FLORIDA DEPARTMENT OF REVENUE

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REPORTED BY: Tracy L. Brown
Certified Registered Reporter
tbrown567@comcast.net

ACCURATE STENOTYPE REPORTERS, INC.
2894-A REMINGTON GREEN LANE
TALLAHASSEE, FLORIDA 32308
asreporters@nettally.com
(850) 878-2221

MEMBERS:

Marshall Stranburg, Chair

Brian Smith

Gary Resnick

Sharon R. Fox

Alan Rosenzweig

Gary S. Lindsey

Kathleen Kittrick

Charlie Dudley

Davin Suggs

Also Present:

Andrea Moreland

PROCEEDINGS

MR. STRANBURG: All right. Welcome back everyone. Let's take care of a couple housekeeping matters real quick. First is to make sure that we don't need to make any changes to the minutes. Anybody have any recommended changes to the minutes?

Seeing none, then we will deem them approved for July and the August meeting.

And then secondly, I know some of you have parked in the back. We just ask when you leave, if you're a meeting attendee, you got your little badge, please don't take it with you. If you can leave it on the table before you go out the door, we'd appreciate that so that we can collect all those and not have any of those walk off.

We took a couple minutes over lunch and thought about what we discussed this morning in the way of the prepaid issue, and we've got -- we captured what we thought were the different options that were discussed this morning. So I think we just want to quickly go over those this afternoon. We're going to put them up on the board to be sure that we got everything and to be sure that there isn't something else that somebody wants to put up as an option with respect to prepaid.

So first idea we picked up was modernize the definition of prepaid. Number two was -- I'm going to kind of paraphrase these. But sales and use tax would apply to prepaid. Third option was sales and use tax apply on prepaid plus a surcharge. And that surcharge could either be a flat amount or a tiered amount. The fourth option would be sales and use tax on prepaid plus a surcharge plus ability of locals to impose franchise and permit fees.

MS. FOX: Can I make a comment? That's something that in my mind would be incorporated into the surcharge as opposed to a separate franchise fee and permit fee to prepay because that's --

MR. STRANBURG: And I'm not saying that we would -- it would be on that, it would give local jurisdictions the ability to impose franchise and permit fees, not necessarily just with respect to prepaid, but just in general.

MS. FOX: Well, I don't think that it goes in this option frankly from that -- if that's what you're meaning, I don't think it goes with that option.

MR. SUGGS: The discussion on franchise fee was more of a holistic scale.

MS. KITTRICK: We got rid of the CSTs and then use sales tax for everything.

MR. STRANBURG: All right. We'll probably get into discussion on that a little bit later on but do you want to -- again, does the group want to leave that or not have that as an option?

MR. LINDSEY: It seems like that that's really kind of covered in either the -- in the surcharge.

MR. STRANBURG: All right. Then we can eliminate that.

MR. LINDSEY: Will we have an opportunity to comment on these after we've gone through a list of them?

MR. STRANBURG: I think what we're trying to do, Gary, is capture the options, not get so much into the discussion of the merits of them just to be sure that we captured the ideas that we talked about. And then when we would get back together and then decide what the feeling is of the group about whether recommending that -- appropriate to have the discussion about whether someone might think it's good, bad, indifferent, whatever option. So I don't know if that answers your question.

MR. LINDSEY: I did want to make a comment about the tiered option just so that we know, when we did all the work with the retailers on developing the model, legislation with the 911 fee, they were adamant that they could not do a sort of tiered fee because we went through those kind of iterations with the 911 model. And it kind of made sense, but they just could not administer that. So I just wanted to point that out.

MR. STRANBURG: Okay. Appreciate that. Number four then would be communication services tax on prepaid. Five would be communication services tax at a state-wide or flat rate with a distribution formula. Number six was sales tax on prepaid.

MS. FOX: How is that different from number two?

MR. STRANBURG: We're not finished with that one. Hang on. And there would then be a buy down of the rate/a local distribution formula, whatever the local governments -- through a sales tax rate adjustment. And then a seventh option which flows out of some of what we've talked about but wasn't explicitly discussed this morning was sales and use tax on prepaid and then allow local option authorization. That the local jurisdictions, like you have your local option surtaxes now, you could add on at the local level surtax of various uses, allow there to be one with respect to some of the revenue commitments, the bonding and so forth that prepaid goes through right now.

MR. SUGGS: Can I ask a question on the verification? Just when you say sales and use tax on prepaid, today just what their sales and use tax is --

MR. STRANBURG: This gets back to the discussion we had earlier this morning that there are certain products and services now that there's a dispute about whether they are subject to sales and use tax or communications services tax --

MR. SUGGS: Because of our --

MR. STRANBURG: -- it would clarify that whatever falls into those categories, we would update the definition and be clear of that, if it's covered by that definition, would be subject to sales tax.

MR. SUGGS: Just making sure I got this right. Today, the way our law reads, sales and use tax is on voice but it doesn't speak to all the other stuff because of -- so there's this gap of question marks about what the heck's going on and no liability or whatever. Part of that is clearing that up because the law is outdated.

MR. STRANBURG: To use your terminology, all that other stuff would be covered by sales tax.

MR. SUGGS: Right. Even though it's covered by sales tax now, it's unclear whether it should be or shouldn't be CST -- okay.

MR. ROSENZWEIG: In any of our previous discussions, did we ever hear what the estimated additional revenue would be if the definition was refined? We had a lot of discussion on the prepaid, but I don't recall if the definition was cleaned up, was there a dollar number? I don't know if I ever heard that.

MR. STRANBURG: I don't think we've ever heard anything on the dollar number.

MR. SUGGS: Let me ask --

MS. KITTRICK: Because we're not unbundling that from the sales tax now. So it would just be --

MR. SUGGS: Can I assume that number one will either -- I hate to use the word amnesty, but it would be retroactive?

MR. ROSENZWEIG: How are you revenue neutral?

Back up a second. You said it be revenue neutral?

MR. SUGGS: No, retroactive.

MR. ROSENZWEIG: No, Kathleen --

MS. KITTRICK: We're applying the sales tax to the service now. We're not unbundling different portions of what we sell from the sales tax, we're just charging the sales tax. So there's not going to be a revenue impact if we --

MR. ROSENZWEIG: So you are collecting it now?

MS. KITTRICK: The sales tax, yes.

MR. ROSENZWEIG: When we say sales and use --

MR. SUGGS: There will be no change. Like in number two, there would be no change in revenue from what's happening now. But part of the problem with the law, it's ambiguous, but the law is old. The law actually sort of reads sales tax on -- voice is exempt from CST but does not speak to the other features that are not being sold on prepaid that weren't sold on prepaid.

MS. KITTRICK: Yeah, if you really want to look at the definition, I mean, it is ambiguous. It says something to the effect that it's for -- the sales tax applies to prepaid services where you can call somebody but not receive calls. I mean, you know, it kind of cuts both ways, I think. It needs to be updated, there's no doubt about it.

MR. SUGGS: Our law doesn't manage the --

MS. KITTRICK: Services.

MR. LINDSEY: Right. So one and two kind of go hand in hand.

MS. FOX: Two and three are the same because the effect is that sales tax applies to -- well, all prepaid. So that's what I hear you saying that one says and that's what number two actually says.

MR. LINDSEY: So one, two, three, six, seven kind of all operate together.

MR. DUDLEY: The way I kind of look at it, Sharon, is what's been proposed is the streamline definition of prepaid, I believe, and that's the issue on number one -- do we adopt -- should Florida adopt the streamline definition of prepaid? That's kind of your threshold. You say, okay, yeah, we all agree that we need to modernize prepaid. Where the diversion probably is, is okay, but does then that definition fall under CST or fall under sales and use tax.

MR. ROSENZWEIG: That's the question, what's the impact of making that --

MR. DUDLEY: You're, Alan, what's the delta, right, you want to know --

MR. ROSENZWEIG: What's the impact of making that statement? What Kathleen was saying, it's revenue neutral. So do it, don't do it. I'm just trying to understand --

MS. KITTRICK: The way I understood your question was what new revenue -- if we kept it under the sales tax, what new revenue would you get under the sales tax? And I'm saying that there wouldn't be new revenue because we're charging the sales tax already.

MR. ROSENZWEIG: Already on that transaction.

MS. KITTRICK: Right.

MR. SUGGS: Can we be clear like on number one, can we put a comma, retroactive? I mean, that's why it's on there. We need to clarify that. Because that's how I understand it. It works because that clears everything up.

MS. KITTRICK: Uh-huh.

MR. STRANBURG: I'm not sure if I understand what you mean by retroactive application.

MR. SUGGS: Right now it's unclear, I think probably, I'm not a telecommunications director, but if I was, I'd probably be concerned about however you might try to apply --

MR. DUDLEY: Marshall, remedial and clarifying back to 2011. Get out of jail free.

MR. STRANBURG: All right. Well, maybe that's a better way to put it.

MR. SUGGS: I was trying to be nice about it.

MR. LINDSEY: So, Alan, the delta would be in those other three, six and seven options. Because the sales tax is already collected.

MR. ROSENZWEIG: Right. The definition needs to be cleaned up. There's no bearing on the revenue issue to talk about.

MS. KITTRICK: Right.

MR. ROSENZWEIG: Okay. Thank you.

MR. DUDLEY: You capture the technology and what it is and then you determine where the appropriate tax is.

MR. ROSENZWEIG: Okay. Thank you.

MR. STRANBURG: Okay. Are there any other options that we haven't covered in these? Anything else that members feel we need to add?

MR. RESNICK: Does three -- or four rather, does that cover the options about -- leaving the CST as is and possibly changing the situsing of it? To point of sale, doing other work with respect to the situsing?

MR. STRANBURG: I think that would be in five.

Five would be doing a flat rate or whatever rate. Well, I see what you're saying, Mayor.

MR. DUDLEY: Four would be current CST which would be state plus whatever applicable local --

MR. RESNICK: So that would be leave it as it is now?

MR. DUDLEY: Yeah, you would have to have a special situsing rule probably. I mean, just from an administrative perspective.

MR. RESNICK: Maybe we should add the other option then -- I think it was Sharon's -- that it just be sitused to the point of sale as a different option.

MR. DUDLEY: The store of sale? Just trying to --

MR. RESNICK: Point of sale, wherever it is.

MR. DUDLEY: If you have a Wal-Mart, you're going to have a really good year.

MR. RESNICK: 7-Eleven, I think.

MR. STRANBURG: Okay. Anything else anybody have?

MR. SUGGS: -- saying a surcharge would be a state-wide surcharge? On number three, I'm just assuming that the surcharge, it would be a state-wide surcharge?

MR. STRANBURG: Yes.

MR. LINDSEY: We had, I believe, in the earlier -- in our morning session, there was a request about getting some information on the -- you know, what the surcharge amounts could be. That we had asked Bob to do. Is that still on the record? Have we made that request?

MR. STRANBURG: Right, we have captured that so we can try to come back with what information we can at the next meeting.

MR. LINDSEY: Okay. Because I think what we want to do there, again, because of the concern over -- the tier just wouldn't work, so I think if we were to ask that, you could ask for tiered if you want, but I think the way to do it would actually be to see what a flat fee would be to -- I guess to replace the delta, if you will, between what's collected currently on sales tax and what the increment would be on the local CST where it would be applied in tunnel and then basically do the math, say what would a flat fee have to be based on current population.

MR. DUDLEY: Like on the average prepaid charge?

MR. LINDSEY: Right.

MR. STRANBURG: You have the direction you need, Bob, to be able to -- do you need some clarification?

MR. McKEE: Sorry, I'm hidden behind the board there. You may prefer me there. But, really there's either two things. If we're going to do one fee, which is actually easier for us to do because we don't have to assume, you know, distribution of service, either given us ranges of dollar amounts for the fee or given us a dollar amount to raise would be the most direct way for us to come up with outcomes. I mean, we could do 50 cents, a dollar, $1.50, $2.00, 2.50, $3.00 and show what it would raise based upon number of lines. Or if you wanted to raise it a dollar amount, we could stay essentially about this amount per month. You know, again, a per-line charge is probably easier for us to do than the tiered simply because we have to then assume how much of the service falls in the various tiers.

MS. FOX: From my perspective, I don't see how a flat fee could possibly work because that goes to the lowest possible denominator. And for Lifeline services, you're stuck with a very small amount of flat rate versus using some kind of a tiered thing which adds a little bit of fairness to the system. It's a competitive issue in my mind. Because if all you have to pay is 50 cents and go to a non-taxed service that you can otherwise pay significantly more for, you haven't fixed the competitive issue.

MR. LINDSEY: Right. That's pretty much the classic issue. Whenever you have a flat surcharge as opposed to a percentage fee, at some point it's not fair to someone. The tiered method which, believe me, we have -- that added line with the retailers on whether they can do that for the 911 solution. And where do you set it, how do you do it? How do they keep up with the amounts? They just could not administer it.

So I understand what you're saying. I think a flat fee ultimately is just inequitable at some point. It's like what if we said income tax was a flat income tax that everybody has to pay $10,000? Well, that's not fair. So at some level, it's fair to some, not fair to others. So I think for the -- just so we have a view of what it is, we could do both. You could try to do a tier, but I just know on the practical sense it wouldn't work.

So if we were to look at the surcharge amounts at different levels and see what it generates, that's probably for our purpose, might be a good exercise just to see what it would generate. But if -- and the tier could certainly be put out there as an option. But it's one that I think would -- you'd hear a lot from the retailers about that just wouldn't work.

MR. SUGGS: I mean, Bob, on the flat fee side, like if you just did 50 cents, then we could keep multiplying, we could do the rest of the math ourselves here. And I agree with Sharon on the fairness of the material rate. My thing from a political reality is I'm pretty sure the E911 stuff is going to go this session. And once the first thing goes on prepaid, that's going to set a precedent. Because we were directed, I think by statute, it has to come back this year because the time out ends this session, so they got -- on 50 cents. And I'm pretty sure that if that goes, that's going to distort everybody's mindset. And I think retail would be like, okay, we gave in and here's what we gave into and now we've set a precedent.

MR. RESNICK: I'm not sure I'm following what you -- you're saying that it's going to -- that they're going to be required to charge their customers the 50 cents for the 911 fees which is only fair because otherwise we're all paying for that.

MR. SUGGS: Right. No. But I'm talking about the method in which they do that. That's where the precedent comes. And it's going to be a flat 50 cents.

MR. RESNICK: And they're going to have information as to how to charge that to the customer.

MR. SUGGS: I'm talking about in terms of a tier group. A tiered versus -- like a flat 50 cents versus -- what Sharon's talking is the fair way to do it is depending on the range of price levels, whether it's 50 cents, a dollar, $1.50, $2.00, I'm just afraid that the E911 stuff would have jumped down in front of whatever we're doing. Because that bill's probably lined up and ready to go for the most part. They probably just need to find sponsors if they don't already have them. But, I mean, there's an agreement between different industry groups and government. And that one's ready to go and in the pipelines. So we would be -- whatever we would suggest would be coming behind that.

MR. RESNICK: So that's -- so there is going to be created, you're saying, most likely a 50 cent fee on -- for 911 on prepaid?

MR. SUGGS: Yeah. At a point of sale.

MR. DUDLEY: At point of sale.

MR. RESNICK: In terms of precedent, though, you're saying that that leads more likely to a flat fee for the CST. Although they have that information as to who they charge the 50 cents to, wouldn't it just make it easier to just implement the CST?

MR. SUGGS: I'm thinking on the precedent of the method. And I'm not stuck on the 50 cents.

MS. KITTRICK: I don't understand. Everybody's going to get charged the fee.

MR. RESNICK: When you purchase it.

MS. KITTRICK: When you purchase, when you re-up, recharge, you get charged the fee. So it's a flat fee. We don't have to worry about situsing it. We don't have to worry -- I mean, we just -- it's a flat fee and it's going to go to the state. The state's going to send it to the 911 board and the way the 911 board is envisioning it, is it's going to be a grant program. They're going to use it as a grant program for local jurisdictions. But we don't have to figure anything out. It's just every transaction that occurs at the point of sale in prepaid gets charged the 50 cents fee.

MR. STRANBURG: Okay. So given this, do we want to see if we can run some numbers on tiered or do we not want to see numbers on the tiered --

MS. KITTRICK: I think you're just going to have such confusion from the retailers because, you know, I mean, to have -- I think we're just going to get such a push back. It took us -- and I'm not underestimating this -- it took us at least five years to get to where we are on the prepaid point of sale bills in the states. We've got 25 states that have passed it out because the retailers did not want to be telephone tax collectors. And their biggest fear was if we create this precedent, we start collecting this point of sale, we're going to be collecting everything under the sun and they don't want to go there. So it's taken us a long time to get to this place. And to make it complicated and difficult for them -- I mean, Warren Townsend from Wal-Mart said -- he kept cautioning you, Wal-Mart can do this but that doesn't mean everybody else can do this. That's really what we heard in the years that it took us to get to the point where we are now with the 911 stuff is that you can't assume that if Wal-Mart can do something, that everybody else can. The smaller retailers, the 7-Elevens and the gas station folks, I mean, they're still not embracing the 911 at point of sale because it's complicated. So getting into a tier system, having some, you know, hourly clerk decide well, this card is this much, so I'm going to charge this surcharge, I think it will be difficult. I think it's a waste of time.

MR. LINDSEY: If you do -- part of the rough justice of a flat fee set at a fairly low threshold is also you have repeat purchasers. It's not a monthly. So someone goes and buys prepaid service at the quick mark and then they go in three weeks later and buy the -- pay that fee again, so there's a multiplier effect to it as well that kind of fits into that -- try to achieve a rough justice with a flat fee. So I would recommend if we were to do, to obtain information, we just go with the flat fee, see what that looks like.

MR. ROSENZWEIG: Has there been analysis done, though, on what the estimate revenue is going to be on the 50 cents for the 911? Because the numbers already's done then for us.

MR. DUDLEY: I thought it was 17 million.

MR. ROSENZWEIG: Then --

MR. DUDLEY: That's off the cuff. I read something, but I don't know if that's the number.

MR. ROSENZWEIG: Then we don't need if -- if it's already been done, it's done.

MR. STRANBURG: We can check and see if that's been done.

MR. ROSENZWEIG: We can just use it as a given.

MR. STRANBURG: If not, we can come up with a number.

MR. DUDLEY: That may be wrong.

MR. ROSENZWEIG: Someone's going to ask for a vote for 911 anyway.

MR. STRANBURG: All right. We'll come back with that information then.

Okay. Anything else?

Okay. Well, let's move on. We've got some more things we've got to keep plugging through in the way of options. I think we'd like now to move on to talking about if you go to the options that are right above the ones on page two that are marked as the taxed base was some of the similar things we talked about already this morning. So let's start working our way down through those.

The first is to basically tax like services the same regardless of technology or service provider. We had a couple of different members submit that. I don't know if they would care to elaborate more on that idea, that option.

MS. FOX: Well, we've already shot down one of them which is prepaid, because prepaid and post-paid are the same service, just a matter of how you pay for it.

MR. STRANBURG: I don't know if we shot it down. We've gone through ways of treating it which I think would include it as being treated the same as other CST services and other options were treated differently, so -- but we talked about that.

MR. SUGGS: Let me ask a question based on tax base, treating the people the same. Kathleen asked a very important question. Is there any way -- let's say we're going to treat everybody the same and everybody was going to pay whatever X rate on CST. Let's assume there's one CST rate and everybody was going to be treated the same. Is there a way that prepaid dealers or sellers could be treated the same and not be in -- lot of extra paperwork? I mean, is that -- sometimes we have a mantra that we can do anything, we'll rise -- I mean, in terms of DOR, I guess, you treating sellers of prepaid differently even though we apply the same official rate, making them not have to register as communication -- just say there was 8 percent state-wide CST on the prepaid, post-paid, everything, but prepaid sellers, would they have to -- would Wal-Mart have to register --

MS. FOX: That was the point of the surcharge. Because the surcharge -- my understanding of the retailers, the federation and Wal-Mart was that they could not charge a different percentage rate because their system wouldn't handle it. But they could handle surcharge and they could likely handle the appearance of -- versus having to handle a separate rate which they absolutely couldn't. So given the choice, that would be the benefit of the surcharge because they would not then be reporting as a communication service provider.

MR. STRANBURG: They would be reporting as a sales tax provider but then there would be a separate line where they would -- their receipts of surcharges as part of their remittances to the state.

MR. DUDLEY: Which I believe is what's being drafted for the 911 surcharge, right? You guys are going to administer that? One of the proposals that's out there?

MR. STRANBURG: I don't know. I don't want to comment on that, Charlie.

MS. KITTRICK: That's the point.

MR. STRANBURG: Thanks for telling us.

MR. DUDLEY: Stuff I've read.

MS. FOX: Mr. Chairman, the other part of proposals from my perspective to broaden the base and to tax and service is the same regardless of technology was to eliminate the state residential tax exemption which was on my option one. Because that would ease the administration from DOR because they didn't have to deal with two different bases. It's the same tax for the service no matter whether it was residential or wireless or commercial or whatever. And it would homogenize the basis, increase it some as well, so that was one of the things that --

MR. RESNICK: Three of us suggested.

MS. FOX: Yeah. I think that it wasn't captured on the cheat sheet that was put through, but several of us saw the -- there could be a benefit in eliminating the state residential tax exemption.

MS. KITTRICK: I don't know that anybody opposes that.

MR. DUDLEY: I think the only thing that I would suggest along that is that it be revenue neutral so that whatever the REC says the exemption is worth, you would reduce the state general revenue rate within the state rate by corresponding reduction so that it's not seen as a tax increase. It's seen as a way of expanding the base and having an adjustment to the rates so that it's revenue neutral in the state GR. I think that was part of one of my options.

MR. ROSENZWEIG: In terms of this revenue neutral discussion we keep raising --

MR. DUDLEY: Right.

MR. ROSENZWEIG: -- obviously the revenue's declined considerably because of leakage in the system. But we don't speak of making it revenue neutral to the point prior to all of the decline. We keep speaking to the current dollars. But we don't look back and say, you know, if we get rid of the exception and it generates a little extra revenue but it doesn't exceed where we were at two, three years ago, could that not be considered revenue neutral? I mean, the fact that we have a problem --

MR. DUDLEY: Understand.

MR. ROSENZWEIG: I mean, I think we have to figure out when we make our recommendations forward --

MR. DUDLEY: I understand.

MR. ROSENZWEIG: -- where's that point in time --

MR. DUDLEY: What's the current value of the exception, if it's a moving target?

MR. ROSENZWEIG: Right.

MR. DUDLEY: I would defer to Bob on this, but it's my understanding the REC rules look at a three- or five-year out period when they provide a -- he provides, his staff provides a low, mid, high estimate. So it would be part of what I was thinking was it would be -- it would be priced as things are normally priced in the REC which is there would be a value -- a high, mid, and a low value placed on the exemption and then they would use those ranges to provide a corresponding rate reduction that they feel is within that three to five -- maybe I'm not saying that artfully enough, but --

MR. ROSENZWEIG: It's a term of art is what you're saying.

MR. DUDLEY: Right. It's done through the REC.

MR. ROSENZWEIG: They look forward, they don't look back. That was my point, the backward look is my concern that all we kept seeing is the revenues declining and we're trying to make up for the fact that the tax base has changed and that's why it's declined.

MR. DUDLEY: Right. Understand. But I want to be clear I'm talking about the state GRA, too.

MR. RESNICK: Just as a matter of principal, I thought everything that we're looking at is supposed to be revenue neutral regardless of whether it's state or local. So, I mean, that was the initial thing that we started talking about this morning with the counties' principals which I think you indicated you were on the same page, so even the changes with respect to prepaid should be revenue neutral to the various parties.

MR. STRANBURG: Brian, do you have anything you wanted to add?

MR. SMITH: Yeah, to point one A and kind of B kind of runs together, I think this was part of my comments, that if you're buying a pay-per-view movie, whether you're buying it, you know, from Bright House or Direct TV or if you're buying it from Hulu, you shouldn't have one provider being subject to the sales tax. If you go to Red Box and buy it or if you buy it from your remote control, it shouldn't be subject to two different tax rates. It's a movie. It's the same content. You know, the same, you know, whether it's a box or something like that, same provider, you know, it should be taxed similarly.

And as you bring -- if that means you're bringing more people into the CST base that are currently collecting the sales tax -- going to feel like we're having a prepaid argument again -- but if all of a sudden you're moving people who are charging a sales tax on the video rental into the CST, then you should do an adjustment to the state rate to accommodate that we're going to have a bigger base that's subject to, you know, tax at a CST rather than sales tax. You know, if there's an opportunity to reduce the rate, it's our customers and constituents that are paying it, then we should take that opportunity to reduce the rate. You shouldn't get an advantage from, you know, buying it from an over-the-top provider. You're not going to -- we're not going to solve the problem of nexus. We're never going to solve -- you just have to write the law broad enough that if their back pattern brings them within the law, then we have to collect the CST.

MR. STRANBURG: The third option we have there is --

MR. RESNICK: Marshall?

MR. STRANBURG: Oh, I'm sorry.

MR. RESNICK: I just wanted to comment on that. I agree with that, the like services to be treated the same way in terms of the tax structure so that there's no competitive advantage, but by decreasing the rate to account for more services that might be part of the base, in a way, you're arguing against any type of market adjustment. Because we don't know what the next greatest technology is going to be. And if it's something that everybody absolutely has to have and it's subject to the tax and all of a sudden the tax revenue goes up, I mean, I don't think we should reduce the rate to account for that increase and usage.

MR. SMITH: And I'm not saying they go hand in hand if there's an opportunity because there's such a large increase in the base that -- you know, it's a discussion point. And I've heard this comment made that, you know, we're going to sit down and have this conversation every three years because technology changes. There are states out there that have written laws that, you know, are a little more expansive that say, well, whatever technology you use to deliver this service, so maybe we protect us from ourselves by including some all-exclusive statements somewhere that say, you know, irrespective of the delivery method, delivery of technology or technology yet to be developed, you know, within some of these recommendations, then, you know, we'll only sit down every 12 years.

MR. DUDLEY: We gave that. We have that language. My only point to that, Gary, is with all due respect, revenue neutrality has to be a two-way street. If we're going to hold people harmless from a reduction, we've -- they've also got to share in reducing the rate to make sure there's not a gain. And hopefully at the time, you've built stability and stopped the leakage and you created a stable base that doesn't have any competitive advantages. So, I understand what you're saying, but I just think --

MR. RESNICK: Well, actually when the CST was created, the idea was going to be that these rates are going to go up. You know, providers are going to charge more for their services, the tax then would obviously go up because it's going to be -- percentage of more is more. So --

MR. DUDLEY: See, I actually would --

MR. RESNICK: It's not revenue neutrality just because the market's grown.

MR. DUDLEY: I would actually differ on that. Because I think if you go back and listen to the testimony on CST but also some of the other bills that passed over the years in Florida, we've always said rates are actually going to go down because you're getting competition and choice. And the market may grow, but the rates have gone down. It's part of what you've seen. You're having leakage, I think, with CST -- and I'm sure Bob's people have seen all this -- we've had leakage. But as I said earlier, your cell phone bill is not $400 like it was in 2001. Your cell phone bill is -- you know, people are racing to the bottom.

It's 159, 99. There's not long distance and there's not roaming and you can call on these VoIP services, you can call Canada and Puerto Rico for free. So, I mean, the world's changed. And because of that, yes, there may be more mobile devices and there may be more people using and accessing the service but you've seen that race --

MR. RESNICK: -- rates are going down, then we should actually have a higher rate so that would make the same revenue. Either way --

MR. DUDLEY: You've got a lot more usage, but you've had rates go down. That's part of what's happened along with --

MS. KITTRICK: I think it all circles back to the -- sales tax base and eliminating the CST.

MR. SMITH: I think where we end up is almost back -- like looking at the board, it's like first define who's within the definition and then see what falls out from there. Right now the definition isn't inclusive enough to have all people who, you know, are selling the same product in the marketplace, you know, aren't being treated the same.

MR. SUGGS: Gary, I think for -- when I spoke earlier with our guys, we weren't looking at it as a continuous swap for -- what we're looking at now is a fix where there's people or things or products not in the base that need to go in the base. We understand that. Maybe create broadness to where we have resources to bring down the rate to neutralize -- to keep it revenue neutral. But hopefully that -- this one-time action and when we say one time, this three, four-year period will create competition in the environment to where I think we can -- market -- because the base is so big, let the market move as they set up new products that are captured in our definition. Then it would be natural increases. They wouldn't be every time the market grows, we bring down the rates. I mean, that's a political decision. But what I was talking about earlier, look, as we're in this period right now we're trying to fix this -- A, B, C are in, we're going to include D, E, and F. Corresponding to D, E, and F, we may have the resources to bring the rate down to where the fiscal impact is the same but guess what, in year two, year three as they're more competitive and as we've now broadened this base to capture more products and stuff, the natural effect is that the revenue may grow from that instead of us having to raise rates. I think that's how I explained it earlier. So, I mean, that was our understanding, I think, from the counties -- the one-time fix, a current fix, that's the only way -- have to be revenue neutral going both ways to get it fixed or get it passed. And then hopefully natural occurrences will be positive.

MR. STRANBURG: The third option, repeal CST, broaden sales and use tax base. I think we talked about that prior to our lunch break a little bit. Is there anything more that you want to add to that, Gary or others?

MR. LINDSEY: I think we -- even in the discussion we've just had, when we talked in terms of trying to tax like services within the CST realm, we look at trying to expand the CST base, we kind of run into -- you know, we run into points where, oh, that's no longer a revenue that really fits into the category anymore, so I think that's -- and that's -- I think that's a reason to at least consider this an option. I know the question you raised earlier about who's going to -- you know, this is an opportunity to brainstorm. And thinking a little bit outside the box, we looked at this being somewhat of a diminishing tax base.

So maybe we need to look outside of that base. And, you know, one thing I didn't address in that proposal was I guess it's constitutionally how that can be preserved for revenue bonds and all that, because I know that's tied in very close to the CST. But, you know, I was just trying to suggest that as a way to look a little bit outside the box and to at least consider that.

MR. ROSENZWEIG: This also means not just expand the base but to reconsider the rate obviously as well. I mean, the -- here just talks to expand the base, we're talking expand the rates and adjusting the rate as well.

MS. KITTRICK: Yeah.

MR. ROSENZWEIG: And Davin's comments at the very beginning, and I don't know my friends at the City, but from a home-rule perspective, I'd sacrifice home rule any day for revenue certainty and consistency. I mean, if we could -- I don't know if we could get it done, but -- I mean, I'm not sure, but revenue certainty is very critical for local governments right now.

MS. KITTRICK: I mean, it is -- it would be a sales tax increase, a slight one, but it's more of a tax shift, I would say.

MR. ROSENZWEIG: I completely --

MS. KITTRICK: I would call it an increase, I would call it a shift.

MR. ROSENZWEIG: Right.

MS. KITTRICK: Because if you're eliminating, you know, a 15, 16 percent tax that somebody's paying their cell phone bills, the land line bills and their cable bills and you're shifting it to the sales tax, I would argue it's not an increase so much as a shift. And as we talked about before, and I know I'm going to beat a dead horse here, I mean, when you look at the competitive advantages to having everybody under the sales tax versus, you know, who's in and out of the base and a shrinking base and protecting the revenues going forward and all that stuff, I think it just makes way more sense than --

MR. ROSENZWEIG: And we'll talk -- you're talking about the state portion of the CST, all the CST in totality.

MS. KITTRICK: No, totality.

MR. ROSENZWEIG: Local, the state, the whole shooting match.

MS. KITTRICK: Right.

MR. ROSENZWEIG: You replace with a piece of sales tax and then there's a formula distributed.

MS. KITTRICK: Right. And I think, you know, you can -- you know, I would imagine that you could craft the law to say that a portion of that sales tax is held in trust for the gross receipts PICO funding, you know, if need be, but --

MR. SUGGS: They could write whatever they want it.

MS. KITTRICK: They could write whatever they want. They can carve that up anyway possible --

MR. SUGGS: Question. This is a million-dollar question for Marshall. Marshall, you're important to us because you represent the state -- December, January, very likely be sitting -- somebody's going to call on you and say Marshall, director of DOR, advise us. Going forward, should we be trying to fix CST, asking from a state perspective or from -- so are we trying to fix this or should we be trying to fade it out and look for something else?

MR. STRANBURG: It's a good question. I've not thought in terms of an either/or option on this. Obviously, you can see probably -- but, yeah, Davin, to be honest with you, I don't know if somebody was to ask my opinion, I'm not sure what that would be right now.

MR. SUGGS: And I think for everybody, the question I asked, the question I asked, the majority of my people said, look, you know, exactly what he just said, revenue certainty. And it's like, you know, revenue certainty mixed with political reality. It would be great. If we could get something more certain. We see where this is headed. If we get -- and quite frankly, if revenue neutral changes every year, I want to get out while revenue neutral is high as possible. I mean, just being honest. So, I mean -- but the state's perspective, too, we may see eye to eye, but the state's a big piece in this and people that are relying upon protecting the role and guide their -- but I think it's -- I mean, if you guys want to say, look, here's our recommendation, you need to reconvene us, add some more people and let's over the next 18 months figure out a way to phase this out.

MR. STRANBURG: To give you 30 seconds worth of thought, Davin, I think first of all, what I would say is it's not our position at the Department of Revenue, it's not our place to say we think good tax policy in A, B -- tax policy is B, C, and D. As the tax administrator, though, I think it would be fair to say, and I think you heard this from some of the presentations, the current CST is a very difficult tax for us to administer compared to the sales tax.

So solely from a point of view of what would be an easier tax to administer, I think the question is -- answer, the sales tax is a lot easier than the current communication services tax structure. And that's not to say if you modify the current communication service tax structure to something else, we might be able to say it's much easier for us to administer now, there's really no difference between whether you have a communication services tax and a sales tax. So, I mean, it could be changed to do that. But as far as the policy of should you do one versus the other, that's probably a question we would not weigh in on. That's for the folks who are elected officials to do.

MR. SUGGS: Let me ask you this question, and it might just be -- I mean, DOR -- one case like we're looking at the REC and stuff, but knowing the state's need somewhat moving forward in the future in terms of easiest, I think, we all agree with sales tax is much easier. But in terms of reliability and dependability, moving forward based on if I'm the chairman of -- I would have to get elected, they would have to write me campaign checks and I would run, but if dependability -- moving forward, knowing the state's needs, which direction should we be looking at to shore up dependability? Should we be looking at fixing the CST or for dependability and reliability? Do we need to start thinking about other options solely from a reliability dependability?

MR. STRANBURG: And I'd answer you this way. I don't know that the dependability, reliability is shaped more -- to me, it's shaped more by not what you're calling it but things we talked about earlier -- changing technologies, the way in which business is being done, rapidly evolves so that you've got to have some way to either come back -- at one discussion point earlier today, very frequently, you take a look and say where do we need to make adjustments, where do we need to make changes?

The base is changing. The way in which business is being done is changing. We need to make adjustments. Or do you try to do what I think

Charlie and Brian were just talking a little bit more -- about a little bit ago -- do you try to maybe broaden some of those definitions of what that levy is attempting to cover so that you rope in some of those changes in technology and you don't have to come back as often as you talked about? So I think it's more defining what the base is than what you call it is going to be more important to the question you were asking.

MR. SUGGS: And I got you. Because I think -- here's the difference for, I think, all of us. We can design our sales and use tax and call it CST. The problem is two bases. Which means a CST design like sales and use tax instead of having a quarter cent or a half cent to sales and use tax, it's still going to have to 10, 12 percent to generate -- it's going to have to be a much higher number to generate. Because sales and use tax base is so much greater and I think we can -- legislatively get away with defining the CST base. We all agree CST base needs to be much broader, but we're not going to get it as broad as sales and use tax. And I don't -- we can design a sales and use tax, call it CST, make it 10 or 12 percent and share it, distribute it, whatever, to make everybody -- but the rate is still, you know -- how high would that rate have to be to pay everybody off?

MR. STRANBURG: But I think that gets to what we put forth as one of the options from the Department's perspective, which is the next one on the list. And we have currently in the sales tax statutes now tangible personal property being subject to tax. It's more and more of those products are no longer being sold in a tangible form, but now they're being sold electronically. When you think about books, think about music. You used to buy a record at one time, now you download it. Same thing with movies. You used to buy, whether it was an old VCR, then a DVD, now we, again, talked about earlier, you go online. And the tax treatment differs depending on how you receive that product and what form you receive it. And maybe that's a way also to look at should that be a consideration to try and determine how to look at ways to achieve some of the things we're talking about here -- simplification, revenue neutrality, eliminating competitive advantages.

MS. KITTRICK: And I would like to speak to that, if I could. I think from our company's perspective, we're almost there on the digital goods side, but we're not there yet and this is why. There's federal legislation right now working its way through Congress to deal with setting up a federal framework for how to source and how to treat digital goods. Because as you know, digital goods, when they're sold, they're often sold across state lines. And I'm going to give you a very -- I have a chart that I can send you, Andrea, to give it out to everybody. But one of the problems is again, sourcing. It goes back to the root of all evils, sourcing.

And you can have a transaction that occurs -- say you're an Apple customer and you're based in Colorado, for instance, and you're flying through Dulles Airport in Virginia, and you download some books or you download some music or movies at the airport in Virginia, the app server is in Texas. And this is a true -- this is sort of a true scenario. All Apple knows is that you are based in Colorado. They know where your billing address is, they know your credit card information from Colorado. Colorado would say they have the authority to tax that transaction because that's where your billing address is. Virginia would say they have the right to tax that transaction because it occurred in the state of Virginia. And Texas believes that they have the right to tax that transaction because the server is in Texas. Not a lie. I mean, that's exactly the way the issue plays out right now.

So there's federal legislation that has passed out of the House and Congress, we've been working really hard on it, that sort of sets up the hierarchy for sourcing and definition and all that other good stuff. We're very supportive of, you know, getting that done and then saying to the states, have at it. But until that happens, there's a lot of confusion.

MR. SMITH: Well, to that point, I mean, we talked about transactions that happened through complexity of IP networks, it comes down to kind of an entity by entity decision. I mean, you know, Marshall and I on prior occasion, had a discussion -- 22,000 miles of customers, nobody has a nexus over that. But an entity makes a decision about how they're going to conduct business in the state and they go out and they do that. I mean, I think you have to look at the facts of how everyone's set up, you know, that's what we're doing from the business side, we're going -- we should design the law and let companies decide how they're going to operate and say they're outside the laws that are there.

And we should -- I think we're chartered to do the best thing we can here in Florida. Yeah, the federal law passes, it trumps everything. If we wait, you know, maybe we make an incorporation that at some level, you know, digital sourcing app comes out, then that will obviously supersede it. But the complexity of the technology isn't anything new.

MS. KITTRICK: No, we're just concerned about the audit issues.

MR. DUDLEY: Of course, this is all part of the streamlining, which all parties here have national people participating in that project. I think the one thing that we want to be clear, if this was an option to go forward, would be that it wouldn't be double taxation. Meaning that if the pay-per-view movie is captured as a digital -- and is sold and it's a sale tax transaction that's covered by some national model for digital goods, then you wouldn't -- you'd make sure there was no CST tax on top of that. In other words, the service of the good will be captured one time. You wouldn't have a system where you would, you know, get -- your customer wouldn't get taxed twice.

MR. SUGGS: Have we asked, Marshall, for that number or an estimate?

MR. STRANBURG: No.

MR. SUGGS: I think that's the real answer. I mean, if we go down this road to broadening the base to make any legitimate decision, I mean, part of the decision is what does that do? What's the net effect of that? Because it comes back down to making this a reality is what resources does that provide to stabilize or neutralize a rate --

MR. ROSENZWEIG: But in this situation, you're talking about including the sales and use and not CST. So it's not -- you're not going to -- on the CST rates, it's just going to increase the overall revenue to the state and a little tiny piece to the counties, very small to us.

MR. STRANBURG: Yeah, but to the extent you include that in the base, then are you then able to do things with maybe buying down CST --

MR. ROSENZWEIG: The state CST rate.

MR. STRANBURG: Or maybe do a distribution as we talked about earlier.

MR. ROSENZWEIG: Sequester it --

MR. STRANBURG: Some of those will need to go to local governments.

MR. SUGGS: We don't know if it's $5 million or 500.

MR. RESNICK: The thing is, too, these new services, though, that aren't currently taxed are substituting to other services that were taxed. So theoretically it's already revenue neutral if you tax it. Because if we're losing -- if the state and the local governments are losing the tax on somebody ordering a cable movie versus ordering, you know, a download via the Internet, it's not tax, it's just -- it's the same transaction, we're just not getting tax --

MR. SUGGS: Can I ask -- go ahead.

MR. LINDSEY: I was just going to say, I saw D as kind of an example of one of the things to consider as part of C as part of expanding the revenues. That's one example of what could be done.

MR. RESNICK: It's really -- well, it's not expanding so much as capturing the new technology.

MR. LINDSEY: Right. Right.

MR. RESNICK: It's really not a new service;

it's just a new technology.

MR. SUGGS: Because right now those digital goods aren't being captured.

MR. RESNICK: Last year it was -- I thought they passed something last year that made it not subject to the tax?

MR. SUGGS: I'm talking about by sales tax.

MR. STRANBURG: By sales tax, it's been since the 1990s. There were a couple decisions in the 1990s where products that were delivered electronically were said not to fall within the sales tax.

MR. SUGGS: -- services?

MR. STRANBURG: Well, because it's not tangible personal property. It's more, I think along that line -- services, but it's clear we -- I believe the Department tried to argue in one of these cases that there was tangible elements to those electronic delivers, whether it was the electronics on the screen or something that was perceptible to senses, that did not prevail and we have not been able to go after those types of electronic downloads -- products since then.

MR. RESNICK: It's not subject to the CST now either.

MR. SUGGS: No.

MR. DUDLEY: Correct.

MR. SUGGS: About C, let me ask -- CST --

MR. RESNICK: Give us back what was there before the CST.

MR. SUGGS: That's what I'm asking. The city's concerns about repealing the CST, but I'm with the understanding that part of this goal is no undue harm to us. What would it take to make you -- in theory? Is it -- I think what Melissa said, revenue, revenue --

MR. RESNICK: These are principals.

MR. SUGGS: Is there more than a bottom line number? Let's say the city's going to -- 700, you guys get the lion share because it's more jurisdictions and stuff than counties. I think it's 450 or 275 or something like that. 450, 500. Just want to say, okay, look, $500 million check, go forth and be happy. Is that enough?

MS. FOX: I'm frankly more interested in finding out -- before I trash the CST, I'm more interested in finding out what it is that the industry has to have done. And I appreciate Kathleen's candid response with regards to the prepaid because I can see that that's something we can aim for and we can fix. So far as the residential exemption, there seems to be some consensus about that. I see that that's something we could aim for and that we can fix. But I really never heard too much else with regard to what the bottom line goal is from some of the other members. I know that Charlie has mentioned several times bringing down the rate, and I think that that's been discussed since the beginning of time with regard to this. But I -- instead of talking pie in sky stuff, I think it's going to be very difficult to get rid of CST and even more difficult to get a state-wide taxing. Of course, I'm really naive and I'm proven wrong all the time, but it's one thing to tweak something. It's something else entirely to add an extra state sales tax to everyone in the state. I just don't know how meaningful that discussion is if it's not possible. I'm not as well versed in that area as perhaps some of the other members are.

MR. LINDSEY: I think it is meaningful to talk about because it's not really pie in sky, it's kind of reality that the technology is changing and the basis is -- even if we were to expand the tax to cover things like that, you still have the issue about, well, how do you go and collect that? You can try to enforce a use tax but that may not happen. Somebody's ordering it -- kind of that scenario Kathleen was talking about, even if we're ordering a download from somewhere and it's coming from out of state, the server is out of state, so there's a lot of -- I guess the industry has no agenda other than trying to simplify the tax and realizing it's been a good thing while it lasted.

We're really good at billing, you know. That's one reason that we got in this in the first place, I think. You know, we bill like crazy so we can bill on behalf of the state, the county, and the cities right and left. I think we're just trying to help point out that as the technology changes and as we did in the AT&T presentation, we're aware there's a lot of things that are going on that is allowing for the basis just changing significantly. So our agenda or discussion point is to say, how can we help explore ways to look at what the tax base might be going in the future? And maybe there's --

You know, as Kathleen said, everybody that's out there paying the something-percent fee on their land line and their cable and everything, maybe they'd rather pay slightly higher when they go and buy a toaster. Maybe that's a good shift that people like overall across the board. So I think we're really just trying to help explore this. And even if it -- you know, we've had crazy ideas like -- you know, in the past that end up in reality like the crazy notion of trying to collect a point of sale 911 fee. That sounded crazy five or six years ago. So I think the brainstorming is good, so I think it is worth kicking this around and looking at the -- where the base is heading and how can we help, talk about what to do with it and get out of all the sourcing and all the -- you know, there's a lot of expense involved in just administering this process.

MR. STRANBURG: Let's go ahead and take our afternoon break real quick. Let's be back at 3 o'clock and continue the discussion.

(Brief recess.)

MR. STRANBURG: As I noted a little earlier today, we've got a couple of the members who are going to be taking off over the next hour, so please feel free when those of you who have to duck out, please go. We won't do anything that impacts you while you're gone. We won't stick you with any tasks or any responsibilities.

But I do, before everyone starts leaving, I do want to take this opportunity to thank everyone in the group for submitting their options. We do appreciate the thought that went into those. I also want to take the time to thank Department staff before people start leaving for the work they did, not only in putting together paper we've been working on but also our communications and training people who have been setting up the WebEx and the setup for the room today. I want to thank them, too, for coming up with this idea. I think everybody's a little happier with this setup than some of the setups we've had previously. So again, I want to acknowledge their ideas in putting that together.

So, having said that, you know, next up on the list are, I think a couple things that we've already had some discussion about. I think we kind of maybe reached an idea of where these options are, the residential exemption. I think there's --

MR. DUDLEY: Are you skipping 1 E?

MR. STRANBURG: Well, 1 E, I think we felt as those that's been covered by some of the discussions we've had about treatment of products similarly. And that by your method of delivery or your method of sale of those products, that there's different tax treatment on -- falls into that category.

MR. DUDLEY: So I read it wrong? Because it reads like you want to tax our input as well as our output, so I'm just --

MR. STRANBURG: No, I don't think there was an intent to grab that input.

MR. DUDLEY: Okay.

MR. STRANBURG: Sorry if there was --

MR. DUDLEY: No, there was just some palpitation.

MR. STRANBURG: I apologize for that.

MR. DUDLEY: I mean, I pay HBO and I sell HBO. I thought you wanted me to keep paying on what I sell HBO for, not what I pay HBO to sell it, right?

MR. STRANBURG: Yeah, I think that's right.

MR. DUDLEY: Okay.

MR. STRANBURG: Getting back to the residential exemption, I think we've heard some discussion of eliminating that residential exemption. I think the two variances of that might be -- one would be just eliminate it. But then another one would be eliminate it and then have what I will characterize as a rate adjustment due to the elimination of that exemption.

MR. SUGGS: But based on the number. Like this is something -- do we have a number on --

MS. KITTRICK: I think there was in the first meeting, there was --

MR. SUGGS: At some point, we need to start merging stuff and get a table of positive or negative fiscal impacts as we evaluate.

MR. STRANBURG: That would be something we would want to have present to you -- again, our best estimate on what we think that impact will be for that option. Again, we aren't going to be able to come up with any kind of precise number, but at least a --

MR. SUGGS: Ball park.

MR. STRANBURG: -- ball park estimate of the magnitude of whatever revenue impact could potentially be.

Similarly, I think we've spent some time, and maybe we ought to spend just a couple more minutes talking about the franchise and permit fees. Is there anything more any of the members would like to add to that discussion that's not already taken place today? I don't know if, Sharon, if you have anything more, or, Mayor, you have anything more to add to that than what we've already talked about?

MS. FOX: No, I think that -- from my perspective, we discussed what needs to be on the table and that is a recognition that the local rights-of-way are being used for profit and there needs to be some recognition of that because the taxpayers get the benefit because the taxpayers bear the costs that are associated with -- of the rights-of-way.

MR. RESNICK: The only thing I'd add -- we talked about it before -- is that every other state in the country allows for rights-of-way to be used and permit fees. And Florida, for whatever reason, is the only one that doesn't. And the replaced revenue sources are not working. So if we're going to fix the CST or change the CST, there has to be recognition that we have to fix or change the rights-of-way fees and permit fees.

MR. STRANBURG: Okay. Brian, I think you had some concerns. Do you want to add on that since you had also submitted something that seemed to be in the similar vein?

MR. SMITH: No, I think the only thing we would add is if there's a fee that's implemented at the local level for that, it should be the people who use it should pay it which I don't think that's a new concept.

MR. RESNICK: That's right. I mean, that's the way it's always been.

MR. DUDLEY: And I think that our position is, you know, our opinion on that proposal is going to be that, you know, that there's a room that's back here that's been vacant now for several years and just not a world that is reality for Florida anymore. Florida's done away with local regulation, broadband and communication services of everything really but a standard right-of-way agreement and then get a permit fee from local government is going to reduce the local CST. So I think there will be a feeling from the industry side that Florida's made those policy decisions and moved on and we don't what to roll back the clock to go back to a day in time that we passed by. It's more of a utility-type approach, and we've moved past that, so --

MS. FOX: And along those lines, Charlie, while I understand what you're saying, you said a little earlier in the conversation that -- I can't exactly remember how you specified it, but it had to do with when we were talking about lowering tax rates versus revenue neutrality. And that concept was that it works both ways. And I don't see us -- I understand that you want to move on from that localization issue, but if we're going to diminish the CST, which everything that we keep discussing seems to be headed towards diminishing the CST, then, see, we moved on from those fees based on the facts that were back in 2001. But those were our revenues. And if you're going to take away those revenues, then we need to be recompensed for them like we were back in the olden days, so to speak, so --

MR. DUDLEY: I just think that from an administration, a collection of that process, I don't know if you guys still have the same systems in place that you had 12 years ago. We don't. We moved on from that. We want to move to this -- I've been very clear in my option, it's what does the industry want. Our position, is in my option, which is to move to the DBS model within a revenue neutral test, some state-wide rate with no situsing, with distribution to local governments in a revenue neutral fashion. No more situsing, no more administration, and we're done.

And to do that and then say, oh, but we're also going to go back to facilities base providers and re-enact permit fees and/or franchise fee process is, in our opinion, inconsistent that it goes back to a time that just doesn't exist in Florida anymore. I mean, the legislature has moved on for better or for worse. They had a three-year debate about video franchising and they decided to move all of it to the Secretary of State's office. So we're not even -- we're not doing peg channel -- I mean, we're doing peg channels, but we're not doing peg funding. We're not doing access funding. We're not doing all the things that we used to do back in the old days or back --

MR. RESNICK: We have a voluntary like low-cost internet provision that your cable companies are all --

MR. DUDLEY: We're doing -- that's a social contract with the customers, sure.

MR. RESNICK: Basically so is this. You're using the public's rights-of-way for free and so we're saying -- and it's not a revenue issue for cities the way that we talked about CST as being a revenue issue through bonding and having the capability of managing our debt and having a reliable source of revenues so we can go out to the marketplace and move on, this is actually a cost that cities and counties are incurring in managing our rights-of-way. And if we're not getting any money to pay for that, it's going to be a severe problem for our residents. And someone's going to have to pay for it because we don't get to print money.

MR. DUDLEY: That's fine. Our position is you're getting local CST to replace it. Whether it's --

MR. RESNICK: But now you're saying the CST is going to either go away or --

MR. DUDLEY: State administered --

MR. RESNICK: -- so we need to make sure in the replaced revenue source that we get franchise fees and permit fees is all we're saying. And actually, you know, going back to even 2001, the CST was expected to grow. I mean, the rates were -- the revenue that was generated from the CST was expected to grow as services and increased demand for services grew and the rates grew. And so it's not a revenue neutral, like you've got $500,000 the last three years; you get $500,000 going forward forever. That's not what we mean by revenue neutrality and that's never what was intended with the CST was first developed. Anyway, we can debate this -- but it's obviously, I mean, for anything that the cities get --

MR. SUGGS: Ask a question for both sides, I'm hearing two distinct things. One, there's a value for the use of public rights-of-way, which was contemplated or supposedly contemplated in 2001 in transitioning to the CST. And I think what I'm hearing is that value should be continued to be contemplated in any further transition. And then second, I'm hearing a distinguished -- is that Charlie will say somebody you represent, one of the companies you represent goes into the Mayor's city and is putting stuff in the right-of-way but is the actual cost of planning, engineer, review on his city's part. And part of what I'm hearing is it cost him $18,000 to review that specific inclusion in the right-of-way, he shouldn't have to pay for that cost of reviewing documents or the engineering --

MR. RESNICK: It's not the city. The city doesn't have -- the city's going to be charging somebody for that, so --

MR. DUDLEY: We're paying that back in the form of the local CST which is what was contemplated in 2001. There was five or six replaced local revenue sources, franchise fees and cable -- the list. So we felt like we're paying that back. Local CST from our customers, we're remitting that to the state which is then sent back to the local government to handle the cost of right-of-way, that sort of activity as well as some of its fair value rental probably in 60 people's minds, et cetera, et cetera.

MS. FOX: And while that is true, lowering the base and lowering the rate then no longer covers that, is my point.

MR. DUDLEY: I think we said this. My proposal says revenue neutral all over it.

MR. RESNICK: Well, the other side is, though, too, you have a whole other class of providers that don't want to pay CST and are not paying CST in terms of prepaid wireless services and they're using the rights-of-way.

MS. KITTRICK: How are we using the rights-of-way?

MR. RESNICK: Like I said, I've got T-Mobile and Metro PCS applying to place towers in our rights-of-way and do back-haul fiber. So if you're not paying the CST on those services, how are you paying for the use of the rights-of-way?

MR. LINDSEY: Which kind of suggests -- you know, some of the earlier discussion we were talking about one option being broadening the base beyond the limits that we were pushing against with CST to ensure that we do -- you know, it's at least revenue neutral. So it -- what I'm hearing is maybe that does suggest that we want to look more at the option of expanding the base and ensuring that it brings money back to the locals that cover what's needed.

MR. RESNICK: Satellite's not here, we could all just do something to charge them for use of some kind of permit fee or whatever. I know you promised not to -- although some states are doing that. Philadelphia and Chicago will have cases in court very shortly about their regulations of satellite dishes. So, you know, that's an option that --

MR. STRANBURG: All right. Let's move on to some of the options that are on page one. Again, some of these, I think are items that we have already touched on earlier today, but we can keep going down through them. Starting at the top of the page, rate structure, throw out the option of a single state-wide rate for communication services through the distribution formula back to local governments. Davin?

MR. SUGGS: All right. Based on last year, DOR had a draft bill, I think sort of the method -- no, you've had the 67 county --

MR. STRANBURG: I don't think it would be accurate to say we had -- it was a DOR bill, I think --

MR. SUGGS: It was --

MR. STRANBURG: I think we were asked to provide something for them. It wasn't our bill. They asked us to provide language to accomplish that.

MR. SUGGS: Language for general government -- was presented. But that idea was the 67 county model? But I think both models trying to get an aggregate rate, part of the problem, I know -- I may have talked with Charlie about this, Charlie said it before, I know I talked to Joe York at AT&T, the issue in trying to get to an aggregate rate and then sort of redistribute back in a revenue neutral -- I mean, we focus on the money and you get this sort of aggregate rate, it's still a tax increase. One of the hampers is it's a tax increase to somebody. Somebody at the bottom scale of the rate.

So, I mean, sort of these ideas with the leadership today, I mean, it's still you go back to -- you are still going to have to broaden the base in conjunction with one of these ideas to sort of buy down the rate enough to where people would say, okay, it's not necessarily a use tax increase. Because, I mean, based on the setup now, somebody's at 5.2 and somebody's at 1.8. And even if you say we're going to do an aggregate rate to raise $800 million for local business, somebody's taxes are going to go up. And that's been our problem. I think if people could deal with one of these, it would have been done last year or the year before already. But, it's a tax increase. So --

MS. FOX: It's also going to be a loss to somebody. Because if somebody's at the maximum now, that means automatically -- unless you broaden the base, somebody's going to end up losing. And the whole point is we've already lost enough, so unless we expand the base, something like this can't possibly work without winners and losers and donors and donees.

MR. DUDLEY: I tried to point that out in option B. The last sentence says additional state revenues would have to be added to make sure you don't have any losers. So there's pros and cons to all these options.

MR. SUGGS: And it's not that it's a bad option. It's just that I think we all agree, it doesn't stand up by itself. This could be in conjunction -- other things have to be done. But I think what a single state-wide or going to 67 -- I mean, there's -- and there's always an issue. And still repeat, again, I know for us we said we're willing -- we prioritized, but it's still a big deal to local -- it's still a big deal. We're willing to talk about it. We'll put things on the table for -- but I don't want anybody to underestimate that it's not -- because we don't have that many left where they actually do something. I mean, once we give it up, we know we're never getting it back.

MR. DUDLEY: I think you're going to have political issues with the 50 cent surcharge on 911 for prepaid. I think you will have a political issue with a surcharge on prepaid. All that's going to be seen as a new tax. So, I mean --

MR. STRANBURG: Okay. We also put out the possibility of instead of doing a single state-wide rate, instead go to maybe 67 or a county rate and then there would have to be sharing amongst the municipalities amongst the counties or whatever that might be is another possibility of looking at that and understanding it has pros and its cons to that, that there are pitfalls involved in that. Some of the same ones we just talked about. But again, that was something that we considered -- the Department -- to allow some local retention of -- ability, but yet trying to simplify the administration now -- put it under an administrative simplification, that that would make things not only, I think, easier for the Department to administer but also possibly for some of the providers to do as well.

MR. RESNICK: Marshall, can I just ask a procedural question? How did DOR come up with its recommendations?

MR. STRANBURG: When you say procedural?

MR. RESNICK: Was there some type of process that DOR went through to come up with the options that we all see?

MR. STRANBURG: We just took input from various Department employees. You've had presentation done by someone from our audit staff. We had input from our audit staff. We've had presentations put on by our technical staff. We had input from our technical staff that has experience. You heard the input from and presentations by our revenue economists, they made some suggestions as well.

MR. RESNICK: This was all done privately? Because my understanding is that DOR, as you indicated earlier, doesn't really provide policy guidance. You provide information about limitation of the tax structure, but you don't really provide input on policies.

MR. STRANBURG: We don't advocate for policy one way or the other. We don't go forward with policy recommendations to the legislature. For purposes of this working group, though, we were asked to contribute ideas, suggestions, on ways to simplify administration of the tax, to eliminate the competitive disadvantages among the providers of communication services without unduly burdening. So we were just throwing ideas out there for consideration for the working group to look at as part of our role as a member of the working group, not advocating that one should or should not be adopted, just putting them out there for the group to have, for the group to consider. If the group would like to have those go forward as some of the recommendations coming out of the -- from the report that the working group will produce.

MR. RESNICK: So your intent then -- because earlier in the beginning of the meeting, you said that based on your discussion with these sponsors of the legislation, any and all options are going to be incorporated in the report. Some will be indicated that they've gotten some kind of consensus of members of the group. So including DOR's options are going to be incorporated into a report?

MR. STRANBURG: To the extent that they come through the process and the group feels it's worth putting them forward. As we've had some discussions today, going through some of the options, some of those things have gotten dropped off. So it's not a given that something we put on the table, the group might decide they want to drop that off as a possible option and not have it go forward. Just like any other member of the group.

MR. RESNICK: Well, except for one. You're the member of the group, not DOR. You know, I didn't go back and ask my city, you know, to provide me with input as to what options they think I should recommend. I don't know if the Association of Counties did provide input to Davin, but it just seems procedurally a little strange to me that DOR would be making policy recommendations. But that's -- we don't need to get into it too much more now, I just -- maybe when the ultimate report is looking at -- is being prepared -- well, I hope that it would be prepared based on recommendations from this committee.

MR. STRANBURG: That's why we're sitting around having this discussion so that you could give us that direction so we can put that report together to encompass what this group feels ought to be going forward.

MR. RESNICK: Because actually I was surprised to see anything written by DOR that was published on the website.

MR. STRANBURG: I can't remember. I remember someone at the last meeting, I remember, asked if DOR was going -- specifically asked me if DOR was going to come forward with recommendations and wanted to have us come forward with recommendations. Again, we can go back to the transcript and recall who that was, but I do specifically remember being asked that question and the clear vibe that I got from the group at time was, yes, they wanted us to come forward with something so that you all could consider that as some of the things that is included in the report.

MS. FOX: As with the other distribution elements that were suggested, those that are recommended or put forth by DOR would need to be a tax increase, I think, whether or not to be winners or losers. So those comments still kind of remain the same. A state -- a local state-wide CST rate with a distribution formula would require an increase to accommodate those local jurisdictions that have a higher -- than the maximum and --

MR. STRANBURG: Let me just clarify, Sharon. We're not advocating what that state rate should be. It could be -- it could be the lowest rate that any jurisdiction has right now. That could be the state-wide rate. We're not saying that it has to be an average rate, the highest rate, the lowest rate. It's just whatever the legislature would want to come up with as that standard state-wide rate, that's an option to do that would simplify administration. But we're not saying it has to be a blended rate, a high rate, a low rate, whatever that might be. They could decide to exceed what the high rate is now for CST or they could decide to go something lower as we've talked about and do a rate buy down. We're not saying it has to be one thing or another. It's just consideration ought to be given to maybe a better way to handle the administration of the tax is to have one rate instead of the number of rates we've got right now.

MS. FOX: And while I understand what you're saying, and I can certainly understand that DOR's primary consideration is ease of administration because of the costs, I think that the local governments have all indicated that the revenue and the amount of revenue and the stability of the revenue is the priority for local governments because these are bonded. So in addition -- so if there are losers, then we're not protecting the local governments' revenue stream. And we're also going to be creating potential lawsuits because of impairing bonds. So that's going to cost even more money.

MR. DUDLEY: Yeah, maybe the fix is to use the language that's out of our charge, which for all these options just adds the terms without unduly reducing revenue to local governments because that's what it says. I don't know what unduly is. I don't know if 10 percent is unduly or 20 percent is unduly or 1 percent is unduly. But that's what the language says. So --

MS. FOX: I understand that, but my position is anything is unduly.

MR. DUDLEY: Sure, I understand.

MR. STRANBURG: And I would agree with -- I don't recall who made the comment a couple of minutes ago, but I don't know that you necessarily need to look at all these options in isolation. We might have to look at them in conjunction with other options that are being put forth to say, you know, this is a way to ensure if you're going to a state-wide rate, you might have to do something else to ensure that it's -- whatever unduly harming local governments might be, that you don't have that result from going and auditing a particular option should the legislature decide to do that.

So, again, we did not look at these necessarily standing in isolation. We looked at them as things that could be considered and may have to be considered with other options as well.

MR. RESNICK: So can we take off the table -- because I don't think anybody supported going to a county-wide rate. Which frankly, I think would be even harder to administer than what we have now.

MR. DUDLEY: I wouldn't want to take it off, Gary, because our attitude is 472 or 467 to 67 would be an improvement in terms of streamlining the administrative system -- options for streamlining the administrative system. Moving from the current system to 67 would be an option under that. Now maybe an option that the majority doesn't like or that --

MR. RESNICK: A lot of options --

MR. DUDLEY: I'm not sure exactly how that would work, but I think that we're interested in any option that helps streamline the craziness that we're dealing with.

MR. LINDSEY: I agree. It might end up being in the appendix, but I think it's -- as we talk through it, but --

MR. RESNICK: I think it would actually create more bureaucracy. Could you imagine the counties trying to adopt a rate that stays within that -- I mean, I'm just thinking Broward alone would take three years to come up with a rate that would be somewhat acceptable to the cities and not have lawsuits and things like that.

MR. DUDLEY: Late-night county commission meeting.

MR. RESNICK: Luckily they're not televised. Well, let's just say I don't have the service that carries it.

MR. STRANBURG: You know that better than quite frankly we do at DOR.

MR. RESNICK: That's not a state issue, right? That's a very local issue.

MR. STRANBURG: And that's why we put it out on the table to get the input from people to say, is this a good idea?

MR. RESNICK: The companies wouldn't know that either really because they don't know how counties adopt things like that.

MR. DUDLEY: It's local agreements.

MR. RESNICK: Hundred years ago, okay.

MR. DUDLEY: I don't know.

MR. RESNICK: I actually think that would be going the other way of what we're trying to accomplish. The Association of Counties or --

MR. SUGGS: Idea that was floated last year was through a formula you would generate a rate equal to a total amount of revenue generated within a county in its local jurisdictions and pretty much you would get that and it would be distributed by -- so if you got $100 in 2007, the county rate would equal, so you would get $100 the next year. So it would be generated in a revenue neutral manner. The problem is like in Broward, if you lived in the city, say 3 percent, you got somebody in the city at 5.22, and then, I mean, if it was a non-chartered county, somebody considered to be paying 5.2 and somebody in the unincorporated -- 1.4. The person in the county is going to get a tax cut.

The money -- they worked it out where the money would be the same and it would be a distribution, but it would be -- we share the local discretionary opinion. The biggest impediment to that was cities for sure lost local discretionary control. But there was a mechanism that the county could not do anything without a juncture of all the cities involved. But the initial rate was based on revenue already received, but it's still a tax -- and when we talk, we -- we don't want to get in the middle and -- but the money had worked out to where it was --

MR. RESNICK: Well, in terms of the -- in terms of the -- not in terms of the individual. Just like you said, revenue neutral means both to the counties. It's revenue neutralized as an aggregate as well as region and county. So it's the same for cities.

MR. STRANBURG: One other point I want to make about the two options that we put forward in this area, we also noted in those, which is not captured in the writeup that you got, could that present an opportunity to look at the collection allowance then? Since you are reducing some of the administrative burdens on the providers, could there be some reduction in the collection allowance which would make more money available to the governments --

MR. SUGGS: (Inaudible comment.)

MR. STRANBURG: Okay. I think we've covered all those under the rate of distribution formula. We had some other ideas related to the rate structure. I think that the first one we talked about, the elimination of the communication services tax and implementation of the sales tax to cover -- in this area.

Sharon, I know we didn't probably accurately capture your idea here about substitute an alternative revenue neutral source, but I think we talked about that today. Do you want to add anything more to that discussion?

MS. FOX: Actually I haven't talked about this one at all. And I purposely did not name an alternate -- a specific alternate revenue source. Kathleen named the sales tax percentage increase. And I am not as well versed with all the different options that are available to the state. But in a similar manner as to what she suggested with regards to sales tax, there may be other options that have a broader base that could accommodate the amount of revenues that we sorely need in order to make sure that we've got some stable and continuing and growing revenue stream to accommodate our bonding and to pay for the things that CST has paid for in the past.

CST is not restricted, from the city's perspective, as to what it can spend the money on. And it's one of the very few major revenue sources that we have that don't have any strings attached. So if we need to spend it on a water main, we can spend it on a water main. If we need to spend it on just the administration of payroll, we can make sure that the people that are paying the police officers and the firefighters get paid. So it was just -- in the past, there have been swaps per se. And that was my intention when I indicated an alternate revenue stream. It had nothing to do with communications. It just had to do with a swap of some other type of stable revenue.

MR. ROSENZWEIG: Did you have anything in mind outside of what we talked about today?

MS. FOX: No, as I said there are multiple -- and to say one over another would indicate that I was well versed on all of them, and I am not.

MR. ROSENZWEIG: And you're talking about to swap out the state element as well as of the CST of just the local?

MS. FOX: I can't say that I actually even considered that far. But I do know that there have been swaps in the past with one type of revenue stream or another.

MR. SUGGS: Let me ask, and there is a group questions, if we localize -- like Kathleen to come up with completely sales tax for everything, I don't know from the cities -- and Alan, because this is an additional local option to replace your CST.

MR. ROSENZWEIG: -- options?

MR. SUGGS: I mean, here's the thing --

MR. RESNICK: No CST, just the sales tax?

MR. SUGGS: I mean, ideally, realistically, CST right now is a local option. There's one or two families they choose to impose almost -- you have to make a local decision to impose the CST. So literally, there's a local option although it's not what we're used to, but it is.

MR. RESNICK: Except for the state department.

MR. SUGGS: Right. I'm talking about just the local portion. The local portion is a local option right now. But if the state said -- take CST -- move you out of the CST and just give you another local portion or --

MR. ROSENZWEIG: Tie it to --

MR. SUGGS: No, no, commission approved.

MR. ROSENZWEIG: Which we don't have --

MR. SUGGS: It would be commission approved.

MR. ROSENZWEIG: Right.

MR. SUGGS: And general and discretionary in nature.

MR. RESNICK: We'd have to get --

MR. ROSENZWEIG: Assuming they make the rate theoretically revenue neutral rather than level it -- give you an up-to rate. Right.

MR. SUGGS: Because even the half cent --

MR. RESNICK: Isn't that a Constitutional issue, though?

MR. SUGGS: No, it's statutory. Only thing that's Constitutional is property --

MR. ROSENZWEIG: Right.

MS. FOX: It would need something that could generate a lot of money for those jurisdictions that receive a lot of money.

MR. ROSENZWEIG: You have to --

MR. RESNICK: Well, there's two sides. One is the revenue generation and the second one would be distribution, so --

MR. SUGGS: I mean, right now with the local --

MR. RESNICK: Distribution the way --

(Kathleen Kittrick leaves the meeting.)

MR. SUGGS: Bob, can I give you homework? Homework on an additional local half cent of the replacement for the local CST.

MR. McKEE: Local half cent.

MR. ROSENZWEIG: Sales tax.

MR. SUGGS: Sales tax.

MR. McKEE: Local option sales tax?

MR. SUGGS: Right.

MR. McKEE: So I -- sales tax base, $5000 limit --

MR. SUGGS: Yeah, the same rules as our local -- now except when I say same base as our local option now, but this one would be discretionary. I mean, general basis, no restrictions possible. But looking at -- I know we get this stuff from the handbook at the -- but pretty much if you could put a side by side of here's where we get the CST by jurisdiction in which I know is out there, but then sort of -- I mean, you could do it at the half cent generation and then we can drill down and cut it in half, do a quarter, I guess, if it would be -- I don't know if that would --

MR. RESNICK: I think we -- doesn't it vary county by county as to how much --

MR. SUGGS: Right. That's why he can show us here's where --

MR. ROSENZWEIG: -- by city.

MR. SUGGS: Right. Here's a jurisdiction, here's what you get, and here's a jurisdiction, here's what you get in CST.

MR. RESNICK: Well, no, I think it's up to the county and then the city can -- I thought.

MR. ROSENZWEIG: We share. It's either, it's a state formula half cent or it's per agreement with the cities and county.

MR. McKEE: I just want to make sure that I'm capturing this assignment right and I have it on the list right now that we've got three other assignments. I want to make sure I have those right.

MR. SUGGS: Because we love you.

MR. ROSENZWEIG: Job security.

MR. McKEE: I'm fine. I just want to make sure we get them right so that two weeks from now, I'm not being taken to the wood shed for not having the assignment right. I just don't know -- always available.

On this one, you're just looking for, at the county level, a comparison of county by county what a half penny local option would generate compared to at the county level, what the local CST generates?

MR. SUGGS: Right, but can you encompass cities, too?

MR. McKEE: We can aggregate up all cities within the county.

MR. SUGGS: Okay. We can aggregate up the CST.

MR. McKEE: We can aggregate up the CST for current collections and by jurisdiction. And so aggregate them up to the county --

MR. SUGGS: Because on the back end of distribution, like you said, we can control it at local versus they can do it by formal or you can do it -- you understand what I'm saying? It's almost sort of the same thing, but it's still -- it's sort of the same thing, but it's a local option where maybe you have to -- I don't know.

MR. STRANBURG: Sharon?

MS. FOX: I don't object, but I wonder if you want to include capacity, unused capacity?

MR. SUGGS: Yeah.

MR. McKEE: We did an analysis earlier on used capacity, so we can just include that capacity into an end of roll for current revenues.

MR. ROSENZWEIG: And, just, Bob, just convert it over to say what would that amount have to be at the local level in sales tax. You could show what the half is or you can just convert it and say if you're generating 20 million of CST total to the cities and counties, you would have to have capacity, you'd have to have it up to X to do it. You could say what a half cent is or you can do it the other way and do the math and say here's what your rates would need to be to swap it all out locally. And then theoretically, a local agreement can be devised that says this is what you're getting now, everybody gets this percentage and everybody has to sign off locally in the -- which I know in Broward and Pinellas would be much more problematic than Leon would, one city, one county. I mean, we're making it sound pretty easy, but there's a lot of parts to put into play.

MR. McKEE: We should be able to do that. We can do both the math and then what would the rate be to generate what's currently collected. And then showing the county-wide capacity for all jurisdictions within the county for only the local portion. Now in that, are we also replacing the discretionary surcharge portion?

MR. SUGGS: No, you need to -- you need to contemplate everything that goes --

MR. McKEE: Everything that goes to local governments. Okay.

MR. ROSENZWEIG: -- state rate --

MR. SUGGS: Because ideally, say if it did have nothing to do with -- no local surcharge add on, then it would just be replaced by the -- the CST number, you're going to include everything. You're going to include capacity and the surcharge for local jurisdictions.

MR. McKEE: Okay.

MR. SUGGS: And I guess that sort of falls under one or two of your --

MR. STRANBURG: Anything else you want to talk about with regards to an alternative source? Okay.

MR. RESNICK: Are you talking about just two B?

MR. STRANBURG: Two B, yes.

MR. RESNICK: I mean, we had some presentations early on about what other states are doing on CST and initially our scope was pretty limited, just looking at CST. Now we're looking at sales tax and everything else. So maybe we should look at what states do with respect to taxation that boils down to the local level. I mean, if we're throwing it out there, we're reinventing the entire wheel, you know, why are we reinventing the entire wheel? Let's look at what other states do with respect to taxes and how local governments generate -- get some revenue from that.

MR. SUGGS: Maybe I'll dig around, too, and see who else is out in terms of alternative sources. I'll dig around and look and see what -- I mean, we have a target. The devil's in the details of who gets what. We move from aggregate down to --

MR. RESNICK: You're talking about scrapping the system in Florida to come up with some other systems. So let's look at other states' systems.

MR. STRANBURG: All right. Mayor, you then talked about the Internet sales issue.

MR. RESNICK: I thought this was going to be way out there, but if we're talking about totally restructuring taxes in Florida, other states tax Internet sales. Whether it generates money for the state or can be distributed somehow to local governments, it's an equitable issue as well. I mean, we have brick and mortar stores losing business to enterprises that don't pay taxes in Florida. And so it's an equitable issue. And I think we've heard different estimates as to what the numbers could be if Florida did tax Internet sales, so --

MR. DUDLEY: If I could, I think I would revise this to say that as Florida looks at imposing the sales tax on remote sales, that it also should consider the impact remote vendors may be having on the CST from a base -- erosion or a base perspective and the interaction of these two issues. I don't disagree at all with what you're saying. I just think we've talked about if the state is going to attempt to improve its ability to go after those types of transactions, they should also be looking at the impact of what CST tools could be added to enhance or stop some of the leakage or minimize some of the leakage of the CST in a remote sales situation. May not be a whole lot we can do quite frankly because of some of the nexus and federal issues. That's the only caveat I would add.

MR. STRANBURG: And that was the point I wanted to bring up, too. Obviously the comprehensive solution is the federal legislation gives states the authority to have remote sellers collect sales and use taxes and -- transactional tax. There are some --

MR. RESNICK: I thought that existed. I thought we had the ability to tax Internet sales.

MR. STRANBURG: No. Again, the sale is a taxable sale. The issue is whether we can require that seller to collect the sales tax. And when the seller doesn't collect the sales tax, then the purchaser is supposed to be paying the use tax. However, getting that use tax in compliance is a difficult thing as most consumers either don't understand or if they do understand, or in many instances not very eager to comply with that requirement.

MR. SUGGS: Should increase your audit staff and go after --

MR. LINDSEY: And that type of law, it's like the Amazon law. So they're trying to reach through agency nexus or through that relationship. But to -- that would certainly position more for the federal legislation, you know, in anticipation of the mainstream --

MR. RESNICK: Currently, Florida does -- you're saying there is a tax on Internet sales?

MR. LINDSEY: Use tax.

MR. DUDLEY: Use tax.

MR. STRANBURG: There's two ways --

MR. RESNICK: There's a tax, but there's no nexus to collect it.

MR. STRANBURG: Right. The transaction is clearly a taxable transaction, it's just Supreme

Court precedent, as you know, has presented states from saying to that seller that's located outside of Florida and that does not have an office, that does not have a facility, that doesn't have employees, inventory in the state, we cannot require them to collect that. The federal legislation that Gary was referring to would give states that ability to say, yes, you need to start collecting that tax from a seller because there are certain simplifications that require the federal law that the state has adopted. And streamline sales taxes is the example of the effort that's been ongoing for a number of years now that gets states to simplify their law.

And we do have, I believe it's 22 or 23 states -- I think it's 23 that have changed their laws to meet the requirements of the streamline provisions and there are a number of companies that have voluntarily said even though it's not federal law, we will start collecting in those states because they have done things to simplify their taxes. So that's obviously an option. Florida did not want to wait around for legislation. They could adopt streamline and start getting some of that money from some of those companies that have voluntarily come forward and started collecting under the streamline system.

You know, another alternative as Gary points out, too, is the agency, Amazon, however you want to characterize the laws in some states have put forth -- you know, that was an option that I think you saw it on a handful of bills we -- the last session of the legislature. Again, you know, that's not a comprehensive solution to the situation because that just means a company would have to change the way which they do business with either affiliated companies or third-party companies. You saw the issue in New York where if you advertised on some group's website, that would potentially be enough for you to say that you have nexus. Companies just stopped advertising on websites.

So again, comprehensively, it's going to take federal -- are there some things Florida can do possibly, yes, there are a couple different things.

MR. RESNICK: Right.

MR. STRANBURG: But really the big solution is going to either have to require federal legislation or to get the Supreme Court to maybe change its mind with respect to those decisions.

MR. RESNICK: Which I mean, obviously I didn't expect this to be as complicated an option as it is, but it is. Which goes back to the point that we talked about earlier is that, you know, instead of having piecemeal fixes to something that's perceived as not working correctly, you know, maybe we need to study this over a long period of time to come up with some type of method, to come up with comprehensive reform. You know, this work group, you know, meeting five or six times, whatever, proposing options to piecemeal the CST may not be the best way for Florida to go about this.

MR. STRANBURG: Next on the list is maintain CST as is, which, you know, I think Gary had put that out and we acknowledge that. You also, I think, indicate that's probably not a viable option, so I'm not sure that that really is one --

MR. LINDSEY: I think the --

MR. STRANBURG: -- you want to go forward with.

MR. LINDSEY: I think D and E cover this.

MR. SUGGS: Can I say one thing? To this point, I think what we're finding out today, I'm somewhat cautious of breaking it any more until we come up with a holistic, if that makes any sense.

I think we're on the verge of we re-recognize there needs to be some holistic major changes. I'm sort of cautious against taking a little snidbit and breaking it and making it worse until we get to -- we're down the path, I think we're creating some momentum, moving forward to a holistic thing. I think we need to focus on that big picture.

MR. STRANBURG: We're just about out of time. I think what I'd like to suggest is maybe we can come back and cover these next items, these options quickly at our next meeting. In the meantime, we will work on the couple of tasks that we've been asked to provide some additional information to work on. And I think, Davin, you agreed, that you're going to provide us with some additional information, too, to what other states, municipalities do for local government revenue sources.

MR. SUGGS: Yeah. I'll look into that.

MR. STRANBURG: And what we will also do, if it's okay with the working group, like we did earlier today, we tried to encapsule the discussion we had on prepaid. We'll try to encapsule the discussion we had on the other things we talked about today. And if we can do that fairly quickly, if it's okay with everyone, what I'd propose we do is we would send that out to you all so you'd have a chance to look at it. And the question is would you rather wait till the next meeting to give us some feedback on that or would you like to provide us some feedback for the meeting?

MR. RESNICK: It's on in two weeks.

MR. STRANBURG: Okay. So you would rather wait. Okay. So what we will do then is we will try to do what we did earlier today on the board -- put those things together, send them out to you, post them on the website so that when you come back on the 31st, we can quickly go through those and then cover the rest of these. What we may also do is we'll start working on looking at how we then -- I think we're looking at running into another meeting after the 31st -- start looking at whether we've got some dates that will work with the members in person or maybe we need to do something by phone. We'll look at those options, but we'll probably be sending you out some requests for proposed dates and see what will work with respect to then having another meeting. Because it doesn't look like we're going to get to the point where we're going to be able to take that sense of the group on some of those options on the 31st.

MR. DUDLEY: Are these documents available electronically from today? Are they on the website?

MR. STRANBURG: We will get them posted.

MR. DUDLEY: Or E-mail them to us; that would be great.

MR. STRANBURG: We will get them posted probably in the next day or so. So we'll have those out there. This has been very helpful.

MR. DUDLEY: Yeah.

MR. STRANBURG: Any other business that we need to cover before we adjourn for the day?

MR. SUGGS: Question: Is there any benefit to principals from the -- we've had a lot of questions that impact the whole state, but principals from the REC, somebody from EDR, representing the governor's office, I mean, available on the front row at the next meeting to sort of -- not necessarily join in the discussions, but, I mean, as we get to state issues and we start looking at assumptions, there may be things that we're not thinking about. And I hate to keep putting just you on the spot because more than one person -- so this is a state issue and the balance of representation is not necessarily including all aspects of the state.

MR. STRANBURG: I'm not sure, Davin. I mean, we can reach out to those groups. I'm afraid the reaction we're going to get from them is, well, you've been tasked by the legislature to do this for the state, to come forward with ideas. And if they wanted the governor's office to present ideas, if they wanted EDR to present ideas, they would have named them either to be members of this working group or to have some role in -- similar to the role that we're fulfilling now which is to review the different topics, to look at the information and comes up with options. So I have a feeling what they may say is we don't feel it's part of the task. You all were supposed to be doing this as both parties that are directly impacted by this tax to local governments, and industry that are also the people that are there on the front line collecting the tax. So, we could put our feelers out, but my personal feeling is I wouldn't be too hopeful that they're going to be eager to be on the front line.

MR. SUGGS: The only reason -- I hate to put you on the spot like when I ask a question -- as we try to interpret impact to the state and other things that we need to think about as we're crafting -- we're coming up with a crafty solution for everybody. I mean, I don't mind putting you on the spot. I know you have broad shoulders.

MR. STRANBURG: We'll see. As I said, personally I'm not too hopeful but it may be I'm -- incorrect, maybe they will.

MR. SUGGS: But you're enough for me.

MR. STRANBURG: Thank you. All right. If there isn't anything else, I want to thank everyone again for their participation today. And we will see you on the 31st.

(Meeting concluded at 4:00 p.m.)

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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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TRACY L. BROWN
2894-A Remington Green Lane
Tallahassee, FL 32308
(850) 878-2221