So I think you could go two ways. I agree.

MS. KITTRICK: Can I ask a question then? So if we kept it just for argument sake, under CST and it was a single state-wide CST rate, would retailers then be required to file as CST vendors? And would they then have to -- I mean, we'd have to do new resale agreements, right? Well, no. So -- but they'd have to file separately --

MR. STRANBURG: I would think, Kathleen, what you're saying is, yes, if somebody's selling a prepaid product, they would have to be a registered communications services tax dealer.

MS. KITTRICK: Right. And they would have to be --

MR. STRANBURG: And they would have to be collecting that at the CST rate, whatever that state-wide rate would be. And many of them probably would also be sales tax dealers, so they would also have to be sales tax dealers.

MS. KITTRICK: Right. Set up a completely new administrative structure for most retailers.

MR. STRANBURG: Structure for many -- possibly would -- yes, that is a potential impact that would happen.

MS. KITTRICK: Right. It brings you back to making it a whole lot easier under the sales tax for retailers. I mean, there's -- I'm not here to argue for the retailers, but, I mean, there are, you know, 4,000 according to the Florida Retail Association. And I think that would just be a tremendous burden for them to have to go down that road of separate audits, separate filings, separate registrations.

MR. LINDSEY: As we -- go ahead.

MS. FOX: One of the overarching concerns for local government is revenue and a stable source. Taking something that is supposed to be producing a revenue now is not found money, that's putting money back where it was supposed to be. And it's shortening the base, not broadening the base. We cannot have a stable revenue stream if we keep exempting things.

Additionally, additionally, if you have the same product but it's being delivered in two different manners and one is taxed and one is not, then that prevents -- presents a very basic unfairness issue, and it's going to drive the market to where there is no tax. So, I don't see how that benefits local governments at all. So, you diminish the base and you've created a basic unfairness instead of correcting the unfairness that currently exists.

MR. DUDLEY: I think prepaid's the poster child for the fact that we haven't looked at this tax in 12 years. Because what's happened is a product or a service has emerged. And with all due respect, putting aside the Department's legal position because I know there's different opinions, but yours is the one for REC purposes that counts. There is some dispute over where it fits here. And I think that it just -- it's the example of why you have to look at this tax every couple of years.

Now, putting that aside, because we haven't done it. So what do you do about it now? And to Sharon's point, you're trying to be competitively neutral and to have the broadest base you can for having a fair and efficient and a market-driven consumer-friendly tax.

Where I struggle is how to get the genie back in the bottle in this with a tax that's currently being administered, maybe legally administered, but administered at 6 or 7 percent and then have to deal with tax that's got the variable rates that we have to deal with and is at a rate of anywhere from 12 to 16 or 17 depending on the jurisdiction. And we have testimony from the retailers that they don't want to be communication service providers or dealers.

And so I've really struggled with this and what I was trying to recommend. The only thing that I came up with is an option that's not going to be popular is that it took several years for the three-legged stool of the 911 county people and the retailers in the industry to come up with a way of handling it on the 911 50 cent side. I don't know that that's -- I think that's being worked on now. I'm not really a part of those discussions, but I think that's going to be a legislative proposal this session. In the meantime, they had to call a time out.

Now, the problem is when you call a time out from the local government perspective, you're a big loser because you're not getting what you think you should be getting on that particular product or service. And if you only provide post paid, you may be at arguably a competitive disadvantage because you've got a competitor delivering a product, a similar product, but in a different fashion which is Sharon's point.

So, I just want -- I don't really have a solution. I wish I did because I think that even if you had consensus that said, tomorrow, we really are going to put aside the administrative collection ability of retailers and 3,000 of them or however many there are and we're going to recommend that the legislature put prepaid in the full CST as it exists today, I think we all know that that would just gather dust because they're not going to take a service that's at 6 or 7 percent and subject it to the 50 or 60 percent tax. I think the only way you get to this type of issue, which I'm guessing prepaid is just an example of issues we're going to be facing every year as this market evolves, this technology evolves, I think you get there by moving to a uniform tax if you can work out all the distribution details and then working to get the state and others to help buy down these rates a little bit so that you can get to an overall rate that funds the three legs of the stool but is much closer to the current sales tax because these are turning into commodities and services. These are arguably utility-like services that have just -- they've changed. It not water, sewer, or electricity anymore. And I know these comments aren't that helpful. I just think that it's -- I'm just trying to sketch how I see it.

MS. KITTRICK: Charlie, I think they're very helpful. I mean, I think the reality is, and I know it's a scary reality for local governments and I understand that, but we cannot guarantee the revenues of yesterday, tomorrow. We just can't guarantee that. It's changing. I mean, the whole structure is changing. And there is going to be a day when you have -- and we've talked this -- when you have Google Voice and you have Skype and you have all of these applications that are riding over the Internet, and voice is free. We're not going to be charging money for voice going forward. And then you're going to be left with an IP service that is not taxable, you know, according to the Internet Tax Freedom Act. We can't guarantee the money yesterday, tomorrow. I mean, it's -- I think we'd be doing ourselves a disservice if we're going to sit here and promise that that's going to be the case forever. I mean, I know it's scary and it's frightening and I think there are bigger issues when it comes to the bonding and how you solve that problem. I don't know that it can all be solved by the CST.

MS. FOX: But to continue, the -- it was said that that would make Florida an outlier. The CST itself made Florida an outlier except back then they called it a pioneer. There's -- the devil's in the details, and he's spinning it.

But we have currently a state-wide rate for satellite. I'm not suggesting a different rate because we've already heard the retailers indicate that that's not doable for them. But they did seem to indicate that a surcharge was doable and a tiered surcharge based on how much is being paid would prevent somebody who is paying $20 for a Lifeline service from paying as much as someone that has got a Smart phone and is supporting all of that bells and whistles that a 120 or $150 prepaid does. So, that seems to me to be some type of a logical comprise so that that surcharge is geared towards the local government aspect of the tax, and it doesn't require the retailers to report on a communication service tax provider basis. It's just a surcharge based on how much money is spent on the service. So --

MR. DUDLEY: I think that's an option. I think another option would be that the legislature should -- if it is not going to put prepaid in the CST given various policy, collection, and political issues, that, you know, as the legislature's done with the rural counties by changing the distribution mechanism of the 4 percent of the DBS, they ought to consider allocating some of the GR dollars from prepaid sales tax towards some local distribution and/or PICO process because I guess you could make the argument that it's somewhat eroding revenues that would otherwise go to the -- the state's getting their piece, but the gross receipts piece is missing. And the local piece is missing. That's another option. I'd say it's the right one long term. I'm not sure I have a -- for prepaid as said, I'm not sure I have a permanent long-term answer or solution.

MS. FOX: Well, if you take it totally out of the taxable base from the CST perspective because it is CST services, you dramatically and permanently eroded the base. And you're driving the market to where it all goes to prepaid now because everybody can save money because they don't have to pay the tax if they do prepaid.

MR. DUDLEY: Or it's done on a moratorium basis, like was done on the 911 fee where people just decided they need more time from a stakeholder perspective. I'm just trying to figure out how you ameliorate the damage that's maybe being done to some of your revenues --

MR. SUGGS: The key -- I want you to understand what Sharon is saying is like we talked about the REC earlier. Right, this is simple for folks that are into REC. When there's a political aspect sooner or later, a committee chairperson or somebody is going to ask the staff director, if not ask somebody at REC if there's a local piece between cities and counties is 700 -- say everything was easier if there was no local CST, right? Say if there was no local CST, you could just do one statement. Guess what? To satisfy us, 700 million. That's a price tag. That's -- the pot's got to grow to buy us out. And then you can do whatever you want with the rate or whatnot. So this is the piece from -- broadening the base, even if it's to say this 50 cents, the CST is on prepaid is 50 cents, period. Or whether it's tiered like Sharon said and Mayor Resnick had in here, that generated 350, 400 -- you're half of the way there. But that's not only how we think in terms of replacing our revenue source. Because at that point, then we can separate this thing -- you put money in the pot, we figure out how that money comes in so it's stable and reliable. It keeps our revenue whole, and we're out of the picture. But the state has to have the resources to -- whoever's making the decision has to have resources to keep us going. But at the end, all of you win.

Not only -- okay, you bring prepaid into the mix, Kathleen, well, guess what? Charlie wins, Brian may win because you may be able to bring down whatever the rate needs to be. The whole Telecom industry wins depending on the rate, whatever you can do with those rates because at the end of the day, there's going to be tax -- but everybody's thinking about a bottom line number. And not only can we afford not to go backwards, they can't go backwards either. We all heard the people. Capped and maxed. They can't go backwards either, so I think there's a way that -- this might not be three or four months, like Charlie said. This make take two or three years because you know what? As soon as we come into a solution, something else is going to be doggone different.

MR. DUDLEY: I got to where you're at because I read through the -- I can't remember which one it was, which notebook, but I think it was part of the Department's survey. And there actually was one state that subjected prepaid to what is comparable to a tax like a communication services tax.

MS. KITTRICK: No, it was New Hampshire, and they don't have sales tax.

MR. DUDLEY: I'm sorry, but it was 7 percent or something. I don't remember which one it was. But when I looked at that, I said, yeah, if our CST total rate, instead of 13.17, just using that as an example, was 7, we wouldn't be having this discussion, right? I mean, that's a bigger picture issue on how to get there. But you wouldn't have people trying to do everything they can to avoid paying CST like to argue that their application is exempt or filing stuff with the Department or hiding or whatever people may do because it's taxpayer behavior, I guess. I just don't know how you get to your point, Davin. I'm with you. I just don't know how you get there.

MR. STRANBURG: Gary, you had a comment?

MR. LINDSEY: Well, a couple of comments. I believe when the prepaid product was -- when legislation was enacted to subject the prepaid product to sales tax, I believe there -- you know, there were still -- there were higher prevailing rates on Telecom even back then. So I think the intent truly was to subject it to the sales tax. And again, I do think that the -- it's really just the fact that the definition never got updated. I think that's just a fact.

And as I'm looking through this, I'm thinking as we're talking through this a little bit of getting outside thinking about the content, these discussions that we're having, I think these -- and we're kind of going from one option to another among prepaid that we're discussing. But I think this will lend itself to us ultimately being able to have the -- I call them attributes. I don't want to say for or against, but attributes that go along with each of these -- each one of these options, and we're overhearing that. Keeping the -- you know, adopting a sales, streamline sales tax definition, that's revenue that is not going to be there if that continues. So that would be one, you know, attribute of this option.

So I'm just -- you know, I'm not arguing for or against it at this point. I'm just trying to say, are we -- you know, process wise, it sounds like we are discussing the attributes that we'll ultimately put in the report about these various options. That sounds kind of reasonable.

Another point I'd like to make is, and really Charlie kind of discussed that or touched upon it, is really that the prepaid product really is kind of a poster child because of the discrepancy between the sales tax that applies to other goods and, I guess, some services in Florida and what applies to telecommunications. You know, and I guess it's hard not to talk about other options as we're talking about any particular one. But, you know, I guess there's -- you know, if you step back and talk about broadening the base, what about broadening the base to other services outside of Telecom? Why to Telecom consumers -- and again, we're talking about consumers that are paying this, why are they paying a higher rate on that than they are on other goods and services? We know the legacy of it, but still I think that question needs to be looked at as we're considering the various options.

So the prepaid kind of crosses over into both arenas, you know. It's why -- the question could be asked, why is it not part of the CST? But then we can also look at it and say, well, it's treated like any other goods and services in Florida, which is a good thing. And why are not other Telecom services and communication services being treated that way? Well, I know the answer. It's the revenue gap. But still I think we need to consider that and consider, I think, Davin mentioned that, you know, and others, is there a replacement? As we see this diminishing, what is a replacement for the CST and focusing solely on communications services?

MR. SUGGS: Can I answer it as a question, Marshall?

MR. STRANBURG: Sure, Davin.

MR. SUGGS: Can I ask that of Bob? It's not on the spot -- I just like it when you're at the mic.

In terms -- I know we meet again on the 31st, correct? How difficult would it be to model some type of -- to show us some numbers like that segment of basic prepaid, some revenue generation ideas? Let's say picture your model like 50 cents or a dollar or some type of thing on the prepaid market -- like a dollar surcharge of 50 cents to show how much revenue that would generate?

Or -- I think you know -- is there some type of model? This piece, this missing piece that we're talking about, Marshall, broadening the base, how much would it -- we're speaking hypothetically trying to figure out how much it would broaden the base in terms of --

MR. McKEE: We did previously do for the work group an estimate of sort of magnitude size of the prepaid issue in Florida without any regard for how they're going to be treated today. We did a magnitude, and we made certain assumptions about average levels of service and number of lines, and we could do something similar. Now, if as Ms. Fox talked about, if it was a desire for a tiered sort of plan, we would have to make additional assumptions of how, within those number of lines that we got from, I believe it's PSC data and FCC data compared to what we get in collection information. You know, we could do that. But it would require additional assumptions beyond what we -- as far as essentially where would those tier breaks be. What the surcharge would be, we'd have to have some direction for amount of surcharge, if it were a tiered surcharge, at what level of service would we tier up. So we'd have to have sort of that set of parameters in order to be able to do an impact.

MR. SUGGS: Is that something doable by the 31st or no? Does that -- I mean --

MR. McKEE: It just depends on your willingness to give us the parameters.

MR. DUDLEY: Can I understand what you're talking about? Are you saying on the tiered approach, like just to use examples, if the product was 19.95, it would be a dollar. And if it was 29.95, it would be 1.50; is that what you're getting at? There would be a surcharge that was fixed, it wasn't dependent on the price. I'm just trying to understand.

MR. McKEE: My understanding of how the tier that had been talked about was sort of a range of price for which a surcharge would then apply. So anything --

MR. DUDLEY: Like the bracket system?

MR. McKEE: Like up to 19.99 -- yeah, like a bracket system. I think up to 19.99 would be X. Anything from 20 to 29.99, in your example, would be Y. And then so it's a just of sort of a tiered structure. And then in order to estimate that, we'd have to make some assumptions about how the service is going to be distributed. Just depending upon, you know, the more assumptions you make, the more -- the broader the ranges get, sort of, in the confidence of the impact. I think we assumed 30, 40, and $50 worth of service I believe when we did the ranges for the previous estimate. But that was sort of an average service across all the tax, all the lines and service in prepaid. So it wouldn't say that 20 percent worth of $30, X percent worth of 40, X percent worth of 50.

MR. SUGGS: The only reasons I'm asking for numbers is because if he came back and said, here's a model. It's only $100 million. It might not be worth it to jump through the hoops. But once we know what's really in front of us, it might help the discussion.

MS. KITTRICK: Here's some numbers that I -- taking what Gary had to say and Charlie had to say and you had to say about the buying down of $700 million. What would the impact on the sales tax be if we tried to buy down the local government CST and the GRT? If we broadened the base -- you know, replacement revenue, broadened the base, looked at the sales tax, what would the overall sales tax -- not just on communications services, because again, I think from our company's perspective we would like to get out of the discriminatory nature of the communications services tax completely, but look at making the local governments whole, dealing with the PICO issue, what would the overall sales tax need to be to cover the local government's expenses?

MR. McKEE: Is that a question for right now or for next meeting?

MS. KITTRICK: Maybe for next time. I mean, if we're going to run numbers, I'd like to see that number.

MR. ROSENZWEIG: Are you asking to increase the sales tax rate? To the state sales tax rate, replace CST?

MS. KITTRICK: To replace the local revenues of the CST.

MR. SUGGS: What --

MR. McKEE: My recollection is a penny of sales tax right now generates somewhere around 3 and a half to 3.7 billion --

MS. KITTRICK: You mean if we can -- a quarter percent, and that money is dedicated back to the local governments for the CST? You know, you get an expanded base, you get your revenue stability, we get out of this discriminatory tax treatment, we get out of arguing what's in the sales tax base and what's in the CST base. And you're not keeping a huge tax increase on just communications industry again. I mean, if you want to look at the overall stability for revenue for local governments, I think you need an expanded broad base that isn't relying on trying -- us trying to keep up with technology year after year after year.

MR. STRANBURG: Sure.

MS. FOX: Just a couple points that I'd like to make that Charlie made initially.

One of them is when you're talking about sales tax distributions, the legislature has demonstrated multiple times, they do have a track record of tweaking the distributions. That every time they tweak the distribution, the cities lose, every time. And because they've already demonstrated a willingness to tweak it for anyone's behalf, then the cities lose and the taxpayers in the local communities are donating money to rural counties and to -- not that that's not a good --

MR. SUGGS: Urban counties --

MS. FOX: -- source. But it still is coming out of the city taxpayers' wallets. So I think that that needs to be mentioned. It's a very big concern of mine.

The other thing, when we're talking about discriminatory situations here, I think that it's very important to understand that the public land, the rights-of-way, is being used by private companies for shareholder gain. And so there should be something that is thrown into the community pot to pay for that use of the public lands. Otherwise, you'd be negotiating with every parcel holder along the route where your facilities are. And the cities are the ones that have to maintain those rights-of-way. The cities have a concentrated use of the rights-of-way by the -- all of the utilities and especially the communication companies. And there is -- probably one of the most popular things when there is the pothole that's created in the street because a communications company did not put the rights-of-way back to the way they found it, the citizens call the mayor and say, fix that. So it has a very direct and personal impact on local governments. So it's not discriminatory in that there is no impact that you have on the local governments. You have a large impact on the local governments because you are a major user of the rights-of-way, and I think that needs to be put in there, too.

The franchise fees that were contributed to the CST tax are a revenue source that have been in place since the 1940s. And while it might not be as equitable as it once was or as easy to administer as it once was, the tax structure and the fee structure of Florida is what it is. And that's one of the few streams -- the CST now replaced franchise fees and utility taxes for communication. And that's one of our major revenue sources. So, I don't think that can be overlooked.

MR. DUDLEY: Right.

MS. FOX: The stability of it and the fact that when it's locally assessed, the legislature doesn't have quite the propensity to tweak it.

So I just --

MR. DUDLEY: No, and I -- I think along those same lines, at that time when we did CST, you know, probably 70 to 75 percent of the revenues generated in the communications industry were generated by companies in the revenue, and now that's flipped.

MS. KITTRICK: Right.

MR. DUDLEY: 75 percent of the revenues that are being generated are generated by companies providing services that don't touch the right-of-way because there's been exchange to all these devices. And so, you know, that was one of the trade offs, I think, that actually has been a benefit to local governments, and that is that you were able to stabilize and enlarge the base by getting wireless companies to begin contributing some of that dollars. There were other taxes and fees that they paid, I get it. But that's been one of the major changes.

You know, the whole world's changed in regards to the franchising. Just Gary's law practice and my law practice changed dramatically in the last decade or more as states across the country have moved away from the local regulation and permitting and collection of franchise fees and stuff and moved to different models of regulations. That's totally changed because of the evolution of the marketplace.

But I understand, Sharon. That's why we have -- some localities require permit fees. That's why all of them have bonds that we pay to make sure that if we cause damage in the right-of-way that there's a way of getting that recovered, that damage recovered beyond your local CST dollars.

MS. FOX: Is backhaul not done through wire transmission?

MR. DUDLEY: I'm sorry?

MR. RESNICK: For wireless services.

MS. FOX: Backhaul service for wireless, doesn't that go --

MR. DUDLEY: A lot of that is over private property because we're backhauling for towers that aren't on your right-of-way, they're on people's private property.

MR. RESNICK: Sharon's point is good. I mean, it's -- it's not just the revenue to -- for our bonding capabilities and ensuring that there's a revenue neutral source -- a revenue source that is not going to be harmed for local governments. The CST was designed to replace revenue to maintain the rights-of-way as well. And if we just go to a sales tax, it won't. And so we are going to have to get back rights-of-way fees to maintain the rights-of way. A distribution of sales tax will not give us money to do that plus it takes away permit fees.

For example now, I know one community in South Florida that has an application for Metro PCS -- I guess Tmobile because Tmobile is buying Metro PCS -- to install a tower in a right-of-way with backhaul fiber. And all in the rights-of-way, not on private property. I don't know if the local government now can charge that company a fee for being in its rights-of-way -- probably not, because they pay the CST.

MS. KITTRICK: I would imagine they would pay a lease agreement to the local government.

MR. RESNICK: No, there's no agreement. You're not allowed to do an agreement. You can't do a franchise agreement to use the rights-of-way.

MS. KITTRICK: Not a franchise agreement, but a lease agreement for the -- of the property.

MR. RESNICK: You can't lease rights-of-way. So they can't do any type of agreement with DME. They're not paying CST because -- well, under your model they would only pay sales tax. And we can't even charge them permit fees. The review, to review what they want to install in the rights-of-way is estimated to cost $18,000, and we can't even charge a permit fee. So we're actually now --

MR. DUDLEY: You have the authority to charge permit fees.

MR. RESNICK: Well, it depends. I mean --

MR. DUDLEY: Some have said --

MR. RESNICK: I'm glad you said that. Let's get that on the record because that's my position as well.

MR. DUDLEY: There's an option in the statute that can be changed every six months under the CST.

You either charge permit fees, which have restrictions or you take a higher local CST and don't charge permit fees.

MR. RESNICK: Well, the restriction under the permit fee is $100.

MR. DUDLEY: Right.

MR. RESNICK: That's not going to cover an $18,000 review by engineers of what they want to install in the rights-of-way and towers which is totally different -- you know, we're thinking about trying to come up with a structure that does have to be technology neutral and also plan for the future. A sales tax is not going to be it.

MR. LINDSEY: A couple things. And I think -- I thought Kathleen was actually mentioning another option to consider that if the overall sales tax rate across Florida could be normalized to take care of the revenues that are generated by the CST, and that that could be an option so that you -- so it would be. I think it would be under that option. So maybe that's another option that we need to add to the list because I don't see that particular option. I guess it's a variation on broadening the sales tax base and repealing CST. It would be repealing CST and spreading that --

spreading that over the existing sales tax so that that revenue would be directed back to the localities. I think that's another option.

MS. KITTRICK: I think we really --

MR. SUGGS: And that's covering the state as well.

MR. LINDSEY: I'm sorry.

MR. SUGGS: So the way I'm reading it, just say all the CST together -- state, all the different parts let's say was 2 billion. Let's just say it was 2 billion, hypothetically we're between three and 4 billion, on the penny you're looking at about half a cent. Half a cent would wipe out CST for everyone.

MS. KITTRICK: Right. And then -- I mean, you had indicated and this is sort what gave me the hope to even mention it, Davin, that your folks had said that really -- I mean, the money is the key driver for the counties, right? It's the most important thing, more so than --

MR. SUGGS: And it's also --

MS. KITTRICK: It's important, and it sort of future-proofs the technology, I think.

MR. SUGGS: If you look at our number, and this is not -- I'm not speaking for the cities or the counties but on the -- what we're saying is not any different -- I understand what Sharon and the Mayor are saying is that revenue -- to reverse current revenue and then when you get to this capacity issue, and I know they're talking about more than capacity. They're talking about current day-to-day public services. But all that needs to be considered. It is my understanding that you guys were in -- I wasn't here in 2000, 2001. But when he took the seven and squished it to one, there had to be those concessions and considerations made to local government that this -- these things are going away. So what we're getting in return, local governments are sort of being compensated for not being able to get directed franchise fees. A lot of those -- I guess a lot of them, what it morphed into was CST. A lot of things were considered and local governments were compensated.

So, yes, from my viewpoint, from the county's viewpoint, if it was a number but that number has to entail what -- there was two things I put out there, it was what we're getting currently and capacity. And I think even where the city's -- further extension. The way I read them is there's money, there's capacity, but there's also some actual revision of public services.

MR. RESNICK: For services, exactly.

MR. SUGGS: To your industry.

MR. DUDLEY: Right. And there was two parallel efforts, just to be clear on where we've come from. At that is there was a CST work group, and there was also a right-of- way work group. And the right-of-way work group was working in parallel. There was people that worked in both work groups. And the right-of-way work group went in and created all the new sections in Chapter 337.401 through 404 that dealt with communications providers, because we changed all the terminology, and their relationship with local governments in using the public right-of-ways. There was this permit fee on or off, and that kind of tied it back into the CST. And there was a -- also had been tied into some of the stuff going on in Washington at the time when the Communications Act was being rewritten. The Communications Act said local governments shall treat all providers the same, not discriminatory. And so we were working off that parameter, and we redid simultaneously the CST over a two-year period. And a parallel piece of legislation that dealt with the rights-of-way and dealt with this -- again, this permit fee election. And then we did some carve outs for cable franchising, which were undone by the legislature in '07 -- I think, '07 or '08 where the legislature moved that process to the Department of State, and it undid all the local franchising and relationships.

So there was a -- there was a parallel process that was going on for those -- that period of time.

MR. SUGGS: Maybe the answer is right now. Kathleen, in terms of what -- yeah, you should have or if I have folks that would be great. If I get folks in the Senate and House and say, hey, here's 350 million, just don't worry about it. But as a subject to -- and maybe based on just what Charlie said, I mean, the money issue, stable revenue, but maybe what -- a legitimate concern that if one of your companies or member of the industry needs a service or service provision from a local government, there needs to be a way to recoup costs. I mean, going forward or -- you know, the way the Mayor described it, putting something in the right-of-way or requiring to rent service from the local government for the benefit of your stakeholders for your company. I mean, is this a cost of doing -- for you it could be a cost of doing business. But, I mean, there needs to be a way -- like any other citizen requiring, receiving service, whatever -- so, I mean, maybe you put that as -- am I explaining it correctly?

MR. RESNICK: I think a little bit narrowly because it's not just service to one particular company that's going to need services from local government. It's -- obviously the rights-of-way is kind of, as Sharon explained, it's a sacred trust. It's a public trust. It's not used by just the communications industry or the electric utility industry or gas or whatever, it's used by the public. And if we don't maintain it, you're right. I get the calls.

You know, when AT&T was doing some repair in my city on Dixie Highway, which is a main thoroughfare, and damaged the right-of-way, it took three weeks to repair and Dixie Highway was closed for three weeks. I'm getting those calls. I don't know if you got those calls or not, but -- and it's our obligation to make sure that that work is done. You know, we were able to do it and it took three weeks to take care of it. But there needs to be a revenue source to cover the maintenance of the rights-of-way. And the one alternative that has been put on the table so far about broadening the base of the sales tax and getting rid of communication services tax, which was supposed to replace the rights-of-way fees that these companies paid for the privilege of using the rights-of-way won't do it. You know, it's a privilege to use the rights-of-way. They have to pay a fee for doing it, and this model doesn't talk about that at all.

MR. ROSENZWEIG: I'm having a hard time -- I mean, I appreciate it. I think it's a great concept. I'm having a hard time visualizing the legislature ever, ever even raising the sales tax rates state-wide. I'm have a real big hurtle visualizing the state tax going from 6 percent to 6-plus something. I just don't -- just watching them from afar and you guys are a lot closer, I just don't see them really seriously considering that, telling everybody that we're going to raise the state-wide sales tax. I just don't think that's realistic.

MS. KITTRICK: Here's the way I look at it. If you're paying 16 percent on your cable bill and you're paying 16 percent on your wireless bill and you're paying 16 percent on your land line bill, you know, you can very easily sell it as a tax decrease for your consumers because you're just going to the sales tax.

MR. RESNICK: You guys, every deal with the legislature and -- in this climate, I'm not seeing whatever the story is.

MS. KITTRICK: From a consumer standpoint, I think that they would much rather half a percent than having to see all this junk on their bill. I don't know.

MR. RESNICK: Just a point on that. Again, for one, part of our mission does not include looking at lowering tax rates for consumers. And as this process evolved through the legislature, I don't know if the consumer groups were active, saying we want the tax rate reduced. But I'm not hearing from my constituents that they're paying too much in taxes for these services. That's not a complaint I get. I get complaints about the service all the time. I get complaints that, you know, about responsiveness and -- or I get complaints about, you know, they're disrupting my ability to access the streets and get out of my neighborhood where they are doing some construction, you know, that's damaging my property. I get those complaints. But I have never received a complaint from a consumer saying the tax rate of these services is too high.

MS. KITTRICK: I think our charge was to sort of look at modernizing this communication services tax and future-cooping the revenues, right? I mean, I don't think our charge was to maintain the status quo and have your CST revenues fall through the floor because of the changes of technology. I was trying to come up with an idea that gives you -- that meets the tax of trying to keep things at least stable and predicable and dealing with the changes in the technology going forward. I mean, we can't promise that we're not going to stop monetizing voice when there's Google Voice and all these other applications that are running over the Internet.

MR. RESNICK: Actually, that's what I was thinking about is one possible option or something to look at. I was actually on a panel in New Orleans when someone from Google explained what they're doing in Kansas City, and they are paying franchise fees and they do pay communications services tax on their communications services.

They're not paying it on the Internet service, but they are paying a franchise fee because they're using their rights-of-way. And the governments are incurring those costs. Plus there's other public service obligations that they've agreed to, just pursuant to their agreements with the local communities.

Maybe we should look at what Google is doing because, you know, when you're looking at the future-proving technology, they are far ahead of anything that anybody else in the state is doing.

MR. DUDLEY: To that point, Gary, I think that's what we've talked about. And that was part of the AT&T presentation is that you have these services delivering IP. In that case, it's an IP voice service that's traveling over a physical network that Google happens to have in the ground in Kansas City. So I'd be interested to hear -- and I'm not discouraging Google -- I'd be interested to hear Google's response about Google Voice -- paid Google Voice services in Florida and whether or not they're a registered dealer and/or paying CST in Florida. I'm not discouraging because they may be doing that or they may not be providing the service for a fee in Florida.

Obviously we've heard discussion that that's a use tax issue as well.

And one of the options I thought about along these lines that's very similar to the sales tax concept we're talking about is having an option or a recommendation to legislature that if they're going to look at doing something in the remote sales tax world in the next session or beyond, that they consider earmarking any new revenues from that towards a reduction of the communication services tax because --

MR. RESNICK: Sales tax on sales on the Internet?

MR. DUDLEY: Right. You know, there's a big discussion about that. There does seem to be some, and I'd have to ask Bob, there does seem to be some discussion or dispute about whether that, how big a revenue number that would generate for the state. But, you know --

MR. SUGGS: Didn't they say last year about 400 million?

MR. DUDLEY: If it's 400 million, you can certainly do a lot with 400 million in terms of replacing and lowering this rate down to the point that now you've expanded the base and you might get to a rate closer to the sales tax and still have money to distribute to local governments, gross receipts and sales tax. I just point that out because there's clearly a nexus. The person that's getting communications service is the one that's orderer stuff online. I mean, there is a clear nexus there to that customer. So I know there's been a lot of discussion about that. But that is another option of looking at ways to encourage the legislature to think about CST a little more globally to the point that's being raised about a sales tax application. So I just put that out there.

MR. SUGGS: Can I just --

MR. STRANBURG: One last thing, and then we're going to take our lunch break.

MR. SUGGS: Okay. I'll make it two parts. Kathleen -- here's what's happened in the last two years, it's sort of a sales tax swap in what me and Amber encountered. There have been proposals that never have gotten on the shelf in the house in terms of swapping sales tax for property tax for schools.

And before then, there was Rubio's pending. That was probably back in '04, '05. So it's not unheard of. It goes back to -- it gets to our number one, that I think more than the number -- I think what I'm hearing from the city is the number that's on the sheet of paper that comes from the Department that we get, there's some added value there also in terms of consideration for those things. But I -- in terms of, I mean, it's an option that if the state really wanted to -- and again, I know Marshall is here and the DOR. But in terms of legislators, if they really want to fix the problem, solve the problem for themselves, they need to create more revenue. But I mean, you know, we got this thing out here like CST, but we got gas taxes. I mean, if somebody, depending on what county you're in, you're paying 12, 13 cents on a gallon of gas. I mean, but they can make that go away, too, but they don't because they know -- it's sort of -- it's just sort of the perspective for what we do. But I -- because it gets -- at the end of the day, whatever that number is, what that number is comprised of from my guys, if it is straight what we're getting now -- if what we're getting now at capacity and then there's added value for use of my right-of-way or whatever, I can translate it to a number, and that's where we need to get.

How we need to get there and, I mean, the theory is one thing we -- and you guys -- Sharon said is very important. For my guys even to put up, we may set aside on local discretion. And she said, there's a big difference what we're giving up. If we say we're to consider to make the thing work, giving up local discretion and local control because that stuff does happen, we fight it every year. Charlie, you see me and Amber running around, is that some we don't have local control of, some there's a formula in the hands of the legislature, it only takes one person to tweak it a tenth of a percent. And now I got to get all -- it consumes my entire life because --

MR. DUDLEY: Right.

MR. SUGGS: So there's that value that we're giving up -- giving up local discretion and trusting it in the hands of a term-limited legislature.

MR. DUDLEY: Right. Because they could go into session this year and repeal the local CST, right?

MR. SUGGS: They could, yeah.

MR. DUDLEY: And be gone. They could do that.

I mean, I know they'd have to go by super majority to get around the Constitutional mandate, but they could. I mean, they --

MR. RESNICK: They could also triple it, right?

MR. DUDLEY: Exactly.

MR. RESNICK: I mean, they can to do anything they want to do, right?

MR. DUDLEY: It could be adjusted. I understand that.

MR. SUGGS: So, just --

MR. RESNICK: I guess the only thing they can't touch is something that's in the Constitution, right?

MR. DUDLEY: Maybe a bonded --

MR. SUGGS: I do want you guy to understand even though -- you heard where we're at. It's on the table, but there's a value -- don't under estimate the value of giving up local discretionary control and fees and depending on the legislature that has been very unfriendly with the local governments I mean, for a while.

We can go to lunch.

MR. STRANBURG: I appreciate that. Please remember when we come back, we will need to approve the minutes. If you could take a look at them and see if there any changes you want to make. And let's be back and going at 1:30, so that we get Brian out of here on time. Thanks.

(Lunch recess.)

(End of Volume I.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA:
COUNTY OF LEON:

--------------- 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 1 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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