FLORIDA DEPARTMENT OF REVENUE

PUBLIC MEETING

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MEMBERS:

Marshall Stranburg, Chair

Brian Smith

Gary Resnick (Appearing by telephone)

Sharon R. Fox

Alan Rosenzweig

Gary S. Lindsey

Kathleen Kittrick

Charlie Dudley

Davin Suggs

Also Present:

Andrea Moreland

PROCEEDINGS

MR. STRANBURG: Good morning, everyone. I'd like to convene the fifth meeting of the communication services tax working group. My name is Marshall Stranburg. And I'm the interim executive director for the Department of Revenue. I will be chairing the meeting.

At this time, I would 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: Here.

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 would like to address some of the administrative or housekeeping details of the meeting. This is a nonrule 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 this room, please provide a completed speaker card to Lynne Moeller or Jamie Peate. Lynne has her hand up over there. Jamie is out of the room right now, but I think most of you know who Jamie is when she gets 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 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. The 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 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 your 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.

Please turn off your cell phones or place them on vibrate. The meeting is scheduled for all day. We will be taking breaks throughout the day and a lunch break around noon. The restrooms are located in the hallway that runs directly behind this room. The men's room is located on the west end of the hallway and the lady's room, the east end of the hallway. Vending machines are located at the west end of the hallway right after the double doors. Areas that are closed off to the public should be designated. This is a secure facility, so please stay in the main areas.

If you cannot stay for the entire meeting and when you leave at the end of the meeting, please remember that we need you to return your visiter badges. You can leave them on the side counter and we will turn them in to the security desk for you.

Does anyone have any questions before we get started?

Okay. We will go on to agenda item number two which are some follow-up materials from the last meeting. There are three documents in your materials and there's one other document that was distributed this morning. They're follow-up material.

Request number one is an estimate of revenues from accessing a flat rate of 50 cents on prepaid transactions.

Request number two in your materials is an estimate of discretionary sales surtax necessary to replace local communications services tax.

And request number three is an estimate of the rate of sales tax necessary to replace communication services tax revenues.

Does anyone have any questions about these materials?

MR. ROSENZWEIG: Will somebody walk us through the first one?

MR. STRANBURG: Sure. We'll have Bob McKee, whose office prepared that, walk you through those materials.

MR. McKEE: Good morning. I'm Bob McKee with the office of tax research for the Department of Revenue. The first is the estimate of the rate of sales tax necessary -- are we on the prepaid first or which one --

MR. STRANBURG: Let's go through all three.

MR. McKEE: Okay. On the prepaid analysis, if you recall, we did an analysis earlier -- at an earlier working group meeting that estimated the amount of revenues that might be attributable to prepaid phone service. And so that acted as a basis for this analysis.

What we did was we looked at the number of lines, then making an assumption about -- I think in the first analysis on just the 50 cents, we assumed one transaction per month? Yeah. On the front page of the results, we assumed one transaction per month per line, essentially that the 50 cent fee would apply to generate the numbers that are on front page of how much would be generated from the 50 cent fee. Again, one transaction per month per line. Sort of the growth there was inherent with the growth that we estimated in the -- that we had in the previous analysis with respect to the growth and prepaid over future years out to 2020. The different growth patterns, of course, result in different growth.

On the second page of the analysis, what we did, if you recall from before, we did a low scenario that I believe was $35 per month. And then we did a middle 45, high was 55 to give a range of possible impact on prepaid. And so what we did here is we provided the -- again, sort of the possible revenues in the first block here. And then below it, what we did was to say if there were a 50 cent fee on there, how many transactions per month would there have to be at 50 cents to replace or to equal what was the estimate of the possible revenues. And so there it will show you the number of transactions if there was a $35 per month fee that would result in -- or that would match the analysis previously of the possible revenues.

The next page, just the middle, the same thing, $45. And so that's the number of transactions that would have to take place in a month at a 50 cents fee in order to match the possible revenues at the $45 a month. And then the last page on the high is the $55 a month service. So, how many transactions would have to be in a month, at 50 cents, in order to approximate those revenues.

In this analysis, you know, we tried to make use of what we presented previously to the group.

MR. ROSENZWEIG: Bob, so on the middle of the last few pages, you're just calculating the number of transactions?

MR. McKEE: The number of transactions.

MR. ROSENZWEIG: The dollar amounts were given previously.

MR. McKEE: Well, we were asked to do an analysis of 50 cents, the number of transactions at 50 cents to get to the dollar amount it would have to be.

MR. ROSENZWEIG: -- 35, 45 -- on the first page, that's a pure new analysis in terms of if it's just one transaction per month.

MR. McKEE: That's an analysis of what the 50 cents would generate with the assumed number of lines that we had previously, based on the analysis of FCC data compared to the Public Service Commission data, and implied lines with -- compared to the implied lines from the wireless 911 fee that currently is being paid. So we use that analysis that we did previously, looked at the number of lines, assumed that there was one transaction per month, that's what 50 cents would generate.

MS. FOX: So, basically, you're saying with the high one, the fee would have to either be 50 cents a month or nine times that?

MR. McKEE: If there were -- you can get there pretty quickly thinking about the effective rate of CST, that if you take off the state rate assuming that the difference -- the state rate CST would only be .65 percent rather than the 6.65 if sales tax was being collected on the prepaid transaction. You get there pretty quickly with an effective rate that's around to 8 to 9 percent.

MS. FOX: So if the fee was $110 a month, you just take -- it would be four and a half times that? I mean, you can figure out if there were some kind of a tiered situation, that you can figure out what the rate would have to be based on what the fee that's being charged, I think that's --

MR. McKEE: The idea here is we don't know how many transactions there's going to be in a month and CST has, you know, relative to most of the transactions taxes we have in Florida, a relatively high rate. So as a consequence, there would be -- a fair number of transactions would have to take place at a 50 cent fee in order to match the revenues that would come in on a percentage basis.

MS. FOX: But also not every prepaid phone is $55. I mean, some of them charge significantly more than that. So there wouldn't need to be as many transactions if the rate was higher, correct?

MR. McKEE: Well, the assumption here, Ms. Fox, is that that's the amount of taxable prepaid services. Because as we know, prepaid is expanding into a lot of areas beyond just phone calls.

MS. FOX: Okay. Thank you.

MR. McKEE: We have to remember Internet transactions, things of that nature --

MS. FOX: Okay. I appreciate that.

MR. McKEE: Other questions on the prepaid?

The next one, see what the screen guides me to. Okay. This analysis, and there's a couple nuances. The other two things we were asked to do was to look at if local governments were granted a local option sales tax to replace the local option portion of the CST, how much rate would that take to replace it. And the third was if there -- how much statewide sales tax is necessary to replace the CST in total. And on this one, we were asked to look at both realized and unrealized capacity with the local CST.

Now, a couple things I want to make sure you understand with respect to the first sales taxes.

The local option sales tax base is smaller than the state sales tax base. And that's because there's a $5,000 limit on taxability of items. So the base is smaller. So there's not going to be identical rates that come out, even when we get to the other analysis that just replaces the local portion on a statewide basis.

As I understood the assignment here, we were to look at county by county, essentially, if a local option were given to the counties to replace it. So the bases do match up differently on the CST and the state sales tax base. The other piece that differs, when we get to the later analysis of replacing all of the CST with the state sales tax, we assumed in that scenario that the state sales tax base would expand to include taxable communication services tax transactions.

In this scenario, where it's a discretionary surcharge, we didn't assume that. Because the assumption would be that gross receipts and the state portion would still be taxable as communication services tax, so that the sales tax base wasn't expanded to include those communications services tax transactions. Those transactions today are taxable for communication services tax.

Let me see if you have any questions on that before I go on.

So, what we did in this analysis is we looked at -- and we've got a spreadsheet for you on this one. What we did here is we looked at the estimates for 2013. We looked at the estimated CST base, the county and the municipal levies on CST. We looked at the unused capacity of the local CST and then we ran into a little bit of a challenge.

The CST, as many of you are familiar with, when a local option sales tax goes into place, there's a rate that's imposed countywide on the local CST, both city CST and county CST, the dollars are collected from that and it's -- they flow like a local option sales tax.

When we look at unused capacity with respect to local governments, most of the unused capacity is in those unused local option sales taxes, which for the most part require referendums. There's been recent ones adopted by the -- or authorized by the legislature that would now allow some local governments to go up to 4 percent of local option sales tax. No one has practically put in place more than one and a half percent. So when you look at unused capacity, there's a lot of unused capacity there, but that capacity for the most part requires referendums, requires the imposition of a local option sales tax. And I think substantially distorted the replacement revenues if they were included in a replacement surcharge to replace those revenues as well.

I think I included in the write-up the amount of used capacity. Yeah, there's 57 million utilized discretionary surcharge CST capacity. If everyone went up 1 and a half percent, there's 73 million in unused capacity. But if everyone went to their maximum, there's 225 million in unused capacity. So given that that compares -- that 225 million is roughly 20 percent of total local CST revenues, we didn't include it in the replacement analysis.

MR. SUGGS: You stopped at --

MR. McKEE: We kept the 57. We kept the 57. So we essentially replaced what was --

MR. SUGGS: 57 is what's there now?

MR. McKEE: 57 is what's in place now. So the replacement rate includes 57. They don't include the 73. They don't include the 225 million in addition. They do include the unused local CST capacity which is roughly 18 million.

MR. SUGGS: That's fine. Because even if the CST went away, locals would still have that -- have the ability to use that unutilized capacity on the local options if it ever happens, that --

MR. McKEE: In the other scenario where the base is broadened to include the -- what's taxable for CST, taxable for sales tax tomorrow, it washes out. Because the base would be bigger, they'd be put in the surcharge base. In this scenario, the base would still not include those transactions. But any future levy, it would be known at the time that it was put in place with the referendum that the revenue base would not --

MR. SUGGS: This is the most conservative approach just using --

MR. McKEE: To include those -- we had some distortion in the potential maximum rates. And for some jurisdictions, it pushed it up close to 1 percent. Now because the bases differ, it does result in differences -- in different rates that would be necessary. It's sort of like when the CST was put in place originally, the replacement rates differed depending upon how the acquired basis matched up to the new CST base. It's the same situation here. You see, I think the high was -- I believe Clay County would require a rate of 4.82 to replace their revenues.

You have some jurisdictions, particularly non-charter counties that are much lower rates. Looking at Walton County, I believe, they were the lowest at just over a tenth of a percent that would be necessary on sales tax to replace their revenues. And it's because of differences in the sales tax base composition from the CST composition. If you think about it a minute, Walton County, lot of tourist activity, shopping destination, there's a lot of sales tax that gets generated in that county compared to what would come from CST.

Look at Clay County, sort of a commuter county that borders on Jacksonville, Duval, not a lot of commercial activity, not a lot of retail, things of that nature in the county. A lot of that activity takes place in border counties. So they end up with a higher rate compared to some of the -- communities.

Are there any questions?

MS. KITTRICK: You just triggered a question in my mind when you mentioned the tourist activity.

Do you know off the top of your head how much of the sales tax is borne by out-of-state tourists?

MR. McKEE: That's been an area of a fair amount of work. I think we track in sales tax a category that's called tours and recreation. And it's a substantial category. However, we are not able to -- one of the challenges on -- and lots of sales tax get information from the entity that collects sales tax and not about the underlying transactions. So included in that category are all admissions, all restaurant purchases, all hotel stays.

So if you go out to lunch today, you're -- tours and recreation. You go to the movies tonight, that falls in that category. Just like somebody comes in from out of state and buys a ticket at an amusement park. So that is a substantial category in our sales tax. Directly, I think the numbers that I recall are somewhere in the teens. You know, somewhere 11 to 17 percent I think are what the in-depth analysis we looked at show. It is a substantial portion that is paid for by out-of-state residents. But it's been a number of different analyses.

MS. KITTRICK: Okay. Thank you.

MR. McKEE: Any other questions on the local piece?

All right. The third one -- and just sort of cutting to the bottom line, the statewide on the local base, because that $5,000 limit, it would require a rate of about just under .3 percent if it were imposed statewide. But again, you've got those variations county by county.

Looking at the statewide, if the statewide sales tax were replaced, we had a little bit of a challenge here, too. Currently the general sales and use tax rate is 6 percent statewide. There is a 7 percent rate on electricity. And so we did two scenarios, one that would increase both of those 1 percent, one that would increase just -- excuse me -- both of those that would increase by whatever's necessary to replace it. Another that would just look at the nonelectric transactions and just increase that portion of the rate.

MR. DUDLEY: That's just on the commercial sales electricity?

MR. McKEE: Just commercial sales electricity, yes, Charlie.

So we used our annual sales tax data to get an idea of how much of the sales tax came from the purchase of electricity. We looked at the gross receipts, the state sales tax and the local revenues to come up with a base. And the direct-to-home revenues and look at the base. We use the REC estimate for '13-14 to estimate the base. We did assume in this when we looked at replacing all of the rate, that the base would be expanded to include those CST expenditures. When we do the initial one that's just the local, in that instance, we did not have the base expand because there's an assumption that if do away with the local, you still have the state CST and gross receipts CST. And in that instance, the base wouldn't expand.

When you look at the replacement rates, you see that we did an analysis for '12-13, '13-14, '14-15 and '15-16, you see the rates essentially shrinking over that period of time. That's due to the current forecast -- there's a difference in growth rates. Current forecast for sales tax has much more consistent healthier growth than the current CST forecast. Current CST forecast has a much lower growth rate than does sales tax. And so as a consequence, as you look at it over different years, the replacement rate becomes lower due to that additional growth in sales tax.

On the statewide one, we did the replacing all CST. Again, because we assume that the sales tax base would expand for the state portion, only that difference in the .65 percent needs to be replaced then. Because the rest -- 6 percent of the state portion would be essentially recouped by the general sales tax rate on the expanded base. So it resulted in a statewide rate in the one that's printed here on the '13-14 analysis of 6.34.

And then the last block shows similarly what would the rate need to be with electric and without electric over those -- over that 40-year horizon. And you can see the electric, essentially in the later years with rounding, it doesn't really make a difference in terms of the necessary rate. But we wanted to make sure that you understood there might be a policy option there given the differential rates.

MR. DUDLEY: Bob, I can't remember if REC does it three- or five-year window -- do the reviews. When you do -- impact analysis, is it a three or five year?

MR. McKEE: It's been three, but we had actually an REC retreat yesterday which my understanding is it will go to five years.

MR. DUDLEY: Okay. Just a question I guess I have, if you were asked to look at a replacement sales tax rate for state CST, that it would be revenue neutral, meaning over that five-year period, it would generate substantially the same income as is projected for the CST to generate, would you then look at the -- your projected five-year replacement rate and pick a midpoint?

MR. McKEE: It would really depend on the policy decision of how the policymakers define the revenue neutral rate. If they were to say that over the first five years, it was over that five-year period, it should generate the same amount of revenue, then it would point towards one rate. If it were determined that in year five, it was to be revenue neutral, it would point to a different rate. If it was determined year one it had to be revenue neutral, then it would point to a different rate.

MR. DUDLEY: Okay. So what your analysis does just from a static, I guess, evaluation was if you were going to do this -- policymaker wanted to do this and be revenue neutral year one, the rate would be 6.34, right?

MR. McKEE: Yes. In year one, year one being '13-14, it would be 6.34.

MR. DUDLEY: Right. It would be 6.34. But what you're saying is that the projected estimates for state sales tax is much better as a standalone than the current CST from a growth perspective and stability perspective, so that replacement rate would be different, as you've outlined, maybe subsequent --

MR. McKEE: Yeah. Similar to sort of the other analysis we did in looking at prepaid, looking at the residential rate where you have differential growth rates, particularly with residential exemption going in different directions, you end up having different impacts on when you choose or how you define revenue neutrality.

MR. DUDLEY: So if you were going to do a '13-14 revenue neutral replacement rate for state and local, would you take the 6.34 on average and add in the .282 from your previous analysis or --

MR. McKEE: No, no. In this scenario, 6.34 replaces everything.

MS. KITTRICK: Everything.

MR. SUGGS: And to be clear, we're just talking about adding .34.

MR. McKEE: Just adding .34.

MR. SUGGS: We're already at 6 percent.

MR. DUDLEY: No, I understand.

MR. SUGGS: Now we're covered if we do have to come back and distribute our share out of that.

MR. DUDLEY: I understand. I know this is just an academic exercise; I'm just trying to understand --

MR. SUGGS: No, this is a good --

MR. DUDLEY: So every cell phone bill, video bill, everything would be at 6.34 and that would replace the state -- all the state and local CST?

MR. McKEE: Every transaction.

MR. DUDLEY: Every car sale, over good --

MR. McKEE: Every transaction that's currently subject to sales tax and every transaction that's currently subject to CST would be, instead of at their 6 percent or their CST rate, would be at 6.34.

MS. KITTRICK: And the sale of commercial electricity would go from 7 to 6.34 percent?

MR. McKEE: No. In the analysis with electric and the base, that's essentially -- their rate would be seven plus the rate difference, right?

Yeah, so theirs would go from 7 to 7.34. So that's why we wanted to distinguish between those two different bases because it's a policy option whether it applies to everyone.

MR. DUDLEY: What if you wanted to take the commercial electricity and have it to be the same as the new sales tax rate with replacing the CST?

MR. McKEE: We'd have to calculate that. We didn't calculate that as one of the scenarios.

MR. DUDLEY: It would be higher than 6.34.

MR. McKEE: It would be higher than 6.34, yes.

MR. DUDLEY: You'd have to look at the delta between 7 percent currently on the commercial electricity and what 6.34 generate in the same base. Look at the difference and then spread it across the whole sales tax base to figure out what the increase --

MR. McKEE: We'd essentially have to look at the increment between 6 and 7, take those revenues and put them in the replacement revenues to calculate out the replacement rate. It would be higher. I wouldn't expect it to be substantially higher. I mean, just, you know, given the magnitudes, it's hard to say without looking specifically at the number.

MR. DUDLEY: Might be 6.5.

MR. McKEE: I wouldn't expect it would drive it that high.

MR. DUDLEY: Not even that much.

MR. McKEE: I mean, you've got a differential between, you know, 6 and 7 that's only on -- I mean, when you exclude it from the base, it only results in a .1 percent difference in some scenarios. So I'm just not expecting it would make a huge difference.

MR. DUDLEY: Okay.

MS. FOX: Mr. McKee, does this scenario include prepaid?

MR. McKEE: This scenario looks at the current forecast. So it does not include anything that's not in the current --

MS. FOX: So, if prepaid were included in the scenario, how likely is the -- to be the same as this rate?

UNIDENTIFIED SPEAKER: Well, prepaid is included in this scenario so far as the prepaid sales are currently included in the sales --

MS. FOX: So the 6 percent part is included now for the state, but the .34 on prepaid being added, is that a logical assumption or is that overstated?

MR. SUGGS: I agree with -- I mean, we would have a higher number to replace if -- like even if you put like the 34 million -- I mean, it might go to .35 or .36, but I think Sharon -- we would have a higher number to replace.

MR. McKEE: What we calculated were replacement revenues.

MR. SUGGS: Based on --

MR. McKEE: Based on the current REC CST forecast which would not include, I think, the majority of what has been discussed as possible prepaid revenues where the CST applies. It applies to all --

MR. SUGGS: We would have to say, hey, we should have been given something on prepaid -- considering replacing the CST -- take into consideration --

MR. McKEE: It sort of goes back to the definition of revenue neutral. I mean, what is revenue neutral definition?

MS. FOX: As an academic discussion, revenue neutral from my perspective is what -- this explains part of the decrease in revenues that local governments have received because of the disparity in how prepaid has been --

MR. SUGGS: Bob, can I ask a question, too? What was your billing number for last year, Charlie?

MR. DUDLEY: It's in here. 809.

MR. SUGGS: Let's say we went to -- going to the sales tax, okay, make -- I mean, like the books and records stuff, do you still in applying the sales tax to CST -- some of this stuff, I know you can't -- they've been able to separate Internet transactions or Internet access on broken records for -- correct?

MR. McKEE: The unbundling, there's a provision related to unbundling and it's my understanding that's in the federal legislation.

MR. SUGGS: But it's been like since '05. The new stuff -- how does this affect like the new stuff? The stuff in 809, is it still relevant if you switched over to this?

MR. McKEE: There are other folks who are much more versed in sales tax than I am that work for the Department. My understanding is sales tax does not contain similar unbundling provisions as were passed recently in 809. That generally if something includes a component of taxable for sales tax, the transaction is taxable for sales tax.

MR. SUGGS: Let me ask this, Charlie, I worked with you on some of this, a lot of -- a portion of unbundling stuff you got was so you can do CST and non-CST stuff, but the way you market it and deliver it to your customer. So from that perspective, that would not be necessary because now you can -- if everything was just sales tax, you just put it -- you know, outside of --

MR. DUDLEY: Right.

MR. SUGGS: Outside of, I guess, Internet access, everything else you can still do cable and home security because not everything is at 6.34.

MR. DUDLEY: Right. But if I was also offering Internet access in there, I'd want to have unbundling language for a nontaxable service, an exemption.

MR. SUGGS: But do you already have that? Is Internet compared to sales tax? Can you already unbundle Internet?

MR. DUDLEY: I think I have it in the CST context.

MR. SUGGS: But not --

MR. DUDLEY: -- it's in 212. So I think that's what Bob's saying is it would be a need, from my perspective anyway, to be able to allow our customers to either pick a standalone service, whether it's taxable like video or phone would be -- or exempt like Internet.

And if they decided to save money and bundle those services, I wouldn't want them subject to tax on something the federal government and the state has determined to be nontaxable, like Internet. So I'd want to be able to pull out the portion of value that's assignable to the exempt Internet access piece.

I'd also want to make sure I wasn't going to get a class action lawsuit. Although I may have a state action unity claim, if sales tax required -- but I wouldn't want to be in that position if I'm spending my day in court, I would want to have the same ability. I would not have the issue if it was part of 809, which was a concern of adding new things to the bundling like home security -- sales tax, and we want to make sure those customers don't pay CST on sales tax. We also have TPD sales that are in that bundle and this would help that.

MR. SUGGS: Because --

MR. DUDLEY: -- resale that we then turn around and rent or lease to customers. So it does take away a lot of those -- some of those concerns and issues with prepaid, not the exempt pieces.

MR. SUGGS: Right now, if we went to sales tax pretty much only exempt piece would be Internet access. 809, we start getting into ring tones and stuff like that.

MS. KITTRICK: Right.

MR. DUDLEY: I think the other thing we've done is from an SSTP perspective. And that whole policy that's -- moving to a system like this is almost a requirement of SSTP -- differential tax treatment. You know, you've now put yourself in a better position to solve the Amazon problem as it relates to goods and services, or at least be extremely well positioned for that as far as we can go in the nexus world from a state perspective. And that's just my opinion.

MR. LINDSEY: It would greatly simplify it. You know, you're right, it would just be -- primarily it would be the Internet portion. One other thing to mention is the wireless already has this kind of baked in from the Mobile Sourcing Act, so there already is an unbundling provision. So one part of the industry would have it, so it probably -- it would make sense to go ahead and include that if it were a proposal to make it for the whole communications industry. And it would be -- as well. Yeah, it would be greatly simplified. Something that's taxable or not taxable to -- grappling with different rates and all those complications.

MR. SUGGS: Marshall, what do you have to say? Because you're DOR.

MR. STRANBURG: We don't get into opining on policy calls, so --

MR. SUGGS: Administratively, this would be -- in terms of audit and collections, all that stuff, situsing --

MR. STRANBURG: I think you can see from some of the discussion we're going to have when we start talking about some of the options later today, there are some things that we had proposed that in respect to unbundling and transparency of the charges -- yes, you can go to something like this -- those go away -- but maybe as we're talking about not completely go away because you would still -- if you have exempt services as part of your bundle, if you still need -- you know, would there be some benefit in providing information to the customer, not just having it on books and records.

MR. ROSENZWEIG: Just an economic exercise obviously, changing the sales tax rate statewide is a huge undertaking, but in addition to the sales -- there's a considerable portion to gain from out of state, so swap meets -- we're all playing less here. The state -- the issue right now is the sales tax in Florida is exempt -- a portion is exempt in federal taxes. So as a resident in Florida, you get double savings. You get outside people paying and you can now deduct a portion you were paying. So even if it's a one-to-one spot, even if you paid the same in sales tax and you are in CST, you basically -- whatever your effective tax rate in that deduction -- so there's more pieces to support --

MR. STRANBURG: Just a cautionary note on that, Alan, that is one of those extenders that I think expires at the end of 2012.

MR. ROSENZWEIG: They keep renewing that.

MR. STRANBURG: -- renewals and I think it's --

MR. DUDLEY: Fiscal cliff.

MR. ROSENZWEIG: I'm sure we can push them over if we have to.

MR. McKEE: It's in the vehicle that's driving --

MR. ROSENZWEIG: That's driving towards the cliff.

MR. McKEE: It's one of the passengers.

MR. ROSENZWEIG: I'm sure they're paying attention to this, too -- the federal government.

MS. KITTRICK: I mean, you know, from our perspective, I really appreciate the work on, you know, this estimate. I can't say strongly enough that I think this is the best option we have in terms of ensuring the revenues are stable going forward; there's the administrative simplicity, that it takes care of the competitive issues that we have now and may have in the future with the over-the-top providers. It gets you to where you want to be with the simplified structure for -- ability of Amazon taxes -- Amazon-like taxes, nexus issue questions. So thank you for putting that together.

MR. McKEE: There is one sort of policy issue that we don't talk about here, but an additional assumption that's really not talked about is that this can be done with respect to gross receipt taxes and would be still able to be -- for pick up purposes.

MS. KITTRICK: Right.

MR. McKEE: And that the replacements are fully -- and someone else would have to look at that -- constitutionality purposes to see whether that could be done.

MR. SUGGS: That was going to be my next question --

MR. McKEE: Yeah, the assumption here is that the dollars -- can be used for that same purpose, they can be designated as gross receipt dollars. Someone else -- we have to look at the constitutionality of that, whether there's a complexity dealing with the gross receipts portion.

MR. SUGGS: Let me ask about like currently the gross receipts portion, that's dedicated in the language, gross receipts -- does it go to a trust fund or does gross receipts go --

MR. McKEE: Gross receipts go to public education capital outlay. It goes towards --

MR. SUGGS: It's booked in the trust fund, dedicated a set-aside -- the new system, everything would go to GR and we would have to rely on whatever legislators were here in their approach to shift -- off the top and send it --

MR. McKEE: The issue starts with how the constitution allows the state to -- and it either has to be specifically laid out in the constitution or it requires a statewide referendum. In the constitution, there's a specific measurement that's tied to gross receipts tax to -- that goes to bonding for PECO. So, it's a complexity. It's something that would need to be looked at.

MS. KITTRICK: I have question just because I was not here when you did the CST. Did you have to do anything constitutionally to allow the CST dollars to flow to the GRT then?

MR. McKEE: Statutorily, it is Chapter 203, gross receipts, Chapter 203. So the levy on CST is actually gross receipt levy. It's levied by Chapter 203. The constitution actually references Chapter 203 and the gross receipts tax and what's allowed to be measured for bonding for public education capital outlay. So it would need to be a levy under 203 in order to be -- in my understanding of the constitution, in order to be able to be pledged for PECO purposes.

So, again, someone else would have to look at that. Is there a way to characterize some part of the levy as a Chapter 202 levy on a broader base?

I mean, it was done with the CST, could it be done here? You know, other minds would have to think about it.

MS. FOX: I presume the same would have to be done with regard to pledging political funds --

MR. McKEE: Actually, no. The local governments have relatively broad authority to bond, home rule and statutorily can be granted the -- so it's not the same restriction in the constitution. The legislature can grant it or they can restrict it.

MS. FOX: At will.

MR. McKEE: As they have, for example, local options sales tax.

MS. FOX: At will. And they change the rate at will as well, correct?

MR. McKEE: My understanding of the scenario with the state tax and legislature controls state statutes. As they do statutes relating to local option taxes.

MR. DUDLEY: As they do with CST taxes.

MR. McKEE: As they do with CST today. They can change CST today and that's within the legislative prerogative with respect to the statutes.

MR. SUGGS: I think ours would be taken care of -- however, they decided to distribute our share to us to -- they would have to spell it out. I mean, like it's spelled out in the CST stuff. Spelled out in the half cent --

MR. McKEE: Yeah.

MR. ROSENZWEIG: Question, I'm trying to figure out, Bob, is the impact to -- obviously, not a typical homeowner or typical person, obviously, right now that is paying CST, but -- $200 a year, I mean, through the cable bill, I don't know, I'm trying to take a guess and reverse back. If you replace it with .34, you know, how much in sales tax, taxable transaction you have to do. So, for example, I have $200 a year in CST taxes right now as a homeowner, at .34 would mean I'd have to spend $60,000 in taxable transactions to equal what I'm at paying right now in my CST.

I mean, it just seems like there's a lot of good stories there for the homeowner, the consumer, potentially, that this in the end may be better for you. I'm assuming as a retailer all of a sudden a $30,000 car -- just added $100 to the price of the car. So, I'm assuming retailers and other areas are going to -- to be like now you've increased the costs of all their goods.

I'm just trying to -- I don't get too far down the road, but if there's any potential traction, that's how we locally look at this when we're analyzing --

MR. SUGGS: I see some --

MR. ROSENZWEIG: I'm assuming that's the type of stuff that -- I mean, I know it sounds good here with this group's sole focus, but there's obviously a much broader piece of the puzzle.

MR. McKEE: Both bases, both the sales tax base and the CST base apply to residential transactions to some degree and apply to certain business transactions. So it's really going to depend upon the mix. What CST does not apply to however, with the exception possibly of transactions that take place in hotels, is it does not capture that out-of-state resident because of the sourcing rules. So the sourcing rules would direct their CST base with their base related to communication services tax to their place upon reviews, whereas the sales tax is much more of a point-of-sale type of transaction.

And so to the extent that we do have out-of-state transactions take place, you would expect that a possible outcome -- a likely outcome may be that the burden borne by Florida residents and Florida businesses may actually fall under that scenario. With all the possible caveats and --

MR. ROSENZWEIG: All on tape. It's good.

MR. STRANBURG: Any other questions for Bob?

MR. SUGGS: I guess one last thing, in both two and three and one we're all good because -- I think, Kathleen, you left at the end of that. I know you had to leave at the end of the last meeting, but we brought up option two -- option three here, we brought up option two. I think the main difference -- I mean, clearly option three gets everybody out. And then -- but it moves locals to more shared type thing on a state -- where option two got locals out with a replacement revenue source that we retain local discretion under. So -- got to was the local CST is like a local discretionary tax. We have a range of rates. We can choose to do it or not to do it. So option two gave us another local option replacement revenue and makes your life halfway easier -- local CST -- eliminate situsing and all of that. So it's just you and the state. But for us, we sort of retain -- he gave us the, I think, the rate -- gave us the same revenue, we retain sort of the level of local -- type of discretion over the revenue. So that's why we had asked for number two. But I guess we can get into the discussion. I think probably people at the table would like two and/or three depending on whatever. We can -- did discuss that later in the options. But I think -- Sharon, did I capture everything right? Two, why we -- talking about two?

MS. FOX: I took this as just an exercise. I think local control is a primary importance to us with regard to being able to decide what our residents require as far as services and then how we provide those services with the funding that is ours. So it's a little bit -- I would be making an overly broad statement if I said that this fixes the problem because it does not.

MR. SUGGS: Two technical questions for you, Marshall, with DOR technology can you add .34 and it not be a problem or .25 or.5?

MR. STRANBURG: Davin, let me answer it this way. I don't know that it would be so much our problem as it is you have to talk to the folks in -- like the retail federation, so forth, what would it cost businesses to have to reprogram their systems to do that. You can ask, but my question is they're going to say, of course, there's additional costs anytime you have to adjust a rate; to the extent you have variance in rates, I would assume that would be a problem. If it's not an even number, you know, a .5, .25, that adds further complicated factors to it. So we could do our own internal programming. I don't know that, again, the burden or the costs would be on us; I would think it would be on the retail people would have to be the ones to weigh in on that.

MR. McKEE: I believe Hillsborough County did have a local option rate of .75 at one point. They added, I believe, a half cent of infrastructure surtax and they added a quarter percent of indigent care surcharge at one point. So I believe there is --

MR. STRANBURG: Gainesville or Alachua County also has a --

MR. McKEE: I think that one expired, but I think they did have a .25. I think the statutes do seem to contemplate in some of the surcharges, a surcharge that is at least .25 or at least .1 or .2. Now whether they contemplate .14, I'd have to go back and review them again.

MR. DUDLEY: Is that why you guys have the brackets for --

MR. McKEE: We generate a lot of the brackets. I mean, you know, the --

MR. DUDLEY: -- rounding there, too, in -- always round up?

MR. McKEE: I would certainly recommend if that there's administrative issues, that they could be solved when a rate was being adjusted, that perhaps that might be the right time to consider them.

MR. DUDLEY: Just trying to avoid --

MR. McKEE: But I think if they were to go to a rate like that, mathematical rounding, my understanding from conversations with the industry, would be much easier to administer than current bracket system.

MR. SUGGS: Last question, in the scenario where we're replacing the entire CST with the .34, as you know like from the satellite stuff, will we get a little flow through, through revenue sharing and like for the fiscally constrained distribution? Does that put all the money back in the pot? Puts all of that money back in the pot so we redistribute in the same -- does it catch everything?

MR. McKEE: The analysis we did was designed to capture the current forecast revenues as they came in, not as ultimately they were distributed. So they were designed to capture -- as you look at the analysis, you'll see we use -- and the way the REC presents the number, they include a part of the direct-to-home satellite and the gross receipts portion, a part of the state sales tax, and then what they describe as the additional is that 4 percent that then is ultimately shared with locals, either through the half cent program or through the fiscally constrained counties. So this analysis included all those revenues in calculating the replacement.

MR. ROSENZWEIG: And something else --

MR. RESNICK: Marshall, can I just ask a question?

MR. STRANBURG: Yeah, go right ahead, Mayor.

MR. RESNICK: Thanks. With respect to all the replaced taxes, this also includes the DBS tax, the communication services tax on DBS?

MR. McKEE: Yes.

MR. RESNICK: So do you know if that -- creating just a sales tax on that that's distributed to local governments through whatever mechanism it would be distributed, is that allowed under federal law?

MR. McKEE: My understanding is that the federal preemption is with respect to the local rates on direct-to-home satellite, not state rates on direct-to-home satellite. And that once it's state revenue, the state distributes it as they choose with any other state revenue. I think there would be, you know, an issue on the local option that it most likely would not be able to apply to direct to home, but that's the case with the CST today. That is, there's a discretionary surcharge on that variance rate is not imposed by the direct-to-home satellite portion of the taxable base portion of the CST.

MR. STRANBURG: Brian?

MR. SMITH: Just for clarification, it's imposition and collection has to be at the state level. So you start with those two things and --

MR. McKEE: Which my understanding in the scenario we were talking about, that would be the case -- state level.

MR. ROSENZWEIG: From Sharon's point of view, the home rule versus the revenue certainty is a hard one. I don't know where we would -- but I mean, obviously Davin can speak for the counties in general, but for Leon County, when we talk about it internally, revenue certainty in this situation may trump our desire to repay that -- CST perspective. If there was a statewide sales tax or something else that there was some revenue certainty for a declining revenue stream, we had some guarantees that would be there for a period of time, that's -- in financial perspective. That's a hard, hard decision to give up any -- but if we can get some guarantees and eliminate the -- that would be something we'd support. Hard thing to do, but in the end, may be better off for our residents.

MS. FOX: And just one last comment, that does mean, though, that there are some communities that will be paying more than they're paying now and other communities that are paying less than what they're paying now because it's all going into one big bucket and then being distributed.

MR. ROSENZWEIG: Sales tax versus CST, so --

MS. FOX: They'll be donors and they'll be receivers in this case.

MR. RESNICK: Under this scenario, I mean, just to chime in, sorry about this, testing the alarms in our building, so sorry for the noise. But the -- I mean, there would be people obviously not using these services that are paying, basically, tax on these services. So I mean, from a policy perspective -- first of all, I don't think the legislature is in a very good mind to increase sales. But that's a whole different story. And based on the constitutional amendments that the legislature placed on the ballot, it doesn't seem like they want to tax out-of-state residents for services that are used for in-state residents. But that's a whole -- those are different policy issues.

I think the devil would be in the details of the distribution. Because as the counties just have said, they want to make sure that it's revenue neutral per each count. And I'm sure the cities would feel the same way, so -- I don't know how that would be administered.

MR. STRANBURG: Any other questions for Bob? Thank you, Bob. Appreciate the work you and your staff have done in putting this information together.

Another follow-up item that I'm going to ask Davin if he would talk about the information he passed out this morning. If you could give us a --

MR. SUGGS: Two minutes and then -- I think at the end of the last one, Mayor Resnick asked me to look at sort of local government revenues. And in the two weeks, I just did a real high level -- I just went into the Census Bureau where they have some revenue expenditure data. It's very high level. I didn't drill it down too far.

If you look at the first page, it just -- and the local government in this aspects, are counties, cities, schools, special districts, that type of thing. It looks at general revenues. Looks at revenues of local governments. And I just put on there the US and I took a cluster of states in the southeast with Florida out there. The first page is total at a high level. I didn't break it down between general revenue, utility revenue and infrastructure.

And then if you go to the second page, if you look at -- it takes general revenue, but then it looks at a subset of inner governmental revenue and general revenue from all sources, which is sort of where we're hitting at in terms of when we talk about the discussion we just had versus -- option three versus option two, okay.

Option two that Bob went over, it would still be a home source revenue. Option three would -- that Bob went over, we would sort of be put into a dependent role. And just one thing that is unique where you highlighted the states in the southeast, the Florida local governments are the least dependent on intergovernmental revenue. Intergovernmental, that's state and federal revenue to local governments. So, compare it to the states that --

And then the last one, I just drilled down a little bit further in terms of local government revenue. In this sort of breakdown the home source category, we look at the split between taxes and then pretty much the local -- you have taxes and then you have charges for fees, charges for services and fees and miscellaneous stuff -- Florida we're about 55, 45. But you sort of see the breakdown nationally is about 63, 36. But you see the other places in the region.

And then a couple that I highlighted, when you look at the taxes, I mean, we look at our dependence on property tax. Which I mean, we -- we live here, we deal with it. And a lot of that $28 million between the cities, counties. Schools are probably close to half of that. And then counties probably about 8.5, 9. Probably about 8.5 billion. And then you got a little piece for the cities and the special districts. But then in the sales tax and sales -- general sales tax and selective -- sales taxes, were probably the same for us. Then you can see how we compare across the southeast. And that's how --

Mayor Resnick, I guess either I or Andrea will mail you a copy. I'll give you an electronic copy.

MS. MORELAND: Mayor Resnick, this is Andrea. We did e-mail a copy to you just this morning. Were you able to receive it?

MR. RESNICK: Sorry, I'm -- is this the same chart that he has on the screen?

MR. STRANBURG: Yes.

MS. MORELAND: Yes.

MR. RESNICK: So you're looking -- this is for all local governments in the state just showing the total revenues and the division of different revenue sources?

MR. SUGGS: Right. What I -- if we want to go further, I can continue to try to drill down. It just -- with local governments, trying to get all the information in one place quick and fast, it's sort of -- you can get it at a high level like this from the Census Bureau and you have to start calling and going sort of jurisdiction by jurisdiction. So -- if you want to get into concrete examples of like other income or other taxes, if there's something unique that local governments have in another state that's authorized by statute that we don't have, we can try to -- I mean, if we want to go that route, we can continue to work and try to drill down further to see --

I mean, like at the high level you see, in our region there flows the lot of local income tax or a lot of local corporate tax. If we start looking out across the nation, some municipalities from counties have the ability to do local income taxes, local corporate income taxes, commuter taxes, that type of thing. I don't think they're necessarily applying for it for this region, but those options are out there.

MR. RESNICK: All right.

MR. STRANBURG: Any other questions for Davin? Thank you, Davin.

One other thing, too, that you would note in your materials, we got some information that Kathleen submitted. Kathleen, do you have anything you'd like to say about those couple of items?

MS. KITTRICK: No, I think this is -- the graphic is just an example of the sourcing issues that are related to digital goods. We discussed it at the last meeting. I don't know if any of you've got any questions about it, but -- it's the example I gave at the last meeting. Just that digital goods, the transactions occur across state lines and, you know, different states take different views on how those transactions should be taxed. And the federal framework, basically, just sets up a hierarchy that says that the transactions should be taxed at the customer's address. So you don't have multiple states claiming revenue from that transaction at the same time.

MR. RESNICK: What's the status of this bill?

MS. KITTRICK: Well, you know, if anybody had a crystal ball with --

MR. RESNICK: Like the status of any bill in Congress.

MS. KITTRICK: Right. I think there is hope that potentially, you know, it might look good for the House, but I don't know.

MR. DUDLEY: I think the point I tried to make earlier is what the bill does if you -- finally the bill clarifies that states are not allowed to add discriminatory tax to digital goods. That's what I was getting at earlier. If you were able to adopt a sales tax approach instead of CST, you're, in all likelihood, going to be more compliant down the road to whatever the federal government ends up doing, if they do anything at all. I'm not promising --

MS. KITTRICK: I think one of the concerns again about, you know, the CST versus the sales tax, you know, you can have an iTouch, an iPod, if you will, and download music to that iTouch over your Wi-Fi, and just maybe pay sales tax. But if downloaded the same song on your iPhone, that is -- you know, has service provided by AT&T or Verizon or T-Mobile, you would be subject to the CST. So, you know, you don't want to have a discriminatory tax on a transaction that could occur multiple ways, which is why the sales tax is the way to go for digital goods and services. That's why we're pushing federal --

MR. RESNICK: How would that change under this bill if it became -- in terms of the tax on that type of transaction?

MS. KITTRICK: Right, if you can -- you know, we had everything under the sales tax, digital goods and services could be taxed under the sales tax. Assuming that -- I mean, ideally, we'd love to see the federal framework in place, but to the extent that we work on sourcing issues, I think it would be, you know, in the -- be in line with being in the base.

MR. STRANBURG: Any other questions for Kathleen? Davin?

MR. SUGGS: I have a question for Bob. We talked about this at the --

MR. STRANBURG: Anything else for Kathleen?

You have a follow-up question for some of the stuff Bob talked about earlier?

MR. SUGGS: This just hit me.

MR. STRANBURG: Bob, if you won't mind coming back up here. And for those of you here in the room, we do have some additional copies of, I think, Davin's handout that he brought this morning. They are over on the side counter if anyone hasn't gotten one already.

MR. SUGGS: Bob, I don't think this is too difficult, but like maybe for this afternoon, think about two and three, like you generate the .34 number in option number three to replace everything, I just want you to shift that number for just replacing the state portion. Assume we did a combination of two and three, the locals got our additional discretionary whatever to take us out of the game and then you replace the state CST by -- statewide sales tax. Do you understand what I'm saying?

MR. McKEE: I think what you're asking, Davin --

MR. ROSENZWEIG: Isn't that the difference right here, the .25?

MR. McKEE: -- if the state portion were replaced, meaning state gross receipts portion was replaced with a statewide sales tax rate and then the local was replaced with the local option; is that correct?

MR. SUGGS: Correct. We still do away with CST at every level, but --

MR. McKEE: Alan, for the state portion, you are correct, that the difference between the two analyses should point to the state portion. Where it's going to differ is on the local option rates. Because I talked about earlier, where we did the local discretionary surcharge option, we didn't expand the base to have the CST transactions become taxable in sales tax. So the rates would be a little bit lower than what they are in the local analysis currently. I wouldn't expect fundamental changes given the size difference of the basis that the CST base is, I think 16 billion, and the sales tax base is 341 million -- billion. So I wouldn't expect there to be, you know, substantial difference in rates given that it's -- you know, that base is less than 5 percent of the --

MR. SUGGS: Okay. Change -- can we assume that --

MR. McKEE: The rates necessary to replace the local option would be lower, but I would expect they wouldn't be lower more than probably around 5 percent.

MS. KITTRICK: Going back to the earlier discussion on the DBS side, they would only be under the sales tax at the state level, they would not be under the local sales tax.

MR. STRANBURG: Right. Right.

MR. SMITH: We're okay about that.

MS. KITTRICK: Yeah, I know. But I would imagine that Charlie and his group would not be, because they're paying both the state and the local portion.

MR. McKEE: I mean, of the -- the local discretionary -- the amount of the additional -- the state CST on direct-to-home satellite that gets distributed to locals is about -- is in the estimate for '13-14, is 56 million. The total locals, 750 million. So, you know, it's roughly 7 percent of that.

So, you know, yeah, there would be some offsets and things if we assumed that the CST base -- sales tax base expanded but the local option base did not expand by the direct-to-home satellite portion. So there would be some offsetting pieces. The base would be bigger, but it wouldn't be quite as big. And replacement revenues would -- assuming that those revenues would still get replaced for locals on that bigger, but albeit not quite as big base. So that --

MR. RESNICK: Bob, do you maintain the -- does DOR maintain the distribution records of actually which local government gets what revenue from DBS tax -- from the tax on DBS now?

MR. McKEE: The amount that gets distributed to fiscally constrained counties, I think is readily available and should be separately identified in a couple different places on our website. I'd have to check on the -- distributed as part of the half cent, whether those numbers are --

MR. RESNICK: I guess a different question, does DOR actually do that distribution, or which agency does that distribution?

MR. McKEE: We make that distribution.

MR. RESNICK: You would have exactly what is distributed to each local government in Florida based on that tax?

MR. McKEE: Yeah. The DBS that goes in the fiscally constrained, yes, we have that readily available. And I would expect that we have records of how much gets distributed through the half cent. Because it gets distributed based upon, I believe, it's the prior year's percentage shares in the half cent distribution. So a calculation has to be made each month in distributing out those revenues based upon the prior year distribution. So I expect that that information is available. I just don't -- I'm not sure I can point to it on our website, or I don't have it currently, but I expect that we have that information.

MR. RESNICK: I mean, I think it would be interesting for us just to see how that is working out, so if you could provide that, you know, not for this meeting, but for another future meeting.

MR. McKEE: Do you know how far back you'd like us to go?

MR. RESNICK: Not far back. I mean, I was thinking last fiscal year.

MR. McKEE: I mean, essentially for all jurisdiction, it's going to be in proportion to their prior year's distribution out of the half cent, but we can work to get those numbers.

MR. RESNICK: I wanted to go back to some of the other charts you put up on the prepaid. Did you do a calculation -- and maybe I missed this -- as to what the -- if we converted to a sales tax on just prepaid, as to what the sales tax on prepaid would need to be to offset the CST, the total CST on prepaid?

MR. McKEE: Mr. Mayor, I'm not sure I follow the question.

MR. RESNICK: Okay. You know how you came up with the 6.34 to new sales tax rate to replace the entire CST on all services, did you look at creating a sales tax rate on prepaid to replace the forecasted CST revenue on prepaid services? We can talk about the reason for doing that, but I don't know if you did that or not.

MR. LINDSEY: Gary, I think we didn't do that just because the retailers said that that was -- a percentage was something that would not work and that they could conceivably work with a flat rate. So I think we may not have even asked for that.

MR. McKEE: I think, Mr. Mayor, to the extent that any CST is currently a part of either the base or the forecast for CST, that they would be included in replacement revenues, to the extent that they're currently within the base or revenues on sales tax, they would be a part of the base calculation for sales tax.

What we did not do is sort of the question that Ms. Fox asked earlier, we did not calculate any additional revenues beyond what are the current forecasts -- gross receipts and local revenues for CST. So we did not put anything additional for what could be described as, theoretically, a gap with respect to prepaid. We did not add any additional revenues in there.

MR. DUDLEY: Bob, is the residential exemption still at that 6.34?

MR. McKEE: I think implicitly it is because we took the current forecast revenues. But we did not include the amount from paying it. So it was essentially built in, but would be spread across all users. The benefit would be spread across all users whether than specific to residential in the analysis we did.

MR. DUDLEY: Thanks.

MR. STRANBURG: Bob, maybe getting back to what Mayor Resnick was asking, just so I may be understanding it. What I thought he was asking is what would be the amount that was the -- if I'm understanding, again, what Sharon was asking, the difference between what may be collected today on prepaid and sales tax, but what arguably someone might say should have been collected instead of communication services tax. I don't think we have any idea what that number would be so that you could then calculate off what you would have to then do to adjust the sales tax rate to now capture that off in sales tax rather than as what's uncaptured now as communication services tax.

MR. McKEE: In an effort, I guess, to respond to that question, what we did before on prepaid was not a gap analysis. It was essentially a magnitude, if -- starting with the supposition, if all of it were taxable for CST, looking at the indicator on the services, what would the magnitude of that be. And didn't look at whether some portion of it might be coming in the CST today or whether some portion of it might be coming in as sales tax today. Just looked at the magnitude.

I think the question -- this is why I asked for the clarification from the Mayor. I think the way I heard the question was what would the rate need to be specifically on prepaid as a sales tax to replace all of what might be CST, arguably CST revenues specifically to prepaid if that's a scenario. I mean --

MR. RESNICK: Right. Yeah.

MR. McKEE: Essentially --

MR. RESNICK: -- hypothetically, you know, just a flat fee of 50 cents and then I don't know what the other flat fee was. But instead of -- and I don't know how we -- could impose a flat fee on a particular product as opposed to a tax rate. I don't know how they can do that, but they can't do the tax rate. But looking at what we need to raise the sales tax to make it a sales tax on prepaid which, you know, as Kathleen indicated, is what she's recommending as opposed to charging the CST on prepaid.

MR. McKEE: If it were just on prepaid, it would -- I mean, it would be essentially the effective rate statewide on local which is about just a little bit higher than 5 and would be then the 6.65 and 2.52 so -- for local. So would approximate the effective rate statewide for CST. If we were talking about just a rate of sales tax on prepaid and generate the prepaid revenues, not a sales tax that would expand to other goods and services, other items taxable for sales tax.

MR. LINDSEY: But I think we did mention earlier that if you were to go back in and look at the 6.34, if we were to see what would that need to be to take into account the fact that we didn't include that number in the projection, that it would be a fairly -- it would be another point something, .00 something, it might be .65 or .346 or something.

MR. McKEE: I'm not sure I follow, Mr. Lindsey.

MR. LINDSEY: Well, if I remember correctly in the scenario three and scenario two where you went through and picked up gross -- you know, the current communication services tax being collected, that's what's currently being collected. It did not include the gap -- an estimated gap on the prepaid. So if you included that instead of the implied base, you know, it would have been slightly higher if you included that gap.

MR. McKEE: Going back and looking at the analysis on prepaid, this is without getting into any sort of -- how are things coming in today -- at the middle scenario local revenues at 5.04 in '12-13 were estimated to be about $156 million, the magnitude. And so compared to 6 -- 750 in local revenues, you know, it's roughly -- what would that make it? 20 percent. So it would -- you know, when you look at the replacement revenues, it's important to recognize that you, essentially, don't have to replace most of the state sales tax. Because it would come within the state sales tax rate. So you're only replacing those revenues that really are differential between the 6.65 percent state portion of the sales tax and the 6 percent current state sales tax rate. So you're only replacing a small portion of the state sales tax. You're replacing about 400 million in gross receipts and 750 million in local.

So, you know, if you add another 250 on top of it, it probably -- it would not be an insignificant adjustment to this rate. I would expect it to at least be around a tenth of a percent, I would expect, just doing the quick math in my head.

MR. SUGGS: Almost a half cent -- start approaching --

MR. McKEE: It would be higher than the .34 estimate.

MR. STRANBURG: Mayor, did you have something you wanted to ask?

MR. RESNICK: Just from a -- I don't know how the sales tax actually works, but with respect to the services from retailers, when retailers purchase the prepaid products from the vendor, whoever they are, do they pay the sales tax at that point to the -- as part of that transaction?

MR. McKEE: Sales for resale are not a part of the current CST base.

MR. RESNICK: Not CST, sales tax.

MR. McKEE: For the sales tax base. It's not part of the sales tax base. Sale for resale to prevent it is not taxable to prevent pyramiding.

MR. RESNICK: So a retail -- any product, right, so a retailer -- you know if a drug store buys cosmetics from the vendor to resale to consumers, they don't pay the sales tax on that transaction to the vendor, they just -- they charge the sales tax to the ultimate consumer?

MR. McKEE: That is correct.

MR. RESNICK: Okay.

MR. STRANBURG: Thanks again, Bob. We appreciate that. One question real quick and then you stand between us and our break, Davin.

MR. SUGGS: When is REC redoing the GR --

MR. McKEE: The current schedule just got posted for our conference schedule. I believe November the 16th is the gross receipts CST conference and December 14th is the general revenue conference. And a lot of that is going to be kicked off with the national economic, is next Friday. You know, we've got to figure out what we're going to do with the national scenario and fiscal for that.

MR. SUGGS: My only point is some of the numbers are going -- stuff you're going to be redoing twice before session, so no matter how things look at the lower half --

MR. McKEE: Yes. These are all based upon current fiscal estimates. So if the estimates change, this analysis would change.

MR. SUGGS: Okay.

MR. McKEE: And ultimately the legislation would go to the revenue estimating conference; they produce official forecast. We perform analyses.

MR. SUGGS: Just would like to roll with what you got.

MR. STRANBURG: Thanks again, Bob. Let's go ahead and take our morning break and we'll reconvene at 10:45.

(Brief recess.)

MR. STRANBURG: If everybody would please take a seat, we'll get started again.

Okay. Before we get started working again on our options, which is agenda item three, I just want to point out to everyone, we had received one additional submission. We got that in from Alan this week. And, Alan, I don't know if you want to make any comments about that briefly or --

MR. ROSENZWEIG: No.

MR. STRANBURG: -- if you just want us to note that it really -- just Leon County is supporting, in essence, the submission of the League of Counties -- sorry, Association of Counties.

Okay. We will pick up now running through the options like we had started it at our last meeting working through them. We have Jeff Stachnik from the Department here to act as the facilitator if need be. So please, if you need to call on Jeff, we'll call on him to help us through this process. But we had -- we were working on the -- you've got your list in your materials under options. We had worked through part A of the options concerning streamlining the administrative system. And we were down to those options that we had captured under point B. And we'll start working with those.

The first one is the submission, an option concerning having customer bills indicate whether a tax or fee is government imposed. I don't know if Mayor Resnick is here, if he wants to add anything more to talk about that option that he submitted.

MR. RESNICK: I'm back on if people have any questions.

MR. SMITH: Maybe you could -- this is Brian, maybe you could address kind of what your driver is. I'm not sure -- whenever we make a change to our systems, we're looking for, you know, customer clarity. What's your driver?

MR. RESNICK: Well, I think there are -- well, there are certain phone companies for the most part that have some charges on their bills that indicate or imply that there's some type of government charge, but in actuality, it's really just a company charge. I think there's some federal agencies looking into that now. And I'm not sure if the Florida -- is looking into that or not, but I get questions all the time from residents as to what a charge is on a phone bill that's actually the company charges, has nothing do with the -- any government fee.

MR. LINDSEY: I think the industry has done a lot of, I guess, self-evaluation in that respect. And you know, it's also -- a lot of this is driven by customer demand as well. I think companies do try to go over a lot of effort to, you know, have a taxes and fees issue section that show the taxes imposed on the customer and then show other charges that might be surcharges or other fees. Customer bills are very complex. But I know the industry has made efforts to --

MR. RESNICK: I think that's part of it. I mean, I think if we can -- you know, part of our task, I think is to recommend changes to make the taxes and fees for -- simplistic and understandable for consumers. Some of the, maybe not clear language used on bills by some of the providers should be legislatively prohibited to make it easier for consumers to understand exactly what the taxes and fees are.

MR. SMITH: So I have a question, and I don't know how it works in Florida, is this a public utilities issue or is this a DOR issue?

MR. RESNICK: I don't -- I don't know. I know they do not have jurisdiction at all over VoIP service, so they can't do anything with respect to the bills for VoIP. I don't know if they have jurisdiction with respect to plain old telephone service bills or not.

MR. DUDLEY: Nope.

MS. KITTRICK: No.

MR. RESNICK: So the answer is no.

MR. DUDLEY: I'm not familiar --

MR. RESNICK: Should be legislative issues.

MR. DUDLEY: I'm not familiar, Gary -- it's Charlie -- I'm not familiar with any state laws or regulations applicable to I certificate entity under Chapter 364 or a 6-10 certificate under the video law either. I'm not aware of any laws or regulations on customer bills.

MS. KITTRICK: There are some --

MR. RESNICK: So my recommendation then, for an option to the legislature, would be to either give the PSC jurisdiction to review and, I guess, address issues with billing, with customer bills, to ensure that company charges are not somehow implied or reflected as government fees and taxes, or just generally to review consumer billing by VoIP and communication providers.

MR. DUDLEY: It may be federally preempted and there are some federal rules.

MR. RESNICK: It's not preempted.

MR. DUDLEY: I don't know, Gary.

MS. KITTRICK: There are some -- you know, there has been litigation in the past about what companies can put on their bills. And I think that -- I know from the perspective of the wireless industry, there was a settlement maybe five or six years ago with the attorney generals in the states, and all the wireless carriers basically agreed to a compact with the wireless association that indicates very clearly on a customer's bill what are taxes, fees and surcharges -- tax and fees by a government and surcharges by a company. They're two separate sections of a customer's bill. I know Verizon follows that. And Verizon Wireless follows that same sort of methodology. I think there have been other cases of litigation where states have said we're going to -- you know, we're going to pass a tax and you cannot put it on a customer's bill. And in those cases, we've litigated -- companies have litigated, not just Verizon, but companies have litigated and said that's a First -- amendment issue and the courts have agreed.

So there has been, I think, a lot of discussion about truth in billing. I would, you know, suggest strongly sort of steer away from that. Because I think for the most part, companies are doing it right or they're hearing about it from their customers.

MR. RESNICK: Well, you know, I appreciate that. I would just, again, my recommended option that I would like included in the report is to recommend the legislature give the PSC jurisdiction over this issue. And if it's not constitutional or violates federal law, you know, whoever -- Florida Statute on that. But it is -- you know, I'm sorry, Kathleen, but I have to disagree with you. I hear all the time from residents. And I, myself, am confused when I get bills. I don't know, specifically, if it's the wireless industry or the wire line industry or what industry it is, but it seems to be more and more of a problem, especially as services get more complicated.

You know, frankly, I think industry is looking at more and more ways to hide company charges as something that's mandated by the FEC or state, local government. And I love the fact that the Florida Statute now requires that the local state CST be plainly stated on the bill because then I think it is very clear and people know exactly what those taxes are. So I would want to basically echo what you said. I would just make sure that there's most transparency and truth in billing as possible and that should be regulated by the PSC.

Actually, I feel very strongly that this option be listed as one of the options in the report.

MR. STRANBURG: Any other discussion on this option?

Okay. The second option was one that the Department submitted concerning specifying consequences that result in customers are not provided a breakdown and that goes a little bit along with what we were just talking about. You know, is there a need to provide some type of incentive? I think maybe what you're talking about, Mayor, that may capture what we put, kind of, forth in the option. So maybe if we -- we might work on maybe consolidating these two in the water or depending upon how we come up with the language for the option, your option, Mayor, might be able to just take this one off the table and have it included as part of that.

MR. RESNICK: I'm sorry, Marshall, which one are you suggesting come off?

MR. STRANBURG: B2. Because I think that pretty much goes along with what we were just talking about with your option in B1. So I think we can either -- feel as though depending on how we word that option, cover the concept we were putting out there for consideration as part of the -- you know, the requirement of specifying whether something is a government fee or not. Because we would hear complaints or questions about, you know, well, is this attached? Is this a fee? Is this a past due charge? What is it? And if -- is there any incentive there or any disincentive for a company to do that or not to do that? Again, trying to provide greater transparency to customers about what the various charges on their bills concern.

MR. RESNICK: Okay. All right.

MR. DUDLEY: I think -- just for the record. Our perspective is that our bills conform with what they're required to be under state law and -- state and sales tax portion of the CST and the sales tax and, you know, we do deal with customers who have questions about the bill over the phone. Sometimes we spend more time with some than others and, you know, we work through those things. If a customer's not happy with the bill, I'm sure someone will leave us and go with other carriers. So we have that incentive to take care of those customers to explain their bill and comply with what law are out there at the federal level. So I don't think -- from my perspective, I don't -- this is just an area of regulation that I don't see is necessary, but I understand it may be listed as options because some people --

MR. STRANBURG: Okay. Anything else on B2? All right. B3.

MR. RESNICK: Can you put up what you're looking at? Okay. I got it. The chart that you're currently referring to now as B1, B2, B3; that's the chart that's currently on the screen now?

MR. STRANBURG: Yes, the potential options, yes. Uh-huh.

MR. RESNICK: Okay. Great.

MR. STRANBURG: B3 was an idea we had at the Department on bills allowing a further breakdown of that state portion of the bill into what would be the state sales tax and the gross receipts tax. Again, we occasionally get questions at the Department about what are the various charges for. This just added another level of information that we'd have available for consumers as well as --

Any --

MR. RESNICK: Marshall, how would it be further broken down?

MR. STRANBURG: Again, it -- and again, I don't have a bill right in front of me, but I think a lot of times you will see there are two lines, one is a state tax line and one is a local tax line on a communication service provider's bill.

What we're just saying is could there be an option on that state line. And again, that would be an option of the provider, it wouldn't be necessarily mandated, but they could break that down and say this -- actually this is the state sales tax, this is the state gross receipts tax, this is the local communication services tax that are part of your bill. So instead of two lines for taxes, there would be an option provided for -- again, this would be an option for provider who wished to do that, they would have that ability to break it out into three lines instead of two lines.

MR. RESNICK: I mean, it goes along with my goal of having the greatest transparency, if possible, in regulation of that by -- I think the PSC would be the appropriate entity to regulate that. The DOR doesn't regulate that aspect of the billing, right?

MR. STRANBURG: That is correct.

MR. RESNICK: And so I would include that the regulation on this should be by the PSC.

MR. STRANBURG: Again, I just want to clarify because I made that initially talking about B3 give it a misleading impression, that this would not be something that would be required to do. This would just be an option that would be available to providers because there is some question about whether they have the ability to do that state breakdown on their bills into the sales tax and gross receipts tax component, or whether they're just supposed to include what that combined sales tax and gross receipt amount is.

MR. RESNICK: Well, I think I would want to actually, basically, give the PSC authority to instead of actually just requiring it or allowing it in the statute, I would want to give the PSC authority to issue rules regarding that to regulate it. Because that way then if there's any kind of inaccurate information conveyed in the third or fourth line on bills, the PSC would be in a position to deal with that.

MR. STRANBURG: Okay. Anything else on B3?

B4, create a requirement that when requested by the customers or the Department, providers would be required to provide a breakdown of bundled service. You know, this is something that we get a lot of questions on at the Department even though, as Charlie indicated, they may spend a lot of time with their customers explaining bills, we get a lot of calls from customers, trying to work with them to say, well, how come my $100 charge, I'm getting this amount of tax imposed upon me. They don't know what of those bundled charges are taxable charges or not taxable charges.

Again, trying to provide some transparency, not only to the Department, but to the customers. So that when somebody comes to us with a bill and asks us, was the right amount of tax being charged on a bundled transaction, we don't have any way of doing it, we're having to follow up after the fact rather than having that information up front to be able to tell a customer, yes, it appears that the right amount of tax is being charged. Or for the customers to know, you know, what my services are and what are the charges for the taxable, what are the charges for non-taxable services.

MR. SMITH: So, Marshall, on this, I think we need to go down to C1, because, you know, what you're asking is us to rely on some further level of detail in our books and records associated with the transaction. And then C1 says we want to reverse the 2012 law changes on books and records when determining sales price. So the local wants to change the reliance on books and records, yet for clarity, you want us to go to our books and records to kind of provide detail about transactions.

So is there a reconciliation between these two requests? Because I think that was kind of the purpose of allowing companies to use their books and records is that somewhere, not on the customer's bill, because you want to keep it simple, want to keep it understandable as possible, that somewhere behind the bill, we can keep track of things like that. So, I'm kind of caught between those two requests.

MR. STRANBURG: I don't know, Brian, that I'd say it's caught between. How I would look at that is these are probably two different requests. One, as you say, is to maybe take a step back under C1 and not go along with the 2012 law change, go back to the way things were previously. And then I think our suggestion or our option encompasses that 2012 law change will remain in effect, but just adds additional transparency to say if you're able to break the charges out on your books and records, is it that more complicated and complex to break them out on a bill?

Because when you're getting that money in, you've got to be able to book that money under some system to know that these are the charges for taxable and nontaxable services, why can't you do that on a bill as well as when you get the money in to be able to break it out earlier so that again, transparency for the customer and also transparency for us as an administrator to know that when we get those question -- because we do get the questions, am I being charged the right amount of sales tax for communication services tax or whatever might be on the bill that we can tell people, yes, because you have that break out of here's what in that bundle is being called the charge that is applied to the taxable service and the part of the charge that's being applied to a nontaxable service.

MR. SMITH: So -- and I'm sensitive to this issue because we just spent eight months redesigning our bill to take stuff off of it, to take details out of it to make it simple for the customer to understand. So, maybe the compromise is somewhere in that if the customer wants nauseating detail, that it's available to them to request or go online and see it like on an electronic system somehow. Because if you start requiring us to put into the mail, you know, a 43-page phone bill, sorry, guys --

MS. KITTRICK: No, I --

MR. SMITH: You know, we're trying to get it to where -- we're trying to get ours down to two pages and they don't have to look at the second page. They only have to look above the fold in the first page. It's kind of that old newsprint idea, you wanted the story above the fold so people actually see it and pay attention to it. That, you know, then, you know below the fold in section three on page eight. So if there's some compromise that there's a detail available to them that doesn't have to be sent to them every month.

MS. KITTRICK: I mean, you know, the issue for us is that we have, you know, operations of 50 states and we have, you know, very complex billing systems. I mean, numerous complex billing systems. It's not exactly one billing system where you just change a few things, you know, in the program and it shoots out whatever you want it to. It's really complex. You know, ridiculously cumbersome. And as Brian said, you know, I think most companies are trying to make the billing easier.

You're making -- you know, we're offering paperless billing, monthly statements online. I mean, we're not even sending bills to the majority of our customers anymore. We're just doing things online. You know, this seems, you know, sort of a step back in time that, you know, would be very cumbersome and we'd have to apply it to all 50 states. It would be tough.

MR. STRANBURG: And I think to -- what Brian indicated and what you're saying, Kathleen, you know, again, I think we characterize this to say when requested. Again, it wouldn't have to be something you do all the time, but it would be something that's readily available when requested.

And as you indicated, Brian, maybe there is a way which you could say, you know, if somebody wants to know this, it's readily available at here, at a website. It's readily available by calling or talking to someone, having a designated point of contact where that point of information could be obtained, whether it's by a customer or whether it's by the Department, I think that's something that's workable, definitely.

MR. LINDSEY: Marshall, I think we can revisit -- there's already a structure in place for that in the wireless industry, Public Law 106.252, federal law which has also been adopted by the state that provides for the ability for the customer to request information on bundling if the carrier provides. And that's actually included in streamline language. So we can probably look to that as a model for how that's done. And certainly that's got to be produced during an audit.

The other issue is that -- and I think we talked a little bit about this when we talked about bundling was that, you know, some of this is proprietary because it's got pricing information, some details. So it would be available to the customer on an as-requested basis and in a confidential audit. Because if it were out on a website or publically available, everybody can go reverse engineer everybody else's pricing. So, you know, I think we can look at probably in the streamline language and also over in the area -- I can't remember what section of the law it is that deals with the bundling the wireless. And we can probably see that language that we're probably looking for.

MR. RESNICK: Marshall, can I just chime in again? As we're going through this, seems like we're getting into minute details of regulating billing, consumer billing of these services that really, you know, it's too much detail to put into a Florida Statute. It's obviously not within the -- of DOR to do this because it -- DOR doesn't have any expertise in consumer issues. You know, the more I'm thinking about this and the comments of the other panel -- work group members, just seems that we should basically turn -- the recommendation that we turn over consumer billing to the PSC with some direction that goes along with the things that we're talking about in terms of increased transparency, clear breakdown of access and government fees, some of the other breakdown of bundled services upon request of consumer, and basically require the PSC to adopt rules and regulations to increase transparency and consumer protection. I mean, they're the agency that has that expertise and is basically set up under Florida law to already do that. And right now -- they don't have jurisdiction to do that, so I would actually revise my options to change that to make that the option that we give the -- that we mandate that the PSC adopt rules and regulations for consumer billing transparencies and have them monitor that and implement that, those provisions -- enforcement authority. The customer calls up DOR and says, I have a question about my bill, I'm not getting accurate information from the provider, DOR has no enforcement authority with respect to that.

MR. DUDLEY: I appreciate Gary's position; you know, mine's opposite. My personal position would be great for my law practice what Gary is describing, but for my --

MR. RESNICK: That's why I came up with it, Charlie.

MR. DUDLEY: Yeah. From my client's perspective in the world that we work and live in, if we don't satisfy a customer on the phone, we've got a problem. And it's a bigger problem than any government rule or regulation can ever solve because we lose the customer. Or in the case of a DOR audit where he can't substantiate with our books and records, how we made reasonable allocations, we run the risk of not being able to recover a tax that we're allowed to recover from our customers. So I think the incentives are there. They're just much stronger incentives than any rule or regulation.

MR. RESNICK: Well, you know, with all due respect, I mean, I'm not saying that any particular company or industry is worse on it than others, but, you know, we're talking about a communications industry that's going through a tremendous amount of changes, new technology. You know, there's more than just three or four providers out there, there's hundreds of providers. And while, you know, I appreciate the folks at the table and their company's efforts to streamline their bills and to make the billing more transparent and to be very conscious of how they're treating their customers, you know, there are frankly a lot of providers out there that are serving a significant percentage of a residents in this state that don't do that and they will use billing in a way to fool their customers to charge -- to imposed charges that they may say are mandated by the state or federal law and are actually not. So that's why I think, you know, if you're seeing more and more providers pop up it's because the services are more reasonably created. So I think it's actually going to be something that's going to be greater need and not less need going forward.

MR. LINDSEY: Marshall, perhaps after lunch we could get the current bundling language that's in the Florida Statutes related to wireless. I think if we look at that, that gives kind of a -- I mean, that's the law currently for a wireless carrier and I think it pretty much mirrors what the streamline -- we can also look at the streamline language as far as the requirements that the carrier has if they're asked to receive unbundled -- information on the bundled package from the customer.

MR. STRANBURG: One other thing, too, again putting my tax administrator hat on, if you go back to the presentation that you heard a couple meetings ago about auditing, again, one of the concerns we have is we are auditing in the past. Sometimes it's very hard to find out information. And again, to the extent we can have that detail contemporaneously rather than going back and relying on books and records solely to be sure that the right things had tax collected on them and charged, right amounts are getting remitted to the state, fresh information is better for us than all old information. So again, this will, I think help us in trying to administer it. And I think as Charlie pointed out, maybe alleviate some of those problems where they've not been collecting something that they could have collected from their customers and instead of having three years worth of liability, we're getting that straightened out early on so that we're not putting a burden on the provider's back and making sure that the local governments are getting the money that they're entitled to sooner, rather than having to wait for it to come through an audit. So I think in some respects that I see this potentially as a win-win if we get it right. The question is to get it right.

MR. DUDLEY: And, you know, one idea, Marshall, and I throw this at you because you know more about the process than I do, maybe we need to be looking at procedures of the Department where again, that would be permissive that would allow providers to do some sort of presubmission of how they anticipate doing some -- so that the Department can take a look at that and give thoughts in terms of transparent -- audit.

The concern there is going to be, as someone referenced a few minutes ago, the confidentiality of some of that stuff is -- 213 protects where making a request through 202 or 212, I think -- redacting pages and take out all that stuff. Maybe there's a mechanism that we can place there that creates an opportunity for someone to come in and check what we're doing and get feedback on it. Make everyone a little more comfortable. It may exist under current law, I just --

MR. STRANBURG: Well, something that's not in current law that's a concept that you see in some other states with respect to sales tax is the idea of what they call managed compliance agreements.

And it's basically you come in and -- I'll very loosely characterize it, you kind of get preclearance. You say that as long as I have my systems set up this way and I follow my systems this way, I will collect under this. And you're allowed to go forward and collect on that basis, with a follow up in future years of -- you know, the taxing authority would come in and make sure that you are following the systems that you said you put in place. If you're doing it on some percentage basis, make sure that that percentage is still the accurate and correct percentage, if there needs to be adjustments to that.

So there are mechanisms that are there. I don't think there's any level of comfort to say that they're in existing communication services tax statutes that would give the authority to do something of that nature. But it is a concept, primarily in sales tax that you will see.

And I'm sure some of the industry people are probably familiar with those from other states that are dealing with sales tax on their products. A lot of times you'll see these also in -- on use tax on purchases -- company rather than on the sales level of the company. But I think it's possible you could look at it on the sales end as well as purchases.

Brian.

MR. SMITH: I mean, that's -- those are great ideas. California has something like that. And so we followed it, six years later it was -- so, it just -- you know, it kind of has to do with the spirit of -- you know, the partnership has to be followed for it to be effective, because I think I lost half of my hair in the State of California on this issue just because we did all this work with them and they -- it's like they're kind of -- so it's great and sometimes it just goes -- carried out --

MR. STRANBURG: B5 is pretty much again a recitation of some of the same things that we've been talking about, again the concept there rather than being a punitive situation, this is, is there some way to create some incentive to get that kind of information provided. And again, whether it could be through these mechanisms of like the compliance reporting agreements, are there other incentives that could be thought of to, again, get providers to give that information earlier on in the process rather than waiting for a review of books and records to find that out.

MR. RESNICK: Talking about an incentive to the customer -- or incentive to the provider?

MR. STRANBURG: To the provider. For the provider to provide that information concerning the breakdown of bundled services early on in the process rather than reliance on books and records. And again, as the revenue administrator, we come in and look at those as sort of a historical perspective of that. And again, is there a better way to do that to get that information in our hands earlier in the process, rather than solely through the audit process. And also give that initial transparency to customers as part of that as well.

MR. DUDLEY: I guess, Marshall, you were suggesting that other states have done something like that managed process that you were describing. And to Brian's point, is there a way to encourage people to take advantage of that by -- and I don't know what other states do this, but some provision that if you avail yourself of that managed process which, I guess some would say maybe give us more comfort of how bundled services are being handled, that the dealer gets involved in that managed to bring -- at audit maybe wouldn't face, you know, penalties, just face, you know just accurate penalties or interest on that. Face actual -- you know, just repayment of any other collection. In other words, there's an incentive for me to be in a managed portion because you clearly were trying to do it the right way. You may have messed up, you may owe because you undercollected, but you wouldn't face a penalty because you availed yourself of the -- I'm just trying to -- when you say the word "incentive," I'm trying to think through incentives.

MR. SMITH: So what we see most often is a waived penalty. If you participate in the program, pull -- contract, you know, 15 pages or so, waived penalties. And in some cases, reduced interest rate on payments. So it's a big incentive to management to sign up and put resources on it to get it done. And it keeps you current.

MR. STRANBURG: Okay. B6 concerns additional authority to share provider information with customers. This gets back to an earlier discussion we had again about when we start getting questions about whether the right amount of tax is provided on a bill. And we'd like to be able to have clear points of contact for providers to give us so that we can refer those people to the different companies so they can get the information from them. We don't have the information about why a certain amount of tax is charged on a provider's bill. We're having to rely on the companies -- the providers to give that level of detail. And quite honestly, we've had some providers that are very cooperative with us about that; others who are not very cooperative about that. And it puts us in a difficult situation to say, well, you need to talk to your provider about that, but we can't give them a clear point of contact to the provider. And they're feeling as though they're having to search the world over to find out who can discuss with them why this charge is on their bill, why the tax is this amount.

And even though, Charlie, you say a lot of times that you have that, some companies are very good at that and responsive to customers and don't want to lose customers because of that, there are other people who our experience has been they're not as eager and willing to help. And again, we're just wanting to be able to have that information on who customers need to talk to available with us so we can provide it when those questions come in.

MR. SMITH: So what's the mechanism for a company to make sure you have that information? I mean, we have a dedicated pipe that comes in the -- that's available to all our call centers and we make that available to the DOR just as easily. Who should we send it to? Put it in your call center locations so they could just direct people to it? How do you envision this? We have like an e-mail address for everything that's -- any customer, anybody that has a tax question can send --

MR. STRANBURG: I think that's what we would like. We would like that e-mail address, that phone number, that individual, that unit. Some designation of who we can refer folks to when we get that inquiry. Again, some companies like yours, satellite, they do a very good job with this. But there are some companies that again we, you know, we call up our contacts in the companies and say who do you want us to send billing questions and so forth about and we'll have to call you back on that and we don't hear back from them.

MR. SMITH: It's taxsupport@directTV.com.

MR. STRANBURG: Say that again.

MR. SMITH: Tax support -- T-A-X support@directTV.com.

MR. STRANBURG: Thanks, Brian.

MR. DUDLEY: I don't know, Marshall, if you do some sort of -- is there an annual communication between the Department and dealers? Or just I come in and register as a dealer, it's a one-time registration? I know periodically you sent out, you know, tips and stuff like that. I would venture to say -- I know that we do this with the Department of Agriculture who has a limited role in overseeing customer complaints on video. We provide them actual system-level contacts or a central contact for an attempt to resolve a customer complaint so that it doesn't, you know, become a problem for the agency or opportunity for us to know that at some level our customer service people have failed this particular customer; we have a way of trying to keep track of that. I'm not saying we're perfect in doing it, but I venture to say as Brian said, most of -- would be willing to have a person and/or a regional person that would be a resource to the Department in helping to work through those issues. So I don't know if there's a -- maybe something we can talk about.

MR. STRANBURG: Okay. And again, the downside of that, Charlie, is again our experience has been you've got some providers that --

MR. DUDLEY: I understand.

MR. STRANBURG: -- some of the people here at the table are very good about that, you have other providers, though, that are not.

MR. DUDLEY: Right.

MR. STRANBURG: Right now they have no incentive or no sanction for giving us that information. So we're just trying to see, is there some way, again, that we could develop that kind of -- I don't want to say requirement, but maybe that's the easiest way to characterizes it, that that information does come to us so we can provide that.

MR. DUDLEY: Unfortunately, every year that half the legislation is filed as a result of bad actors in particular. The industry -- doing something if it wasn't for the bad actors, people wouldn't be asking to change the law.

MR. STRANBURG: And then B7. Anything else on B6 then?

If not, B7 was just a point to clarify the use tax obligation that we have if there is not tax being collected on the element of that bundled service for taxes due that consumers have a use tax obligation.

MR. DUDLEY: Can you give me an example?

MR. STRANBURG: I think if I probably try to give you an example, I'm going to cross into that great discussion of whether certain charges are subject to CST or subject to sales tax. And whether -- if there is some uncertainty about whether, again, I've been charged the right amount of tax, whether it's CST, whether it's sales tax, whether no tax has been charged on that, should I be paying my use tax in a streaming video, maybe that's an example. You know, is that something that is subject to CST or not subject to CST? And if I'm buying streaming video along with other product --

MR. DUDLEY: Okay. Well, if I can, if I'm a dealer who's selling a bundled offering voice data and my customer is doing something over the Internet exempt piece and ordering or subscribing to additional goods or a taxable -- and I'm not sure I'm really aware of what they're doing, I'm -- zero across the network. I may know about bandwidth, that, boy, that's a big file or that's a big -- they're watching TV, I don't know. I'm just trying to figure out what obligation are you putting on the dealer --

MS. KITTRICK: We're not billing for that service necessarily. We're provide -- it's over the top. So we have no nexus with the financial transaction. You know, if they're going through Hulu, they're going through Hulu. They're riding our network and going to Hulu, but we are not dealing with Hulu, they are. So I don't know how we would know how to --

MR. LINDSEY: I thought this was something that you were saying that DOR would do as an advisory to the public to say, you know, the same way that you might say if you're buying some from Lands' End and having it ship, you may owe use tax. Something like if you're downloading whatever, you may owe use tax. I was taking it to mean something like that.

MR. STRANBURG: I think that's more what we are talking about than what Charlie and Kathleen were talking about, yes.

Again, I think some of this, as Gary points out, is that same issue with the tax on remote sales. You know, if the sales tax is not charged, does the customer have a use tax obligation. There's similar language in communication services tax. Again, if you as a customer are not charged a communication services tax on your service, there's use tax obligations.

MR. LINDSEY: You could use major league baseball as an example, I think, right?

MR. RESNICK: Marshall, what would you recommend with respect to that? Would there be a statutory requirement that DOR provide consumer information on that? I'm not sure what you're asking the legislature to do.

MR. STRANBURG: Let's let Bob explain it a little bit better because he's got a little more detail on this.

MR. McKEE: Well, you know, sometimes these things operate like they're -- discussions. I revealed before for the task force that I did pay CST use tax on Amazon Prime and on my major league baseball. Because as part of my Amazon Prime, I get stream video. I had a conversation with our technical assistance dispute resolution unit about once the unbundling provision passed, the next time I file that on my Amazon Prime, do I get to unbundle based on my books and records what my Amazon Prime portion is that I use for streaming video compared to what I use for discounted -- to pay for shipping costs and other things. Do I get to unbundle those portions? My recollection on that is that the -- when you look at the unbundling provision, it's specific to providers. And I'm not a provider in that instance. So I would have, you know, a potential use tax obligation beyond what might be taxable where it's unbundled by the provider. So I think that's one example.

MR. RESNICK: I'm still not sure what you're going to ask the legislature to do with respect to that.

MR. DUDLEY: I think he's talking about the special use tax procedure for --

MR. RESNICK: I understand how the tax operates and what they -- you know, they want consumers of those services to pay that, but I'm not sure what they're asking the legislature to do with respect to DOR.

MR. DUDLEY: What I was getting at, what I think Bob is saying, is that as a consumer, he stepped up and paid his use tax. But what he's now paying CST on is in and of itself a bundled service that has taxable CST components within it. Of his $20 Amazon charge, $10 is video streaming and the other $10 allows him to do other things that aren't captured under CST. And, therefore, he's trying to figure out how to get a 50 percent credit on the CST taxes because it's only due on a portion of the use taxes. Am I getting it, Bob?

MR. McKEE: I only want to pay the tax that's -- minimize it.

MR. DUDLEY: But you're not a dealer.

MR. McKEE: I'm not a dealer. But I think it points that -- I think the issue goes to sort of the ability of the customer to get information that lets them know what they've actually paid tax on what they have not paid tax on. In this instance --

MR. RESNICK: And you don't have that authority now to give that information to the customer?

MR. McKEE: Well, I think right now that information resides with the provider. The issue that -- the taxpayer, the ultimate taxpayer may not know where they may have a liability. And they may not know what that liability might be, where the edge of it is. And if that provider remits it, it may be a different obligation than what the taxpayer may have if the provider is not collecting it on behalf of the entity.

So there's some issues that are created for the ultimate taxpayer with respect to lack of transparency on the bill. They're not sure what they're paying tax on. They're not sure what their ultimate liability might be. And CST, like sales tax, is an obligation that falls on the entity that engaged in the taxable transaction, it's collected by providers and --

MR. RESNICK: Right --

MR. McKEE: -- dealers. There can be an obligation on both ends of this. And the use tax obligation falls back on that ultimate consumer.

MR. STRANBURG: Again, this may be something, too, that we can roll up as part of the transparency discussion as an option.

MR. RESNICK: Except with DOR. I mean, the -- opposed to like a consumer protection issue, this is really more of a tax issue than DOR would want to implement and enforce.

MR. STRANBURG: Right. But I think if we get some of the consumer protection issues satisfied, that will give us the ability to know in the tax administration what is subject to use tax or sales tax or communication services tax, whatever the tax might be, and what part of those charges tax is not due on.

MR. RESNICK: Okay. All right.

MR. STRANBURG: Okay. We'll move on to the items under C, records. The first one is to reverse the 2012 law change on books and records when determining sales price.

Sharon, do you want to talk about that?

MS. FOX: When I was looking at this, I currently think that the books and records or the ability to allocate charges to books and records is overly broad even before the 2012 changes. Because it allows nationwide companies to use the allocations that are derived or are used in territories in their service area but outside the state. And costs of things can be different depending on topography and depending on number of customers in an area and those types of things.

So to me, it seems that when we talk about how difficult it is to administer this tax and to audit it, when you have such an overly broad ability to allocate costs from anywhere in the United States, that you add even more complexity to auditing and also add more opportunity for manipulation, not that anyone at this table would do that, but we have lots and lots of providers. So, my concern was -- it's tied to the transparency issue. Because if you don't know what's taxable -- what costs are taxable and, consequently, the charges are taxable are in a bundled situation, then it's difficult to audit. It also means that it's likely -- the manipulating is there so that I'm not getting the revenues that I think that I should get as the local government.

So I was not aware of federal legislation that Mr. Lindsey discussed that talks about books and records. And perhaps after seeing that, if we were to be a little bit more precise in our language, it wouldn't concern me so much. But again, a lot of it is tied to transparency so that everybody can figure out what it is that they're being taxed on. So it's not a totally separate issue, but it -- the changes in the law to me took something that was overly broad and then applied that to a broader base which really concerns me.

MR. LINDSEY: So the concern -- like a provider might say, here's $100 bundled plan and only $5 of it is taxable, or something like that, an extreme case, and I think maybe if we do take a look at that language this afternoon, that might give us a better idea how it works and how that disclosure works. And so that may be helpful for us to take a look at.

MR. STRANBURG: All right. We'll see about getting that language for everyone after lunch so we can take a look at that and see if that will be helpful to discuss some of these issues.

Anything else you want the talk about on that, Sharon?

MS. FOX: No. From a complexity standpoint, books and records do not make things easier. And so that's why I put it in here. If we're going to complain about we just cannot administer this tax because it's too complex, then why are we putting more things into it that make it more complex?

MR. LINDSEY: I think this does go back to the taxpayer demands to not pay tax on more than what they're -- what's taxable. And again, as these bundled plans have become the thing that's very desirable by customers, this has presented a real challenge to come up with a way to do that. And so it ultimately does come back to the taxpayer, if they want to pay tax on the tax components. And again, I think if we look at the bundling language that's in the streamline and it's in the wireless section of the statute, that may be -- that may help us better define it.

MR. STRANBURG: C2 was an option put forth by the Department concerning is there some benefit to maybe giving a little more clarification in the statutes about what records would need to be maintained. Right now it just uses terminology such as books and records. And you heard from our audit people sometimes it's very difficult. We ask for certain information and because it's old or it's not kept or we're doing things differently now than what we were two, three years ago, it creates a lot of problems.

And I think it creates a lot of problems with providers, too. They don't know what should they keep because they have very voluminous billing systems. If everybody knew what they needed to keep, what we were looking for, would that help the administration, would that simplify the auditing process and the compliance determination? So again, just wondering if there's a way to give a little more flesh to this skeleton of books and records.

MS. KITTRICK: Does that maybe go to the managed compliance agreements if we -- could we add, you know -- if we were to go down the road, add a section that says something to the effect of these would be, you know, the books and records that needed to be, you know, kept in place so that it wouldn't be changing -- in the future -- books and records look like.

MR. STRANBURG: Certainty. I think that's a key thing in those compliance agreements is to specify what information needs to be available, what records need to be maintained, you know.

MS. KITTRICK: You know, I think companies are always looking for, you know, what is -- yeah, a very bright line. Certainty.

MR. STRANBURG: We'd like certainty, too. So again, that gives our people something -- they know this is what's going to be available, this is what they would have to look at. This is how they can determine whether the right amount of tax is being collected and whether the right amount of distributions are being made to local governments because we don't talk that much about it, but this also gets into some of the issues concerning -- the right amount of tax is also being collected as well. That those distributions to local governments are the right amount of money.

MR. LINDSEY: I think part of that -- I guess

I go back to my audit days when you'd look at systems and you look at how you can rely on the procedures that are in place as opposed to digging in and looking at individual invoices and so forth. So I think this managed audit concept would allow the audit process to get comfortable with processes that the company has in place for doing their sourcing or their books and records. And I think that makes for a good -- I mean, that makes for a much more efficient audit process as well. So that does sound like a good recommendation or good idea, option.

MR. STRANBURG: And then C3, require searchable records for audit purposes. Again, we find the extent we can look at electronic records that are compatible for easy search rather than having to look at paper records. But also sometimes getting a dump of massive information electronically isn't very useable, too.

And there needs to be some way to ensure that -- I mean, you're providing us as a communication services provider, information that's going to be useful to us so that we're not wasting your time and asking you to go back and refine things, we can get the information out that we need in the format we need. And then sometimes, again, it's a simple matter of, well, if you give us PDF files, sometimes it's very difficult to search within PDF files. Even though you feel you provided them electronically, that's not very useful for us to be able to go through because we still have a manual process we have -- how to utilize to those electronic PDF files.

So again, is there some way to further clarify, you know, not on what records, but in what format those records are provided so that they can be a value to us and we're not putting a burden on companies to have to go back and redo, reshape, reformat, refine those records.

Anything else on the items under C, records?

Let's move on quickly. I think we can get through the last couple ones here. D, audits. Option one under that: Provide additional resources to the Department to increase audit capacity.

Sharon, you want to say anything about that?

MS. FOX: Well, statute currently allows a fixed amount for DOR cap. For DOR to collect from the local governments for audits that they perform. Some members of the panel have indicated that the audits don't bring in that much money relative to what is collected. I would say just based on my audit experience that that is probably because we have auditors to begin with. People don't know they're going to be audited, then they tend to not follow the rules quite as prudently as they are now. But that amount of money that they bring in is certainly a significant amount to local governments. It might not be to some people, but it is to us.

So, because we have yet to be charged the tax, if DOR is having difficulty in providing the resources to do more extensive or broader audits, we are happy to pay more for more coverage. So, given the complexity -- we understand the complexity of these audits. We did them before it became the CST, when it -- when it was a public service tax, so don't have a problem with paying the amount that we're charged to audit the local government piece. And if it takes a little bit more then we'll put more in. Because we find it to be extremely beneficial to us.

MR. STRANBURG: Anyone else on this?

And then two, Mayor Resnick, yours mandates more audits and contract for external auditing services; I think that goes along with what Sharon is saying.

Anything more you'd like to add?

MR. RESNICK: Right. I mean, our experience prior to the centralization and the creation of the CST was that audits were -- first of all, the audit ability that Sharon indicated, you know, basically lead providers to be accurate. But in our experience as well, which echos Sharon, audit that my city performed create -- made sound revenue that should have been paid to the city that hasn't been paid. And I think that's DOR's experience as well. So I would just echo Sharon's comment that the legislature should do something to increase the ability of DOR to audit these services.

And it, also, would also, obviously, benefit the state. I mean, while Sharon indicated that we would support the audit -- the increased audits of a local component, your auditing for both local and state purposes, so it would obviously benefit the state as well.

MR. STRANBURG: Anything else on auditing anyone wants to comment on?

We will go over this last little one on refunds and then we'll take our lunch break.

This was to put something in the statutes to clarify how you handle situations where there are large refund amounts and the impact that would have on local governments. I think some of you are familiar with something that was put in the communication services tax statutes a few years ago concerning if there had to be reallocation of distributions that were made to local governments, a mechanism whereby they could do those over time.

This would be a similar type of concept to then allow that same spreading out of the impact of a refund on a local government so that they're not put in a posture where they're either not getting any distributions of communication services tax in a month or for a while, some way, again, to spread out that burden to the local governments when those large dollar refunds come in.

MR. DUDLEY: Has there been an issue? I'm just asking --

MR. STRANBURG: I think there have been a couple of instances where that's happened where there have been -- again, I think you can understand it has a greater impact maybe on smaller jurisdictions than it does larger jurisdictions, but it can swing either way to small or large where, yes, they've either had to, you know, look at foregoing a distribution -- having significantly reduced when they were counting on those revenues.

MR. DUDLEY: I remember working on -- allocation three-year window to help alleviate --

MR. STRANBURG: And is there some way to do a similar concept, again, on the refund. Okay.

MR. RESNICK: Is this for situsing purposes? Like to, you know, when there's some issue with respect to situsing being done incorrectly and local governments need to then reallocate the taxes going forward or is this more actual refunds that you're --

MR. STRANBURG: This is more actual refunds. Because the change that was done a few years back, that dealt more with the situsing issue that Charlie was talking about. This would be, say, if a provider was collecting tax on a service that was not something to communication services tax and there was a refund that was due.

Again, we'd be looking to both the state and local governments for those amounts to be refunded back to the provider for the provider to refund it back to their customers. And it's that type of circumstance that we're talking about rather than the situsing type of situation.

MR. RESNICK: -- say something about the situsing issue as well, though, because I mean, actually I didn't think about this when we were first proposing our comments, but this has affected counties and cities throughout the state when there's an audit and a reallocation with respect to situsing can create some problems for some jurisdictions that are going to wind up losing their CST for a couple years because of resitusing.

MR. STRANBURG: Right. And I think that's that change that we did a few years back which allows the jurisdictions either to enter into an agreement on how that -- those movement of payments are going to happen or -- and I think Charlie mentioned what, it's like a three-year window?

MR. DUDLEY: It's an opportunity to do an agreement for a three-year -- I remember it was some panic in the communities if I recall -- three-year phase in, if you will, of the reallocation in order to prevent a hardship for that community. That's current law.

MR. RESNICK: That's currently a DOR rule that we can take advantage of already?

MR. DUDLEY: Statute, uh-huh.

MR. RESNICK: Okay.

MR. McKEE: This is Bob McKee. There was also a further clarification that sort of cued everything up so that the notification process would happen at the same time to all local governments. There would essentially be a protest period. It would happen in advance of the local government budgeting process so they would go into their budgeting process knowing what those adjustments would be. So it was all sort of cued up and then those options that Charlie and Marshall talked about earlier.

MR. STRANBURG: We got a couple more options, we'll take those on after lunch. We'll take a lunch break. Go through those. There will be a few other things that we'll follow up with on. And I believe we're going to try to reconvene about 2 o'clock. We've got some people who have got some other commitments. They'd like to have us reconvene at 2:00. So we'll get back at 2:00.

(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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