



E911 Prepaid Wireless Fee Collection and E911 Fee Exemptions: A Feasibility Analysis

**Florida Department of Management Services
E911 Board**

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I. EXECUTIVE SUMMARY

An executive summary of the conclusions from this study are presented in the section “Executive Summary Conclusions” following this section. An executive summary of the study itself follows.

The prepaid wireless calling arrangement E911 fee collection methods portion of this study was mandated in the 2007 Florida Statutes § 365.172. In addition to the statutorily mandated prepaid wireless portion of this study, the E911 Board requested that an independent assessment of four current E911 fee exemptions be added to the scope of the study.

As allowed for in the statutes, this study was competitively bid to a consulting firm under the State of Florida Management Consulting Services Term Contract (973-001-06-1). A contract was awarded to Advanced Systems Design, Inc. (ASD), a Tallahassee-based government consulting firm. ASD authored this study under the oversight of the State of Florida DMS E911 Board.

The E911 Board made a final review of the proposed final draft at its monthly meeting on December 17/18, 2008 and approved this final draft as the final copy. This is the third and final draft of the study. The initial “concept” draft (Draft 1) was delivered on August 11, 2008. Subsequent comments on this draft from the E911 Board were addressed in the development process leading to the substantially completed draft (Draft 2), delivered to the Board on November 12, 2008. Subsequent feedback and comments from the E911 Board were addressed in the completed study (Draft 3) and delivered for final review on December 12, 2008.

The approach of this study follows best practices for feasibility analyses. To assess the feasibility of the two identified focus areas (E911 prepaid fees & exemptions on all E911 fees) in this feasibility study, information has been searched, gathered, and processed analytically from four main sources: 1) Prepaid wireless service providers; 2) Prepaid and tax policy industry and association sources; 3) E911 and tax/fee government sources of information in other states, such as administrators and statutes; and 4) State of Florida tax/fee government sources of information, such as administrators and statutes. All information has been analyzed specifically to meet the requirements in the statutory mandate for this study. Based on the analysis of information gathered and analyzed, feasibility solution designs for meeting the requirements of this study were progressively refined into recommendations and conclusions.

In the E911 fee collection method feasibility analysis section of this study, according to a staged feasibility analysis process framework, six E911 fee collection methods were selected for initial feasibility analysis at a conceptual level after a lengthy search and review process. This review process was Stage 1 of this feasibility analysis study. In Stage 2, these six selected collection methods were evaluated at a conceptual level using a point-by-point analysis technique to establish the value of each collection method in a singular and combination context. From the Stage 2 analysis phase, two collection methods passed to the Stage 2 design phases for detailing at an implementation level and then passed to the State 2 assessment phase. From there, these same two most feasible collection methods were passed to Stage 3 for tax policy and implementation readiness point-by-point analysis. The two Stage 3 contestant collection methods were the Best Practice Menu Flat Fee Collection Method (BPMFFCM), Contestant 1, and the Best Practice Statewide Point of Sale Flat Fee Collection Method (BPSPOSFFCM), Contestant 2. In the Stage 3 Assessment Phase, both collection methods were deemed to be feasible for use in the State of Florida, subject to the specified approvals in this study. Recommendations and conclusions on these collection methods and related processes were extrapolated from this feasibility analysis process and are presented in the appropriate sections of this study.

In the exemptions section of this study, each of the four existing exemptions was assessed for feasibility. Recommendations and conclusions on exemptions were extrapolated from this feasibility analysis process and are presented in the appropriate sections of this study.

II. EXECUTIVE SUMMARY CONCLUSIONS

An executive-level summary of this study's conclusions follows.

E911 PREPAID WIRELESS FEE SERVICE EXECUTIVE SUMMARY CONCLUSIONS

1. It is feasible to collect E911 fees from the sale of prepaid wireless service on an equitable, competitively neutral, and nondiscriminatory basis.
2. Collection of prepaid wireless fees should be as consistent with other E911 fees as can reasonably be done while feasibly collecting E911 fees from the sale of prepaid wireless service.
3. Collection of fees on prepaid wireless service using the collection method(s) deemed feasible in this study do constitute an efficient use of public funds, given the technological and practical considerations of collecting the fee.
4. The Best Practice Menu Flat Fee Collection Method (BPMFFCM) evaluated in this study is tentatively deemed feasible, subject to approval by the Florida E911 Board.
5. The Best Practice Statewide Point of Sale Flat Fee Collection Method (BPSPOSFFCM) evaluated in this study is tentatively deemed feasible, subject to approval by the Florida E911 Board and a satisfactory efficiency of operations review by Florida Department of Revenue (DOR).
6. From the options discussed in this study, the most feasible course of action may be navigated by the E911 Board, according to the outcomes of follow-on factfinding related to the two feasible collection methods and related policy formulations.

E911 FEE EXEMPTIONS EXECUTIVE SUMMARY CONCLUSIONS

1. The State and Local Government Exemption is deemed feasible “as is” and no changes in exemption status are recommended.
2. The Tribal Territory Exemption is deemed feasible “as is” and no changes in exemption status are recommended.
3. The Twenty-five Line Cap Provision Exemption is deemed feasible “as is” and no changes in exemption status are recommended.
4. The Coin Phone (Pay Phone) Exemption is deemed feasible “as is” and no changes in exemption status are recommended.

III. OVERVIEW OF STUDY

INTRODUCTION

This Prepaid Wireless E911 Fee Collection Feasibility Study was mandated in the 2007 Florida Statutes § 365.172. As allowed for in the statutes, the study was competitively bid to a consulting firm under the State of Florida Management Consulting Services Term Contract (973-001-06-1). A contract was awarded to Advanced Systems Design, Inc. (ASD), a Tallahassee-based government consulting firm.

ASD has authored this independent study in close coordination with and under the oversight of the State of Florida DMS E911 Board. As a service provider, ASD consulted with the Board to understand its requirements and expectations, follow closely the statutory mandate for this study, and involve key stakeholders, and gather needed information, and determine findings without preconceptions or bias.

As an important part of the consulting and solution development process, ASD delivered three formal drafts (8/11/2008, 11/12/2008, & 12/12/2008) and two informal drafts (9/12/2008 & 10/20/2008) and addressed the Board's comments between drafts on a best-effort basis. The initial formal "concept" draft (Draft 1) was delivered on August 11, 2008. Subsequent comments on this draft from the E911 Board were addressed in the development process leading to the formal substantially completed draft (Draft 2) delivered to the Board on November 12, 2008. Feedback and comments from the E911 Board were addressed subsequently in the finalized study (Draft 3), delivered on December 12, 2008.

PURPOSE STATEMENT

The purpose of this study is to assist the E911 Board with its determination of State of Florida E911 prepaid wireless fee policy and related exemption issues. This purpose is collectively served through the execution of the five bulleted "to do" tasks enumerated in the "Requirements Statement" section that follows.

As mandated in Florida Statutes § 365.172, based on the findings of this study, the E911 Board will make policy determinations on collecting E911 fees on prepaid wireless services. While the Board's review of this study will help shape the Board's policy, the Board's authority is not bound by this independent study.

If after the review of this study, the Board determines that an E911 fee *should not* be collected from the sale of prepaid wireless services, the Board will report its findings and recommendation to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2008. In this eventuality, the Board may want to recommend extending the current suspension of the prepaid wireless E911 fee or a statutory revision permanently granting an E911 fee exemption to prepaid wireless.

If the Board determines that an E911 fee *should be* collected from the sale of prepaid wireless services, the Board will collect the fee beginning July 1, 2009 according to rulemaking that the Board develops, coordinates, and implements.

In addition to addressing the statutory mandate for evaluation of the prepaid wireless E911 fee, the Board will use this study and the Board's review to evaluate if changes to existing E911 fee exemption policies are warranted.

REQUIREMENTS STATEMENT

In the 2007 Florida legislative session, the E911 prepaid wireless fee requirement for this study was included as a part of SB1198 and the corresponding House bill. This legislation passed in the 2007 Session and was enacted into the 2007 Florida Statutes, effective the date of signing, 05/24/07, in § 365.172, Section (8)(a)2.a., b., c., d. e., f., and g.:

a. The board shall conduct a study to determine whether it is feasible to collect E911 fees from the sale of prepaid wireless service. If, based on the findings of the study, the board determines that a fee should not be collected from the sale of prepaid wireless service, it shall report its findings and recommendation to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2008. If the board determines that a fee should be collected from the sale of prepaid wireless service, the board shall collect the fee beginning July 1, 2009.

b. For purposes of this section, the term:

(I) "Prepaid wireless service" means the right to access telecommunications services that must be paid for in advance and is sold in predetermined units or dollars enabling the originator to make calls such that the number of units or dollars declines with use in a known amount.

(II) "Prepaid wireless service providers" includes those persons who sell prepaid wireless service regardless of its form, either as a retailer or reseller.

c. The study must include an evaluation of methods by which E911 fees may be collected from end users and purchasers of prepaid wireless service on an equitable, efficient, competitively neutral, and nondiscriminatory basis and must consider whether the collection of fees on prepaid wireless service would constitute an efficient use of public funds given the technological and practical considerations of collecting the fee based on the varying methodologies prepaid wireless service providers and their agents use in marketing prepaid wireless service.

d. The study must include a review and evaluation of the collection of E911 fees on prepaid wireless service at the point of sale within the state. This evaluation must be consistent with the collection principles of end user charges such as those in s. 212.05(1)(e).

e. No later than 90 days after this section becomes law, the board shall require all prepaid wireless service providers, including resellers, to provide the board with information that the board determines is necessary to discharge its duties under this section, including information necessary for its recommendation, such as total retail and reseller prepaid wireless service sales.

f. All subscriber information provided by a prepaid wireless service provider in response to a request from the board while conducting this study is subject to s. 365.174.

g. The study shall be conducted by an entity competent and knowledgeable in matters of state taxation policy if the board does not possess that expertise. The study must be paid from the moneys distributed to the board for administrative purposes under s. 365.173(2)(f) but may not exceed \$250,000.

In addition to the mandated “to do’s” of this study cited above in the Florida statutes, the E911 Board added a fifth requirement, the independent assessment of four current E911 fee exemptions: coin phone, state and local government, and twenty-five line cap provision (lines in excess of statutory cap Federal property), and tribal territory. These E911 fee exemption requirements and the statutorily mandated prepaid wireless E911 fee requirements were formally agreed on in the Statement of Work (SOW) for this study and are addressed in this study according to the terms and conditions of the SOW.

A close reading of the requirements for this study in the cited statutes and the SOW results in five key tasks, or “to-do’s,” the first four from the statutory language and the fifth from the SOW, are the focus of this study:

1. To “determine whether it is feasible to collect E911 fees from the sale of prepaid wireless service”;
2. To “include an evaluation of methods by which E911 fees may be collected from end users and purchasers of prepaid wireless service “on an equitable, competitively neutral, and nondiscriminatory basis”;
3. To “consider whether the collection of fees on prepaid wireless service would constitute an efficient use of public funds given the technological and practical considerations of collecting the fee”;
4. To “include a review and evaluation of the collection of E911 fees on prepaid wireless service at the point of sale within the state”; and
5. To include a review and evaluation of the four current exemptions for E911 fees.

Note: The quoted language in the first four tasks above are from the 2007 Florida Statutes, effective 05/24/07, in § 365.172, Section (8)(a)2.a., c., and d. The language of the fifth task is drawn from the Statement of Work.

Of special significance for the scope of the prepaid wireless part of this study is that the statutory mandate for this feasibility study is to “determine whether it is feasible to collect E911 fees from the sale of prepaid wireless service” NOT “at the point of sale.”

SCOPE

This study will restrict its scope to the purposes of the “Purpose Statement” section and the requirements of the “Requirements Statement” section.

TIMEFRAME

Schedule of Formal Draft Submissions and E911 Board Reviews

Task Name	Start	Finish
Submit Draft Report to the Board for Review (Draft 1)	10-Aug-08	11-Aug-08
E911 Board Report Review.	11-Aug-08	21-Aug-08
E911 Board Study Report Comments	21-Aug-08	25-Aug-08
Draft Substantially Complete Report	26-Aug-08	10-Nov-08
Submit Substantially Completed Report to Board (Draft 2)	11-Nov-08	12-Nov-08
E911 Board Report Review	12-Nov-08	17-Nov-08
E911 Board Report Comments	17-Nov-08	01-Dec-08
Draft Final Complete Report	02-Dec-08	11-Dec-08
Submit Final Completed Report	11-Dec-08	12-Dec-08
E911 Board Reviews Final Report	12-Dec-08	17-Dec-08
E911 Board Legislative Comments	18-Dec-08	30-Dec-08
E911 Board Delivers Report per Statutory Mandate	30-Dec-08	31-Dec-08

APPROACH

The approach used in this feasibility study has been custom developed to address the two required feasibility focus areas of this study: E911 prepaid wireless fees and E911 fee exemptions.

A working definition of “feasible” and “feasibility” is needed for guiding the approach of this study. For something to be “feasible,” it must be do-able, or capable of being done, but this may not be sufficient for “feasibility” in some situations. For the purposes of this study, the adjective “feasible” is defined as both “capable of being done or carried out” and “capable of being used or dealt with successfully” (Merriam-Webster Online Dictionary). As well, for the purposes of this study, the evaluated degree of feasibility relative to other alternatives is of great significance. Feasibility of a solution ultimately has to do integrally with the rank of feasibility, such that feasibility is definable as the most feasible solution available, given a certain set of defined evaluation criteria.

Most importantly, for the purposes of this study, feasible means capable of being done efficiently and effectively by service providers and the Florida government for the benefit of its citizens, especially for the end users served by prepaid wireless services. Capability does not determine feasibility by itself. Suitability is also a key part of feasibility. An important part of suitability is the determination of what is proper and fitting and the best of available options, according to what can be done successfully, that is, done appropriately, efficiently, and effectively in the required timeframe.

For the purposes of the prepaid wireless E911 fee section of this study, each collection method’s feasibility is analyzed at three progressive stages and levels:

- Stage 1 - Entry Level (Level 1);
- Stage 2 - Conceptualization Level (Level 2); and
- Stage 3 - Implementation Readiness Level (Level 3).

This three-level feasibility analysis process was put in place in the planning phase as a best-practice approach and refined as needed over the course of the study. The finalized feasibility evaluation

framework is introduced here and described in detail in the section “Feasibility Analysis of Prepaid Wireless E911 Fee Collection Methods.”

The first step in the feasibility analysis process was to search for and conceptually review potentially feasible collection methods over a period of several months. At the end of this search and review process, six conceptual collection methods were qualified into the scope of this study at the Entry Level (Level 1) as potentially feasible collection methods. Subsequently, at Level 2 (Conceptualization Phase), each of these six entry-level-qualified conceptual collection methods were analyzed in detail using a custom-developed, comprehensive point-by-point analysis technique designed for evaluating the methods’ actual feasibility value going forward as a collection method employed by the State of Florida, whether in singular use or in a combination collection methods.

In the Analysis Phase of Level 2, each of the six conceptual collection methods was analyzed and evaluated for efficiency and effectiveness. For the purposes of this study, efficiency is doing things right and effectiveness is doing the right thing.

In the Design Phase of Level 2, the ramifications of the analysis phase were carried forward from the analysis phase to the design phase. While Level 2 begins with conceptual analysis, out of this conceptual analysis the most feasible solutions are determined at a design level doing “what if” design thinking. In the final design processes of the Level 2 Design Phase, according to established rules, specific collection methods are developed from the conceptual possibilities and the most feasible alternatives are assessed in the Assessment Phase and qualified from Level 2 to Level 3 of the feasibility analysis process.

In Level 3, the collection methods are analyzed at an implementation-readiness level using the American Institute of Certified Public Accountants (AICPA) good tax policy guiding principles as point-by-point screening criteria and various custom developed implementation/operations criteria for evaluation. At the Tax Policy Level of Part 1, these AICPA criteria are used qualitatively and in Part 2 the qualitative strength of each collection method is quantitatively scored for each tax policy principle. These principle scores and the resulting total scores for each collection method are intended as decision aids not as quantitatively significant outcomes.

For the purposes of the exemptions section of this study, each of the four exemptions is assessed for feasibility at three levels: The Current State, Gap Analysis, and Proposed Future State. An assessment of the Current State evaluates how each current exemption is working out in practice to date. The Gap Analysis compares the current state of the exemption with alternatives in place in other states and theoretical possibilities. The Proposed Future State delineates the recommended future state for each exemption under review.

The development of this study progressed over three formal drafts. Draft 1, the “concept” draft, was due to the E911 Board by August 11, 2008. Draft 2, a substantially complete draft of this study, was due to the E911 Board by November 12, 2008. Draft 3, the final copy, or completed study, was due to the E911 Board on December 12, 2008. The completed study was reviewed and discussed by E911 Board members at the E911 Board Meeting on December 17-18, 2008. The E911 Board accepted the final draft as the final copy of the study.

In lifecycle order, a listing of the main process areas in the approach of this feasibility study follows:

- Feasibility Study Initiation

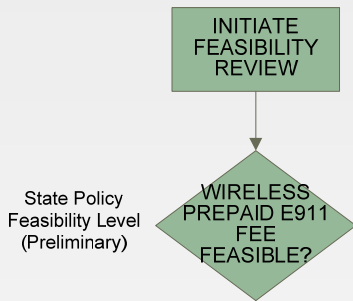
- Feasibility Study Monitoring/Controlling
- Feasibility Study Planning
- Feasibility Study Information Gathering
- Feasibility Study Solution Analysis
- Feasibility Study Solution Design
- Feasibility Study Development
- Feasibility Study Delivery
- Feasibility Study Closeout

The approach for this study uses best practices for planning and executing feasibility studies. To assess feasibility in this study, relevant information has been gathered and analyzed in relation to the purposes, requirements, and tasks for this study. This information has been analyzed and related to the key tasks, purposes, and requirements of this study. Based on the analysis of information gathered, feasibility solution designs for meeting requirements were developed and progressively refined.

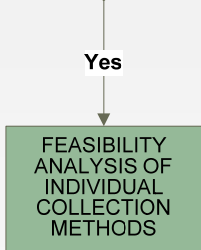
A key approach of this study was the development of the solution design out of the information gathering and analysis processes. Information gathered came from four main sources: 1) Prepaid wireless service providers; 2) Prepaid and tax policy industry and association sources; 3) E911 and tax/fee government sources of information in other states, such as administrators and statutes; and 4) State of Florida tax/fee government sources of information, such as administrators and statutes. Information gathering from prepaid wireless service providers included a formal survey instrument with closed-ended and open-ended questions, informal telephone discussions, the intake and review of submitted articles and position papers, emails, and the review of corporate websites. Information gathering from wireless, wireline, and prepaid industry sources included informal telephone discussions, the intake and review of submitted articles and position papers, emails, and the review of industry resource website and printed media sources. Information gathering means from governmental sources in other states and jurisdictions included informal telephone discussions, emails, the intake and review of submitted articles and position papers, and the review of governmental website pages and other available printed resources. Information gathering from governmental sources within the State of Florida included informal face-to-face meetings/interviews, telephone discussions, emails, reviews of statutes/policies, and the review of agency website pages and other available printed resources.

An important part of the approach for any professionally conducted independent feasibility study is the integrity and objectivity of its authors, as well as their due attention to directives from authorities commissioning the feasibility study, including stated objectives and requirements. The authors of this report have performed this feasibility study with integrity and objectivity, and without preconceptions or biases. In this study, the authors have been guided by the facts and processes involved and without regard for any personal or professional agenda. The authors have endeavored to follow the directives to this study in the Florida Statutes and the work direction provided by the Florida E911 Board. As mandated in the Florida Statutes § 365.172 for the evaluation of the E911 fee, this study has without exception been conducted “on an equitable, efficient, competitively neutral, and nondiscriminatory basis” with a unswerving focus on best-value solutions for the State of Florida , its citizens, and all stakeholders to this project.

Diagrammatic representations of the high-level feasibility solution designs for the prepaid wireless E911 fee and exemptions portions of this study follow on the next two pages.



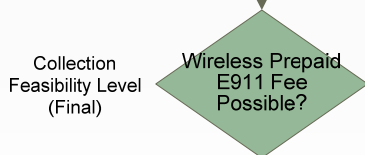
Contingent on the outcome of the collection method analysis at the Collection Method Feasibility Level, the E911 fee on prepaid wireless service is provisionally deemed to be good State of Florida policy. The statutory mandate places the burden of feasibility on the collection method. Existing E911 fees on similar telephone services, a perceived need for equity among subscribers and service providers, and comparable wireless prepaid fees in a majority of other states point to the acceptability of E911 at a state policy level.



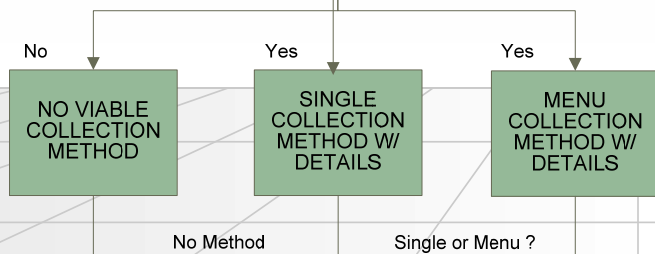
Feasibility analysis of collection methods is conducted based on a predefined set of evaluation criteria. Collection methods tentatively to be included in the evaluation review include monthly fee assessment on accounts with a balance of equal to or greater than the assessment amount, an aggregate assessment on monthly prepaid revenue of the prepaid service provider, point-of-sale(POS), etc.



Individual collection methods reviewed are deemed feasible or not feasible in Florida, and the feasible collection methods are assessed and prioritized.



A collection method feasibility determination will be made between the following options: no viable collection method exists, a single feasible collection method exists, or a menu set of feasible collection methods exists. Policy feasibility will be revisited in light of this collection method determination.



An enumeration of collection method alternatives is presented, along with selection recommendations.





INITIATE
FEASIBILITY
REVIEW

PERFORM
DISCOVERY OF
"CURRENT STATE"

Discover "Current State" of 4 designated options:

- 1) Coin phone;
- 2) 25-Line cap provision;
- 3) State and local government;
- 4) Tribal territory

PERFORM
PRELIMINARY
ANALYSIS

Perform preliminary analysis

PERFORM GAP
ANALYSIS WITH
OTHER STATES

Compare Florida's exemptions to other states' exemptions

PERFORM FINAL
FEASIBILITY
ANALYSIS

Perform final analysis

DEFINE
"FUTURE
STATE"

Determine best practices and make recommendations

REPORT
FINDINGS

IV. FLORIDA'S PREPAID WIRELESS SERVICES: AN OVERVIEW

OVERVIEW

Prepaid wireless service refers to use of a prepaid or pay-as-you-go wireless mobile phone by subscribers, for which service is purchased in advance of use. For the purposes of this study, “pay-as-you-go” is a word synonymous with “prepaid.” The business reality is that payment by subscribers is made either before or after use, not during use. By purchasing credit for airtime on a mobile phone network in advance, a user can access a mobile phone network without the requirement of ongoing billing. Users can then use the mobile telephone (radio) network until they run out of airtime credit. An alternative billing method—and more commonly used at the present time—is postpaid wireless service. The postpaid mobile phone arrangement is typically based on a mobile phone contract, in which a subscriber enters into a long-term billing arrangement with a mobile network operator, carrier, or reseller.

“Prepaid” and “postpaid” wireless services are identical communication services, though there are business model level distinctions, such as the timing of payment (before/after) and E911 fee assessment. Prepaid service providers have no need for subsequent “billing” of subscribers as do postpaid providers (though some may interpret the prepaid payment transaction as a form of billing). Collection methods for E911 prepaid wireless taxes/fees may require special consideration and facilitation by government administrators and service providers. Unlike traditional E911 fee collection pegged to monthly billings, devising a fair and functional collection method for E911 fees is a challenge. This challenge is the impetus for this study.

Regardless of cited business model distinctions, it is important to note that at an end user communication service level that prepaid wireless service is identical to postpaid wireless service. Both services are radio communication services using the same cell towers and bandwidth. Also both services are capable of accessing 911 Emergency Assistance, as are wireline services and VOIP services.

Prepaid and postpaid are marketing segments of the wireless communications industry. Each segment is served by different business models and attracts customers with differing value profiles. The major difference in these two marketing segments has to do with the tradeoff between cost and convenience. Cost-minded prepaid service subscribers may save money on a monthly basis if they don't use many minutes, leverage their prepaid plans, and sacrifice the convenience of not having to periodically add or top off their minutes. For this reason, the demographic profile of prepaid subscribers differs significantly from the profile of postpaid subscribers. Prepaid subscribers tend to a larger degree to include senior citizens, students, immigrants, emergency-only users, and other cost-watchers interested in alternatives to postpaid wireless services. Prepaid wireless subscribers tend to use fewer airtime minutes each month than postpaid wireless subscribers. According to this study's survey results, the average monthly spend for a prepaid wireless subscriber in Florida is between \$25-\$30, while the average postpaid bill nationally tops \$50, according to industry sources. Regardless of monthly airtime usage levels, the probability of needing to call 911 for emergency services in any given month is practically the same for end users, however. The need to call 911 is situation based.

This is a good point to emphasize that the capability of calling the 911 number for emergency services is available on all operational phones in Florida, regardless to technology and payment method. Operational is here defined as having a dial tone. No subscriber service is required for an operational wireless phone set to connect with 911 emergency services. It is possible to call 911 from a pay phone

without fee. It is possible to call 911 from a wireline phone in a home or business environment. It is possible to call 911 from a postpaid wireless phone. It is possible to call from a VOIP service. And it is possible to call 911 from a prepaid wireless phone. Within Florida, 911 emergency services are available without charge at the time of the call from all 911-accessible communication mediums.

The current Florida statutes define “prepaid wireless service providers” as the following:

‘Prepaid wireless service providers’ includes those persons who sell prepaid wireless service regardless of its form, either as a retailer or reseller.

Florida’s current definition of prepaid service provider is very distinctive. No other state explicitly includes retailers among service providers. Most states explicitly or tacitly define prepaid service providers as carriers or carriers/resellers of prepaid wireless service. Under the Florida statutes, retail companies such as WalMart, Target, and CVS, to name a few, are prepaid wireless service providers. All sellers of prepaid wireless service are service providers. Big or small in operations, according to the current Florida statutes, any person or company selling prepaid wireless service is a prepaid wireless service provider. This non-standard treatment of retailers as prepaid wireless service providers in Florida’s statutes may potentially be an issue that will need addressing if Florida were to reinstate an E911 fee on prepaid wireless services. This policy issue is addressed more fully in the “E911 Fee Prepaid Wireless Policy Considerations” section of this study.

Prepaid wireless service providers sell prepaid wireless service. The Florida statutes define “prepaid wireless service” as the following:

‘Prepaid wireless service’ means the right to access telecommunications services that must be paid for in advance and is sold in predetermined units or dollars enabling the originator to make calls such that the number of units or dollars declines with use in a known amount.

Identifying all prepaid wireless service providers active in the State of Florida is not within the scope of this study. However, on a best effort basis, the authors of this study developed a working list of prepaid wireless service providers by drawing from known wireless service providers that were determined to offer their own developed and branded prepaid services solutions (set of products/services) and by augmenting this “Telecom” list with a separately developed list of retail prepaid wireless service providers (under the current Florida statutes) not selling or reselling their own developed and branded wireless service solutions.

For only the purposes of organization in this study, two categories of prepaid wireless service providers active in Florida are recognized: 1) Telecommunications industry focused prepaid wireless service providers who maintain and sell their own developed and branded services, or act as resellers for such services; and 2) Non-telecommunications focused retailers not active as traditional resellers and not selling their own developed and branded services. In subsequent sections, Telecom service providers are referred to as Category 1, and non-carriers/resellers, or retail service providers, are referred to as Category 2. This classification system (two categories of prepaid wireless service providers) is not described in the statutes but is useful in this study. Without definition, the Florida statutes enumerate three types of sellers of prepaid wireless services: sellers (not resellers or retailers), resellers, and retailers.

The purpose of this section is to give a current snapshot of the prepaid wireless services industry in Florida. This background information may be helpful to decision makers formulating E911 fee policies.

This is a good juncture to note that many prepaid wireless service providers contributed generously of their staff’s time and expertise towards the findings of this study.

FLORIDA'S CARRIER/RESELLER PREPAID WIRELESS SERVICE PROVIDERS

Introduction

This section contains information gathered from representative carriers/reseller prepaid wireless service providers active in Florida. Some of these service providers are also retailers as well, if they sale prepaid wireless services from their own stores or websites or through other channels.

Thirteen representative carrier/reseller prepaid wireless service providers active in Florida are listed below in alphabetical order:

1. Alltel
2. American Roaming Network (ARN)
3. APC Wireless
4. AT&T Wireless
5. Great Call
6. OnStar
7. SouthernLinc
8. Sprint Nextel
9. T-Mobile
10. TracFone
11. Verizon
12. Virgin Mobile
13. Ztar Mobile

Note: For more information on each of these service providers active in the State of Florida and their offered calling plan arrangements, see Appendix 3.

Note: The summary of survey information on the following page includes aggregate data from all of the above service providers, except American Roaming Network (ARN) and Ztar Mobile, for which there was some question whether statutorily mandated participation in the survey process applied.

Survey of Carrier/Reseller Service Providers Active in Florida

Introduction

As facilitated under the Florida Statutes, a survey was made available to Carrier/Reseller service providers active in Florida. The response of these service providers was generally cooperative and supportive. From the above service providers, 11 completed surveys were received and two service providers were deemed to not sale prepaid wireless services to end users and/or to be under further review. A summary of key information gathered from the survey follows.

Summary of Close-ended Survey Response Data

Sales Methodology and Collection Principles

Many service providers identified sales channels including storefront, web site, telephone, and other channels. All service providers indicated at least one sales channel. For small service providers, getting their products into stores may be a problem given the competition among service providers for shelf space. Web site sales is clearly a prime channel for some service providers and important for all service providers. Sourcing is indicated as zip code and/or area code. Typically, the zip code provided by the customer results in a corresponding area code. Of the survey 11 responses to question 3C regarding company preference for a collection method in Florida if facilitation is required, the companies voted as follows:

<u>Option #</u>	<u># of Votes</u>	<u>Option</u>
1	1	E911 fee collected on a monthly basis from each active prepaid customer whose account balance is = to or > than the amount of the fee
2	1	E911 fee collected on a monthly basis according to a computed formula of aggregate prepaid service revenues
3	3	E911 fee collected on a monthly basis according to a defined percentage of the aggregate prepaid service revenues
4	5	E911 fee collected at point of sale
5	3	Other

There were 11 survey responses received. 2 survey responses indicated 2 options. Therefore the number of total “votes” above is 13. These numbers are tallied above according to a best effort interpretation of responses. While this tally is not statistically significant, it does show the diversity of perspectives among service providers on the issue of the E911 fee collection method.

The preferences for collection methods were fairly distributed. Generally, large companies opted for point of sale or other and smaller companies’ preferences were mixed.

High-level Operations, Sales, Revenue Metrics

Survey Key Cumulative Financial Metrics (Totals & Averages)[∞]

Prepaid service annual revenue for 2007:	\$469,997,378
Prepaid service monthly revenue in January, 2007:	\$44,815,395
Prepaid service monthly revenue in December, 2007	\$42,935,404
Number of active prepaid accounts in January, 2007:	1,633,369
Number of active prepaid accounts in December, 2007:	1,841,645
Prepaid service average revenue by end user customer by month in 2007:	\$20.11
Prepaid service average monthly number of minutes used by end user customer in 2007:	113

[∞] = This table represents aggregate data returned from the prepaid provider survey

County-By-County Prepaid Wireless Service Data

From the 11 survey responses from service providers, five responses contained detailed county-by-county data.

Note: Survey information is available for aggregate analysis as may be needed going forward. However, all information provided by respondents in the survey is subject to Florida Statute 365.174. and will be treated as proprietary and confidential business information.

FLORIDA'S NON-TELECOM PREPAID WIRELESS SERVICE PROVIDERS

Introduction

This section contains background information on Florida's prepaid wireless service providers that are **not** carriers or resellers. Many prepaid wireless carriers and resellers are also retailers. Carriers and resellers may sale prepaid wireless services from their own stores or websites, or through other channels. However, the service providers focused on in this section are *only* retailers. They are *not* carriers or resellers of prepaid wireless services.

There are seven main categories of non-telecommunications, retail-only prepaid wireless service providers:

1. Major Discount Stores – WalMart, Costco, Target, K-Mart, etc.
2. Major Electronics Stores – Best Buy, Circuit City, etc.
3. Office Supply Stores – Office Depot, Office Max, etc.
4. Grocery Stores – Publix, Kroger, etc.
5. Pharmacies – CVS, Walgreens, etc.
6. Convenience Stores – 7-Eleven, Circle K, etc.
7. Website Retailers – prepaidwireless.com, wirelessrefill.com, etc.
8. Other – Any other person or company selling prepaid wireless services (not a carrier/reseller)

Discussions with Non-Carrier/Reseller Service Providers Active in Florida

No formal survey was conducted among non-carrier/reseller service providers in Florida. Rather, informal store visits and telephone calls were made, and discussions were held with various store clerks, retail managers, retail executives, and retail association executives. These discussions are helpful in assessing the retail dimension as it relates to prepaid wireless sales at the storefront, Internet, phone-in, and email/mail points of sale.

V. E911 FEE PREPAID WIRELESS TAX POLICY CONSIDERATIONS

INTRODUCTION

At a fundamental level, the public policy questions in this study specific to prepaid wireless E911 fees seek to answer two main questions:

1. Should there be E911 fees assessed on prepaid wireless sales?
2. Is there a feasible collection method to enable this collection (if E911 fees should be assessed)?

With the statutory mandate by the Florida Legislature for this study, it can be assumed, at least provisionally, for the purposes of this study that the answer to Question 1 is “Yes.” This study will address various policy considerations related to Question 1 so that policymakers may make the final determination in regard to Question 1.

Question 2 and the process for answering this question are addressed in the section “Feasibility Analysis of Prepaid Wireless E911 Fee Collection Methods” of this study.

The answers to both policy questions as concluded in this study are included in the conclusions of this study. The rest of this section is concerned with policy considerations relating to the feasibility analysis evaluation processes employed in this study.

IDENTIFYING AND SURVEYING HIGH-LEVEL E911 PREPAID WIRELESS TAX/FEE POLICY CONSIDERATIONS

The 2007 Legislature tasked the E911 Board to conduct a study to determine whether it is feasible to collect E911 fees from the sale of prepaid wireless service. As noted earlier in this study, the adjective “feasible” is defined for this document as both “capable of being done or carried out” and “capable of being used or dealt with successfully” (Merriam-Webster Online Dictionary). As well, for the purposes of this study, the evaluated degree of feasibility relative to alternatives is of significance.

Specifically, the statutory language for this study mandated the following tax policy treatment in the evaluation of collection methods:

The study must include an evaluation of methods by which E911 fees may be collected from end users and purchasers of prepaid wireless service on an equitable, efficient, competitively neutral, and nondiscriminatory basis and must consider whether the collection of fees on prepaid wireless service would constitute an efficient use of public funds given the technological and practical considerations of collecting the fee based on the varying methodologies prepaid wireless service providers and their agents use in marketing prepaid wireless service.

To be responsive to the above requirements, this study’s evaluation of collection methods in the section “Feasibility Analysis of Prepaid Wireless E911 Fee Collection Methods” includes an evaluation of methods by which E911 fees may be collected from end users and purchasers of prepaid wireless service. A point of sale collection method is included in this study that is consistent with the collection principles of end user charges in the Florida Statutes, such as those in § 212.05(1)(e). Point of sale, as described and evaluated in this study facilitates “direct” collection from purchasers of prepaid wireless service. Purchasers may be assumed to be future end users. Also included in this study are descriptions and evaluations of five other collection methods that facilitate “indirect” collection from end users and purchasers of prepaid wireless service. It should be noted that these terms “direct” and “indirect” are used here relatively. In neither of the cited cases do the “end users” or “purchasers” remit the E911 fees *directly* to the State of Florida. In the point of sale collection method, the retailer collects and remits the fees to the State of Florida and in the five other evaluated collection methods in this study the prepaid wireless service providers collect and remit the fees based on identified individual and aggregate revenues.

The collection method of point of sale is deemed to collect E911 fees *more directly* than the other methods because purchasers at the point of sale are actively involved in the process. However, whether the purchaser of the prepaid wireless service is also the end user of the prepaid wireless service cannot be established, only assumed, though it is reasonable to assume that in the majority of cases that the purchaser is also the future end user. Other noteworthy policy ramifications of different collection methods will be discussed later in this study in the feasibility analysis section.

According to the statutory mandate for this study, the evaluation of collection methods in this study must consider for each evaluated collection method if the facilitated collection process is “on an equitable, efficient, competitively neutral, and nondiscriminatory basis.” Additionally, this study must consider “whether the collection of fees on prepaid wireless service would constitute an efficient use of public funds given the technological and practical considerations of collecting the fee based on the varying methodologies prepaid wireless service providers and their agents use in marketing prepaid wireless service.” Additional details follow on how these statutory requirements are addressed within the public tax policy and feasibility frameworks of this study.

The Florida E911 Board interprets the Legislature's statutory language for this study as prescribing a *comprehensive feasibility evaluation of candidate collection methods, including all feasibility and policy issues relating both to the efficiency and effectiveness of the collection methods under consideration*. Given the statutory mandate for this study, tax policy questions are treated as an integral dimension of feasibility. For such collection methods to be implemented successfully, they need to facilitate both an efficient and effective solution. Over and beyond fundamental feasibility considerations, appropriate policy questions must be addressed prior to implementation and the efficiency/effectiveness of implementation must demonstrate outcomes in line with tax policy expectations. In particular, the revenue source must be reliable, treat individuals and companies equitably, be easy to understand by all participants in the tax collection and remittance processes, and be sustainable administratively through efficient and effective policies and practices.

After considering various evaluation frameworks capable of addressing the needs of this feasibility study, the guiding principles of good tax policy of the American Institute of Certified Public Accountants (AICPA) were selected as the basis for evaluating the assessment of the two most feasible alternatives for E911 prepaid wireless fee collections in Level 3 of this study's feasibility analysis. In the document *Guiding Principles of Good Tax Policy: A Framework for Evaluating Tax Proposals*, developed by the AICPA's Tax Division, the good tax policy principles are presented in full. By excerpting an actual passage from this landmark tax policy statement, the ten AICPA guiding principles of good tax policy are succinctly presented below:

1. **Equity and Fairness.** *Similarly situated taxpayers should be taxed similarly.*
2. **Certainty.** *The tax rules should clearly specify when the tax is to be paid, how it is to be paid, and how the amount to be paid is to be determined.*
3. **Convenience of Payment.** *A tax should be due at a time or in a manner that is most likely to be convenient for the taxpayer.*
4. **Economy in Collection.** *The costs to collect a tax should be kept to a minimum for both the government and taxpayers.*
5. **Simplicity.** *The tax law should be simple so that taxpayers understand the rules and can comply with them correctly and in a cost-efficient manner.*
6. **Neutrality.** *The effect of the tax law on a taxpayer's decisions as to how to carry out a particular transaction or whether to engage in a transaction should be kept to a minimum.*
7. **Economic Growth and Efficiency.** *The tax system should not impede or reduce the productive capacity of the economy.*
8. **Transparency and Visibility.** *Taxpayers should know that a tax exists and how and when it is imposed upon them and others.*
9. **Minimum Tax Gap.** *A tax should be structured to minimize noncompliance.*
10. **Appropriate Government Revenues.** *The tax system should enable the government to determine how much tax revenue will likely be collected and when.*

This AICPA statement of good tax policy principles provides a good filtering tax policy criteria framework for the final round of feasibility analysis of fee collection methods in this study. According to the AICPA, all ten of its guiding principles are equal in importance and the numbered order of the principles should not be taken as an indication of the order in importance. Therefore the AICPA principles facilitate both qualitative and quantitative analysis of collection methods.

The AICPA's ten principles facilitate an evaluation of tax policy feasibility on the basis of efficiency, equity, and neutrality, as statutorily mandated in similar language. Specifically, the statutory requirements of efficiency are addressed in the AICPA's criteria of Certainty, Economy in Collection, Minimum Tax Gap, and Appropriate Government Revenues. The statutory requirements of an equitable, competitively neutral, and nondiscriminatory basis are addressed in the AICPA's criteria of Equity/Fairness and Neutrality, as well as other principles to a lesser degree.

The AICPA's ten principles were intended by their developers as a decision framework for evaluating how tax rule changes should be analyzed, so these principles are well suited for usage in this tax policy and feasibility context. The full AICPA principles document is an excellent detailed resource and as of November 3, 2008 is downloadable from the AICPA web site at the following AICPA website URL: <http://ftp.aicpa.org/public/download/members/div/tax/3-01.pdf>. These same AICPA principles have, in turn, by the way, greatly influenced the development of the document *Principles of a High-Quality State Revenue System*, developed and maintained by the National Conference of State Legislatures (NCSL), and often referenced by state government policymakers from many states. As of November 3, 2008, this NCSL document can be referenced at the following NCSL website URL: <http://www.ncsl.org/programs/fiscal/fpphqrs.htm>.

Some discussion on the adaptation of the above tax policy principles for this study is needed. These ten principles only mention two stakeholders in the tax (fee) collection process: the taxpayers and the Government. For the purposes of this study, consideration will additionally be given to the important role of service providers and/or retailers in the collection and remittance of E911 fees. Additionally, it should be noted that these guiding principles apply to all stakeholders in the fee collection/remittance environment—from taxpayers or end users to service providers and retailers to government administrators. All stakeholders must be well served by each tax/fee and by the tax/fee system.

The feasibility analysis contest in this study is designed to assess contestants at the tax policy and implementation readiness levels, as well as prerequisite levels. In the final Feasibility Level 3 round of feasibility assessment, a point-by-point feasibility evaluation process AICPA's ten tax policy principles as analysis criteria. The prerequisite Feasibility Level 2 screens conceptual collection methods and facilitates the identification of the most feasible collection method solutions for consideration in Level 3. Level 1 allows for the consideration of all potentially feasible individual collection methods, ensuring an open and comprehensive field of candidate collection methods. An examination of various other tax policy considerations relating to the evaluation of fee collection methods follows.

E911 PREPAID WIRELESS TAX/FEE POLICY AND THE FLORIDA STATUTES

a) Introduction

The revenue or tax system for the State of Florida is the means by which government acquires funding. The term *system* denotes that relationships exist among components of the system and that this system can be considered at a component level or at a system level. State of Florida tax policy represents a strategic, coherent and feasible way of collecting revenues through taxes, fees, surcharges, and other

means with multiple intake points and delegated administrators. Tax policy represents a master plan for financing government. An important consideration in this master plan is the types (tax, fee, surcharge, and other means) of available revenue sources and the leveraging of each type into a portfolio of revenue sources. According to best practices for state revenue systems, the means of raising revenues should be varied and balanced, so the revenue system is as reliable, stable, and fair as possible. Policymakers are necessarily concerned with all the individual means of raising revenues but are foremost concerned with important performance goals, such as equity, at the revenue system level, not the individual revenue measure level.

Like many states, since the 1980's, Florida has looked to 911 surcharges as a means of funding 911 initiatives for accessible and effective 911 emergency services. In conjunction with the regulation of telecommunications services, the practice of assessing an E911 surcharge started with traditional wireline customers, the only 911-connectable communication medium at the time. The E911 surcharge's origins were thus as a user fee based on "benefits conferred," or the service capability to connect a call to 911 in case of emergency. Based on these wireline origins, the E911 surcharge in Florida has traditionally been assessed on a monthly flat fee basis.

Over the years since the advent of 911 emergency services, communication technologies advanced rapidly. Florida, like many states after first learning about the prepaid wireless services, tried to adopt existing postpaid methodologies to the prepaid wireless business model. Such an approach proved difficult for policymakers to implement and sustain.

Today, in addition to wireline, both wireless and Voice over IP (VOIP) connect with 911 emergency services. At the present juncture, Fall 2008, the E911 surcharge (fee) is assessed under the Florida Statutes on wireline services, postpaid wireless services, and VOIP-connected services. The assessment of the E911 fee on prepaid wireless service began in 2003 was suspended in 2007 pending further review. Background details relating to Florida's statutory posturing follow for the benefit of policymakers.

b) Review of Treatment of Prepaid Wireless Services in 2003-2006 Statutes

Review of Treatment of Wireless Prepaid Services in 2003-2006 Florida Statutes

Historically, the first statutory treatment of prepaid wireless telephone service in the Florida Statutes occurs in the 2003 Florida Statutes § 365.172. This treatment occurs shortly after the market introduction of prepaid wireless services to Florida citizens and the need to address the nuances of prepaid wireless services on a regulatory fee basis. Key prepaid terms are defined for the first time in the Florida Statutes:

"Active prepaid wireless telephone" means a prepaid wireless telephone that has been used by the customer during the month to complete a telephone call for which the customer's card or balance was decremented. (§ 365.172, Section (3)(a))

The following collection method for collection of the monthly surcharge for prepaid wireless telephone was put into law in § 365.172, Section (9)(b):

In the case of prepaid wireless telephone service, the monthly wireless 911 surcharge imposed by subsection (8) shall be remitted based upon each prepaid wireless telephone associated with this state, for each wireless service customer that has a sufficient positive balance as of the last day of

each month. The surcharge shall be remitted in any manner consistent with the wireless provider's existing operating or technological abilities, such as customer address, location associated with the MTN, or reasonable allocation method based upon other comparable relevant data. The surcharge amount or an equivalent number of minutes may be reduced from the prepaid subscriber's account since a direct billing may not be possible. However, collection of the wireless 911 surcharge in the manner of a reduction of value or minutes from the prepaid subscriber's account does not constitute a reduction in the sales price for purposes of taxes that are collected at the point of sale.

There is a significant precedent in tax policy set in the treatment of prepaid wireless services by including this directive in Chapter 365 (USE OF TELEPHONES AND FACSIMILE MACHINES) under Title XXVII (RAILROADS AND OTHER REGULATED UTILITIES). As such, the prepaid wireless surcharge, or extra user fee, is treated as a user fee for the purposes of government regulation of telecommunications, along with similar fees already in Chapter 365 for postpaid wireless and wireline services.

The above quoted statutory language and associated definitions are included unchanged in Florida Statutes § 365.172 between 2003 and 2006, a period of four years. The above described collection method in the 2003-2006 Florida Statutes is similar to many adopted and used in other states in this time period to specify the collection and remittance of prepaid wireless 911 user fees. In the timeframe 2003-2006, service providers in several states contested such statutes based on their operational inability to reasonably comply, or similar arguments. At least one major prepaid wireless service provider maintained, due to limiting operational technologies and processes, that it could not comply with the statutory language that “monthly wireless 911 surcharge imposed ... shall be remitted based upon each prepaid wireless telephone associated with this state, for each wireless service customer that has a sufficient positive balance as of the last day of each month.” For a good general discussion of related issues between service providers and state governments in the 2003-2006 timeframe, the *Maine Public Utilities Commission's 2006 Report on Collection of Fees on Prepaid Wireless Telephone Services* may be referenced.

The problem with the previously cited statutory language, according to contesting service providers, is that the collection method is not technologically feasible, nor competitively neutral and equitable. Service providers maintained that the used statutory language is too prescriptive and limited the business models and operational capabilities of service providers.

In hindsight, the prepaid wireless collection method approach in the 2003-2006 Florida Statutes may have been overly prescriptive for a singular collection method, not adequately facilitating all prepaid wireless service providers, especially service providers who are resellers, and not network owners/lesers of prepaid wireless services. Some service providers were not able to comply with the singular collection method as specified in the statutory language because they were unable to determine if the customer account balance month-end status showed a positive balance, as prescribed in the statutory language.

In the 2003-2006 timeframe, the issues with the cited State of Florida statutory language were addressed legislatively. In the Florida 2007 legislative session, these issues and others, led to the development of SB1198 and the corresponding House bill. The legislation, as passed in the 2007 Session and enacted in the Florida Statutes, effective 05/24/06, the date of signing, suspended the collection of 911 prepaid surcharges. This suspension is in effect until 07/01/09, after which time the status of the suspension will either be extended or eliminated by the Florida Legislature.

c) Review of Treatment of Prepaid Wireless Services in 2007-2008 Statutes

In the 2007 Florida Statutes, sections 365.171 and 365.172 are amended. Most important for this study is that key definitions involving wireless prepaid services were revised and a statutory mandate for this study was included in the statutes.

A key redefinition in the 2007 Florida Statutes § 365.172 is that “‘Prepaid calling arrangements’ has the same meaning as defined in s. 212.05 (1)(e).” Chapter 212 is titled TAX ON SALES, USE, AND OTHER TRANSACTIONS under Title XIV (TAXATION AND FINANCE). The term “prepaid calling arrangements” is elaborated in 212.05 (1) (e) as follows:

(e) At the rate of 6 percent on charges for {refers to sales tax}:

a. Prepaid calling arrangements. The tax on charges for prepaid calling arrangements shall be collected at the time of sale and remitted by the selling dealer.

(I) "Prepaid calling arrangement" means the separately stated retail sale by advance payment of communications services that consist exclusively of telephone calls originated by using an access number, authorization code, or other means that may be manually, electronically, or otherwise entered and that are sold in predetermined units or dollars whose number declines with use in a known amount.

(II) If the sale or recharge of the prepaid calling arrangement does not take place at the dealer's place of business, it shall be deemed to take place at the customer's shipping address or, if no item is shipped, at the customer's address or the location associated with the customer's mobile telephone number.

(III) The sale or recharge of a prepaid calling arrangement shall be treated as a sale of tangible personal property for purposes of this chapter, whether or not a tangible item evidencing such arrangement is furnished to the purchaser, and such sale within this state subjects the selling dealer to the jurisdiction of this state for purposes of this subsection.

Additional key terms are redefined in the 2007 Florida Statutes § 365.172:

b. For purposes of this section, the term:

(I) "Prepaid wireless service" means the right to access telecommunications services that must be paid for in advance and is sold in predetermined units or dollars enabling the originator to make calls such that the number of units or dollars declines with use in a known amount.

(II) "Prepaid wireless service providers" includes those persons who sell prepaid wireless service regardless of its form, either as a retailer or reseller.

In 2007 Florida Statutes § 365.172, Section (8)(a)2., a suspension of fee collection and remittance is put into effect for wireless prepaid arrangements:

Except in the case of prepaid wireless service, each wireless provider shall bill the fee to a subscriber on a per-service-identifier basis for service identifiers whose primary place of use is

within this state. Before July 1, 2009, the fee shall not be assessed on or collected from a provider with respect to an end user's service if that end user's service is a prepaid calling arrangement that is subject to s. 212.05(1)(e).

In 2007 Florida Statutes § 365.172, Section (8)(a)2.a., b., c., d. e., f., and g., this study is mandated, and additional key new definitions are presented:

a. The board shall conduct a study to determine whether it is feasible to collect E911 fees from the sale of prepaid wireless service. If, based on the findings of the study, the board determines that a fee should not be collected from the sale of prepaid wireless service, it shall report its findings and recommendation to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2008. If the board determines that a fee should be collected from the sale of prepaid wireless service, the board shall collect the fee beginning July 1, 2009.

b. For purposes of this section, the term:

(I) "Prepaid wireless service" means the right to access telecommunications services that must be paid for in advance and is sold in predetermined units or dollars enabling the originator to make calls such that the number of units or dollars declines with use in a known amount.

(II) "Prepaid wireless service providers" includes those persons who sell prepaid wireless service regardless of its form, either as a retailer or reseller.

c. The study must include an evaluation of methods by which E911 fees may be collected from end users and purchasers of prepaid wireless service on an equitable, efficient, competitively neutral, and nondiscriminatory basis and must consider whether the collection of fees on prepaid wireless service would constitute an efficient use of public funds given the technological and practical considerations of collecting the fee based on the varying methodologies prepaid wireless service providers and their agents use in marketing prepaid wireless service.

d. The study must include a review and evaluation of the collection of E911 fees on prepaid wireless service at the point of sale within the state. This evaluation must be consistent with the collection principles of end user charges such as those in s. 212.05(1)(e).

e. No later than 90 days after this section becomes law, the board shall require all prepaid wireless service providers, including resellers, to provide the board with information that the board determines is necessary to discharge its duties under this section, including information necessary for its recommendation, such as total retail and reseller prepaid wireless service sales.

f. All subscriber information provided by a prepaid wireless service provider in response to a request from the board while conducting this study is subject to s. 365.174.

g. The study shall be conducted by an entity competent and knowledgeable in matters of state taxation policy if the board does not possess that expertise. The study must be paid from the moneys distributed to the board for administrative purposes under s. 365.173(2)(f) but may not exceed \$250,000.

Many factors went into the legislators' decision to suspend the existing statute requiring collection of wireless prepaid fees and the mandating of this study. One factor may have been the

perception that the prepaid wireless collection method enacted in the 2006 Florida Statutes (as quoted in preceding report section) was not as operationally feasible as is needed of a singular collection method. The legislative intent of this mandated study on prepaid wireless collection methods seems to be to promote a careful and calculated study of feasible prepaid wireless collection methods to ensure any collection methods applied work fairly for all stakeholders.

Florida E911 statutes relating to prepaid wireless services were unchanged from the 2007 to 2008 statutes. The current statutes may need to be reviewed and modified, according to the policy determinations of the E911 Board in regard to the E911 prepaid wireless fee collections, E911 fee exemptions, and related issues.

One example is the current definition of “prepaid wireless service providers.” As noted earlier, the current Florida statutes define “prepaid wireless service providers” as the following:

“Prepaid wireless service providers” includes those persons who sell prepaid wireless service regardless of its form, either as a retailer or reseller.

Florida’s current definition of prepaid service provider is distinctive to Florida’s statutes. Such a definition is perhaps problematic, if a prepaid wireless E911 fee were to be collected through other than point of sale collection methods. By using the word “retailer” in this context, the statutes indicate that any store (retailer) selling prepaid wireless service is a prepaid wireless service provider under the Florida statutes. This may be problematic because the Florida statutes make no other distinctions among prepaid wireless service providers. That means that a Mom and Pop convenience store selling a few prepaid wireless cards each week has exactly the same status under the law as a major telecommunications carrier that sells prepaid wireless services. Such a definition of service provider under the Florida Statutes is very different from the preceding definition of a prepaid wireless service provider in the Florida Statutes.

A second potentially problematic aspect of the above definition is that it could be restrictively interpreted to only include retailers and resellers and not original carriers who sale wholesale their own services. A potential improvement would be to add the phrase “or any other means” after “reseller.”

No other state explicitly includes retailers among service providers. Most states explicitly or tacitly define prepaid service providers as carriers or carriers/resellers of prepaid wireless service. This non-standard treatment of retailers as prepaid wireless service providers in Florida’s statutes is potentially a compliance/enforcement issue that will need addressing if Florida were to reinstate an E911 fee on prepaid wireless services, especially with any collection method other than point of sale.

d) Significance to Florida Policy of 2006 Maine Prepaid Wireless 911 Fee Report

Of significance to policymakers is the 2006 report by the Maine Public Utilities Commission on *The Collection of Fees on Prepaid Wireless Telephone Services*. This governmental report is an important watershed in the thinking of states on devising the appropriate approaches for the collection of fees on prepaid wireless telephone services. Through a review of the prepaid wireless statutes in other states, the Maine report focused on the evaluation and identification of viable collection methods for assessing a surcharge on prepaid wireless subscribers.

The mechanism of choice proposed in the Maine report is based on the “Tennessee Model,” which in 2006 was already employed in five states and has since been employed in many additional states.

The Tennessee Model is based on the statutory approach first enacted in Tennessee to address the collection of prepaid wireless fees. This approach involves the use of a menu system of collection method alternatives to promote compliance among service providers. The Maine Report observes that the Tennessee Model “places the burden of collecting the surcharge on subscribers of prepaid wireless service providers on the provider.”

The Tennessee Model, per the current Tennessee statutes unchanged since the 2006 Maine Report, offers two collection options for the prepaid wireless provider:

The service charge shall also be imposed upon customers who pay for service prospectively (prepaid customers). CMRS providers shall remit to the board the service charge under one of two methods:

- a) *The CMRS provider shall collect, on a monthly basis, the service charge from each active prepaid customer whose account balance is equal to or greater than the service charge; or*
- b) *The CMRS provider shall divide the total earned prepaid wireless telephone revenue received by the CMRS provider within the monthly 911 reporting period by 50 dollars, and multiply the quotient by the service charge amount.*

The Maine Report details the two above collection options in the Tennessee Model:

The first requires the prepaid wireless provider to ‘collect, on a monthly basis, the service charge from each active prepaid customer whose account balance is equal to or greater than the service charge.’ This option does not specify how the surcharge will be assessed or whether it will be collected at the point of sale or in some other fashion. The option simply requires the prepaid wireless provider to collect the surcharge ... The second option offered by the Tennessee Model focuses on calculating the number of subscribers ... This method divides the provider’s total intrastate monthly revenues by the average revenue per user (ARPU) of the wireless industry. The Tennessee Model uses \$50 as the monthly ARPU, which represents an estimate of the national average for monthly wireless revenues. The result is the estimated number of subscribers for the month. This number of subscribers is then multiplied by the subscriber surcharge amount, which results in an overall amount that the wireless provider must pay to the E-9-1-1 fund for the month in question.

For this 2006 timeframe, the innovative Tennessee Model offered two much-needed capabilities for addressing the assessment of E911 fees on prepaid wireless services: 1) An aggregate way (second collection option in the Tennessee Model) using a calculation based on the Average Revenue Per User (ARPU) to determine the number of prepaid wireless subscribers for which remittance of the surcharge is deemed due, facilitating a fair calculation process among service providers unable or unwilling to comply with the first option of collecting the surcharge from all active subscribers; and 2) A menu of options is offered, recognizing that only one prescribed collection method may be problematic for some service providers to comply with, if they lack needed technical capabilities. In the Maine report, the authors proceed to develop a customization of the Tennessee Model’s options and add a third collection method

option, at the point of sale, along with the options based on the first and second options already presented. These three collection options are enacted into the Maine statutes (see the section “E911 Prepaid Wireless Services Fee Collection in Other States” for the statutory language of Maine) and surface again as the 2008 NENA model baseline guidelines for drafting statutes or rules associated with prepaid wireless service and 9-1-1 emergency service fees (see the section “Assessment of NENA Model Baseline Guidelines for Drafting Statutes or Rules Associated with Prepaid Wireless Service and 911 Emergency Service Fees.”

The impact of the Maine report on the prepaid wireless service policies of states has been noteworthy. The report has influenced many states to adopt the Tennessee Model, or menu approach, while customizing a state’s menu according to the collection methods and associated policies determined in an evaluation process and enacted in the statutes. This menu customization of the Tennessee Model to suit a state’s purposes can rightfully be termed the Maine Model. For states opting to put in place a tried prepaid wireless collection method in the statutes in the 2007-2008 timeframe, such as Georgia and Michigan, this approach has generally been the implementation choice of states.

In the two years since the Maine report, at least nine states have adopted a variation of the Tennessee Model. These states are Arkansas, Connecticut, Georgia, Maine, Massachusetts, Michigan, Nebraska, Rhode Island, and South Dakota. These states are in addition to the five states that had the Tennessee Model in place at the 2006 juncture when the Maine report was published.

e) The Issue of E911 Fee Equity Across E911 Fees Under Florida Statutes

In Florida, under current statutes, 911 fees are collected on wireline and postpaid wireless services, as well as from Voice over IP (VOIP) services. At the present time, however, no 911 fee is collected on prepaid wireless services due to the statutory suspension of the 911 fee on prepaid wireless services. Potentially, this situation represents an inequity for subscribers of wireline, postpaid wireless, and VOIP services. As well, this situation represents potentially a competitively unneutral playing field for the service providers tasked with collecting and remitting the 911 fee for the non-prepaid services, since prepaid wireless service providers are not required to do so. *From a policymaking perspective, equity needs to be restored by either imposing a 911 fee on prepaid wireless services or by establishing an exemption for prepaid wireless services based on the justification that no feasible collection method can be identified for collection of the fee from prepaid wireless services.* If there is a fundamental distinction between the non-assessed prepaid wireless service and all the other assessed 911 connected services, it is potentially with the feasibility of collecting the E911 fee. If one or more feasible collection methods can be identified, it would seem there is no fundamental tax policy distinction and a 911 fee on prepaid wireless services should be imposed at the first practically available juncture.

Generally speaking, all subscribers to telephone and/or data services that have access to 911 emergency services represent one community of users. This is central to the current public policy in place in Florida that treats the 911 user fee as a surcharge on use and excludes from payment those persons not using the service: that is, those who are not in possession of a 911 connected communication medium (wireline, wireless, or VOIP services). The more subscribers to 911 connected services there are paying user fees towards the costs of maintaining 911 services, the further the 911 funds can go and the less the rate all subscribers need to contribute to meet costs. This line of thinking is typical for user fee and surcharge assessments in public policy.

When there are 911 connected subscribers not assessed 911 user fees, or if there are service providers collecting and remitting no 911 fees but whose customers can access 911 identically to those

customers who are assessed 911 fees, *this horizontal inequity across E911 fees should be addressed as an important issue of public policy relating to the collection of fees in Florida and needs to be prioritized as such.* All other matters of Florida's E911 fee public policy emanate from the priority of this focal issue. As long as the other parallel 911 fees on wireline, postpaid wireless, and VOIP are in effect in Florida and no fee is in effect for prepaid wireless subscribers, rectifying this situation is a key policy issue. As long as the state of Florida collects 911- user surcharges on any communication medium capable of connecting to 911 emergency services fees, it is equitable that the other 911 connected communications also contribute comparably unless extenuating circumstances prevent collections.

There are alternative ways to fund 911 emergency services that do not involve the assessment of 911 surcharges. Within the Florida Statutes, there is language indicating that all the costs of 911 services are *not* to be borne through 911 user surcharges. Florida's state policymakers understand that currently a portion of the cost of supporting 911 programs comes from the General Revenue fund. At the present time, however, no state, including Florida, supports all its 911 emergency management program costs solely from General Revenue sources. Increasing General Revenues to more fully support 911 emergency services is an option going forward for Florida, since 911 serves the common good. E911 fees may represent a more reliable source of funds, however. The long term policy issue of which funding options in which degree, General Revenues vs. E911 user fees, is deemed a policy decision of the E911 Board and State of Florida policymakers and is a separate issue beyond the scope of this study.

The evolution of funding for 911 emergency management services since their inception some 25 years ago is that a substantial portion of the funding has been gathered from user fees. Especially at startup in the 1980's, this source of funds was appropriate, given the limited user base, as well as in the 1990's, due to extensions of the infrastructure. Likewise, from 2000 to the present time, most states, including Florida, have been actively enhancing 911 services and augmenting the infrastructure. During this recent period, E911 user fees have filled the revenue gap for states with fees collected directly from the user base served.

In the short term, an evolutionary E911 fee public policy approach is suggested that specifically addresses the equity of stakeholders between E911 fees and the maintaining of 911 fees as a current revenue source. To further this short term goal, a polling of other states was undertaken to ascertain if other states were assessing E911 fees on prepaid wireless services. The outcome of this poll of the 50 states follows on the next page.

E911 PREPAID WIRELESS TAX/FEE POLICY IN OTHER STATES

a) State-by-State Overview of E911 Prepaid Wireless Fee Assessments

A state-by-state overview of E-911 prepaid wireless fee assessments follows. This data was gathered in the Summer-Fall 2008 timeframe and validated with each state's 911 Coordinator.

State	E911 Fee Assessed on Prepaid Wireless?	E911 Fee Assessed on Postpaid Wireless?	E911 Fee Assessed on Wireline?	E911 Fee Assessed on VOIP?	Comments (* on value indicates comment)
Alabama	Yes	Yes	Yes	Yes	
Alaska	No	Yes	Yes	N/A	
Arizona	No	Yes	Yes	N/A	
Arkansas	Yes	Yes	Yes	N/A	
California	Yes	Yes	Yes	No	
Colorado	No	Yes	Yes	N/A	
Connecticut	Yes	Yes	Yes	N/A	
Delaware	No	Yes	Yes	Yes	
Florida	No*	Yes	Yes	Yes	FL: Statutory requirement suspended.
Georgia	Yes	Yes	Yes	Yes	
Hawaii	No*	Yes	Yes	N/A	HI: Specified statutory prepaid exemption.
Idaho	No	Yes	Yes	Yes	
Illinois	Yes	Yes	Yes	N/A	
Indiana	Yes*	Yes	Yes	Yes	IN: Under litigation.
Iowa	Yes	Yes	Yes	Yes	
Kansas	Yes	Yes	Yes	N/A	
Kentucky	Yes	Yes	Yes	N/A	
Louisiana	No	Yes	Yes	N/A	
Maine	Yes	Yes	Yes	Yes	
Maryland	Yes	Yes	Yes	Yes	
Massachusetts	Yes*	Yes	Yes	N/A	MA: Law effective 8/1/08 with grace period until 7/1/09 during rulemaking.
Michigan	Yes	Yes	Yes	N/A	
Minnesota	Yes	Yes	Yes	Yes	
Mississippi	No	Yes	Yes	No	
Missouri	No	No	Yes	No	
Montana	Yes*	Yes	Yes	No	MT: Appealed to DOR & upheld as 911-accessible. Rulemaking ongoing.
Nebraska	Yes	Yes	Yes	N/A	
Nevada	No	Yes	Yes	Yes	
New Hampshire	No	Yes	Yes	N/A	
New Jersey	No	Yes	Yes	Yes	
New Mexico	No	Yes	Yes	No	
New York	No	Yes	Yes	N/A	
North Carolina	No*	Yes	Yes	Yes	NC: Statutory requirement suspended.
North Dakota	Yes	Yes	Yes	Yes	
Ohio	Yes	Yes	Yes	N/A	

State	E911 Fee Assessed on Prepaid Wireless?	E911 Fee Assessed on Postpaid Wireless?	E911 Fee Assessed on Wireline?	E911 Fee Assessed on VOIP?	Comments
Oklahoma	Yes	Yes	Yes	N/A	
Oregon	Yes	Yes	Yes	N/A	
Pennsylvania	Yes	Yes	Yes	Yes	
South Dakota	Yes	Yes	Yes	N/A	
Tennessee	Yes	Yes	Yes	Yes	
Texas	Yes*	Yes	Yes	Yes	TX: E911fee applicability upheld by Texas Commission on State Em. Communications. Currently under appeal to the Travis County Judicial District.
Utah	Yes*	Yes	Yes	Yes	UT: State 911 Program Manager has E-Mail from Tax Commission indicating statutes apply to prepaid.
Vermont	No	No	No	No	
Virginia	Yes	Yes	Yes	N/A	
Washington	Yes*	Yes	Yes	Yes	WA: Appealed to Tax Appeals Board, which upheld State. Appealed to Superior Court, which issued a Summary Judgment for State. Court of Appeals hearing due in Fall '08.
West Virginia	No*	Yes	Yes	N/A	WV: Sales tax revenues on prepaid wireless services designated to an E911 Fund per historical funding level. Specified statutory prepaid wireless fee exemption. Effective 7/08.
Wisconsin	Yes	Yes	Yes	Yes	
Wyoming	No	Yes	Yes	N/A	

Abbreviations: N/A = (Data) Not available

Note: "E911 Fee Assessed on Prepaid Wireless" is defined as the policy of the states based on the interpretation of the statutes by state administrators. See following discussions on "assessment."

Note: "E911 Fee Assessed on VOIP" may represent all or a subset of VOIP connections.

Note: This tabular data was gathered from a search of online statutes and through phone calls and emails to E911 and tax/fee administrators within the states.

Relative to the E911 prepaid wireless fee, the existing situations in states other than Florida are of interest because the existing situations represent a good indication of how other states have addressed the policy issues of this study and how these state have independently determined up to this point the feasibility of E911 fee collections on prepaid wireless services.

b) Are E911 Fees on Prepaid Wireless Services Assessed Under Existing Statutes in Other States?

According to research conducted between September 2008 and December 2008 and summarized in the preceding “State-by-State Overview of E911 Fee Assessments” table, 29 states out of the 50 states in the Union assess an E911 fee on prepaid wireless services. For the purposes of this study, assessing a fee means that it is the policy as recognized by the state that E911 fee assessments apply to prepaid wireless services, and prepaid wireless services are treated in existing E911 fee statutes in force. Thus the word “assessments” in this usage denotes the applicability of E911 fee statutes to prepaid wireless services, according to the statutes in force in each state. Known disputed states are handled in the table above with an asterisk (*) and a comment. In general, states assessing the E911 fee on prepaid wireless services are having varied results in collecting the due E911 fees. The compliance situation regarding the collection of assessments on E911 fees is discussed in the next section, after additional elaboration on the preceding “State-by-State Overview of E911 Fee Assessments” table.

Within statutory language, only two states have explicitly “permanently” exempted prepaid wireless services from E911 fee assessment, Hawaii and West Virginia. Hawaii has done so unchanged for many years. West Virginia did so effective July 1, 2008. Previously in West Virginia, a surcharge was assessed on prepaid wireless services, and no sales tax was collected on prepaid wireless services. Under the new West Virginia statutes, prepaid wireless services have an exemption from collection of the monthly E911 fee assessed on wireline and wireless services, and sales tax revenues generated from sales of prepaid wireless services are allocated to a special E911 Fund. Thus, 31 states out of 50 have an E911 fee assessed on prepaid wireless services (29 states) or a specific statutory exemption from the E911 fee for prepaid wireless services (2 states).

After subtracting these 31 states assessing E911 fees on prepaid wireless services or explicitly exempting prepaid wireless services, 19 states remain among the 50 states. These 19 states do not actively maintain a policy that existing E911 fee statutory language applies to prepaid wireless services or explicitly exempt prepaid wireless services from E911 fees (West Virginia exempts prepaid wireless services from E911 fee assessment but allocates monies to an E911 Fund from sales taxes). Two of these 19 states, Florida and North Carolina, previously collected a surcharge on prepaid wireless services but currently have temporarily suspended the collection of a surcharge or fee on prepaid wireless services during a policy review. One of these remaining 17 states, Missouri, does not assess fees on prepaid or postpaid wireless services. Missouri is the only state in the union not collecting the E911 fee on postpaid wireless services. That leaves 16 states for review of their E911 prepaid wireless fee status.

Of the remaining 16 states, five states are geographically located in the North East (Delaware, New Hampshire, New Jersey, New York, and Vermont), four states are located in the South (Louisiana, Maryland, Mississippi, and South Carolina), and seven states are located in the West (Alaska, Arizona, Colorado, Idaho, Nevada, New Mexico, and Wyoming). These states are geographically dispersed, so location is not the primary factor determining E911 fee policy in regard to prepaid wireless services. However, geography does seem to play a role in the tendency of adjacent states to adopt similar or identical statutes, as geographical similarities can be observed. The two most important factors influencing E911 fee policy among these 16 states seems to be the existence of unchanged statutory language from many years before (for example, at least seven of these states use a technology-independent connection/line basis for assessing the E911 fees of subscribers and several states have the word “bill” in the wireless statutory language predating the advent of prepaid wireless service delivery) and a pronounced decentralization in these states’ organization of 911 funding and operational functions. Both these traits characterize 911 in these 16 states and represent 911 policy predating the introduction of prepaid wireless services to consumers. None of these 16 states’ statutes explicitly exempt prepaid

wireless services from the E911 fee. In fact, some of these states currently have under review plans to assess the E911 fee on prepaid wireless under existing statutes or to modify existing statutes to facilitate the assessment of the E911 fee on prepaid wireless services. For instance, the E911 fee language relating to prepaid wireless service language in South Carolina is fundamentally similar to the language in Alabama. South Carolina does not assess the fee actively but Alabama does, based on an Attorney General opinion and administrative regulation. Such a determination is subject to review or statutory modifications. While this regulation is helpful for defining Alabama's 9-1-1 policy, there is no administrative requirement to do so, and such a determination is subject to review going forward. Likewise, Vermont exempts prepaid wireless services from E911 fees based on the opinion of the Attorney General's interpretation of statutes. In other states, such as Texas, where litigation between the state and prepaid service providers is ongoing in November 2008, the Attorney General has designated the state entity with rulemaking authority but the rulemaking authority is in question,

At least one of these 16 cited states is considering reposturing relative to the assessment of E911 fees on prepaid wireless services. None of these 16 states are known to be considering a transition to an E911 fee exemption that treats prepaid wireless services differently from other E911-connected communication services. However, Florida and North Carolina, two states that have temporarily suspended the E911 fee on prepaid wireless services while maintaining other existing E911 fees and adding an E911 fee on VOIP services, may be the only states actively considering special treatment of prepaid wireless services within E911 fee policies. The fact is that over the last three years, the trend among states has been decidedly towards a transition to assessing the E911 fee on prepaid wireless services in a standard way as other 911-connected communication services (such as postpaid wireless services, wireline services, and VOIP services). During the last three years, approximately 3-4 times as many states have transitioned to assessing a fee on prepaid wireless services as transitioned to not assessing such a fee, or approximately 11 states. Over the last three years, three states, Florida, North Carolina, and West Virginia have transitioned to not assessing an E911 fee on prepaid wireless services. Florida and North Carolina suspended temporarily E911 fees on prepaid wireless services and West Virginia put in place an E911 fee exemption on prepaid wireless services, allocating instead on a yearly basis a portion of sales tax revenues to the E911 Fund in the same amount as previous prepaid wireless E911 fee revenues.

c) Are E911 Prepaid Wireless Services Fees Assessed Feasibly in Other States?

For the purposes of this analysis of the assessment of E911 prepaid wireless fees, feasibility has been defined as "capable of being done or carried out" and "capable of being used or dealt with successfully." This definition will be applied to the policies and practices in other states. Long term sustainability of a policy in practice is deemed a good indicator of success at a basic level. Those states that have administered E911 prepaid wireless fee collections over time would seem to have internally considered the in-place policies and practices as feasible by virtue of the fact that these policies and practices have not been changed. While this fact is not clear proof of feasibility, it is a significant determiner of minimal feasibility for an in-place collection method solution. That said, clear distinctions can be made in the relative feasibility among the 29 states currently assessing E911 fees on prepaid wireless services.

There seems to be a marked difference in the level of feasibility in the E911 prepaid wireless fee policies and administration practices according to whether states assessing fees have put in place explicit statutory language treating E911 fee collection on prepaid wireless services. Over half of these 29 states that assess E911 fees have done so and this explicit treatment seems correlated with greater efficiency and effectiveness. Most importantly for Florida policymakers is that at least 14 of these 29 states have

addressed explicitly the collection of E911 fees in the statutes by using a menu of E911 fee collection methods in the statutes (based on the Tennessee Model or Maine Model discussed earlier in this study).

In informal telephone discussions, 911 coordinators and tax administrators in 12 of these 14 states (Michigan and Massachusetts are too early in the implementation life cycle to offer comments) using menu collection methods have reported a moderate level of perceived feasibility in their states. While some administrators expressed concerns, compliance under current statutes has been deemed satisfactory, according to administrators polled. It should be noted that the degree of compliance in these states seems to be correlated to compliance/enforcement practices in place, such as if service providers register, penalties for non-timely compliance, audit authority, etc. While no formal surveying of the perceived feasibility (efficiency/effectiveness) of in-place collection methods were conducted due to the complexity of such an undertaking, the sensitivity of the data, and the limited value to this study, many phone calls were placed to key policy/practice administrators in states assessing E911 fees and considerable information and insights were gathered.

The perceptions of the state administrators are tempered to a degree by the perceptions of service providers expressed in informal discussions. Service providers, in particular, expressed concerns with the E911 prepaid wireless menu collection methods employed in some states. In particular, service providers expressed concern in the ability of these methods to collect E911 fees consistently, when some service providers may be using one collection method option and other service provider another collection option. Another major concern of service providers was if the appropriate incidence is reached in such fee collections. In particular, service providers question whether ARPU-based collection methods are actually a fee on the end user or on the service provider. Transparency is another concern of service providers. Indeed, it is questionable if many end users under the policies of existing collection methods understand how their accounts are affected from decrementing of minutes or the ARPU method. Service providers have noted potential problems in vertical equity relating to ARPU methods pegged at \$50 monthly spends when numerous industry sources indicate actual prepaid wireless customer monthly spends are considerably less (this study's data suggests in the \$25-\$30 range among Florida's end users). There have been few legal challenges to menu collection methods; such legal challenges are generally restricted to situations in which statutory language preceding prepaid wireless is applied to prepaid wireless with questionable applicability.

No assessment is offered on the collection method feasibility in those states actively applying 911 statutory language predating prepaid wireless services to the policy and administration of E911 prepaid wireless fees. While not all new technologies and business models need to be addressed in statutory language for the statutes to yield efficient and effective results, clearly it is best practice for policymakers to attempt to modify statutes or publicize directives based on statutory interpretations so as to facilitate all stakeholders as reasonably as possible.

In regard to those states using menu collection methods prescribed in the statutes, this practice is deemed to be feasible and best practice at this juncture for collection of E911 prepaid wireless fees. Some states have had such collection methods in effect for five years without any statutory changes and no state's administrators with such collection methods in place for one year or longer reported any major problems or issues. Compliance is the major concern of administrators. Compliance relates to collection methods in effect and also to supporting statutorily mandated compliance/enforcement guidelines.

While the use of E911 prepaid wireless menu collection methods is deemed best practice at this juncture among implemented alternatives, there are major feasibility policy issues involved in their use, many of which have been cited by service providers and stated earlier in this section. Additional efficiency-based feasibility concerns are largely to do with manageability. These collection methods are typically an assembly of a menu of viable options that as a whole may be able to reasonably facilitate all

service providers. Such a menu, while promoting inclusiveness among service providers and facilitating compliance and supporting the funding requirements of E911, are also difficult to manage and administer. Under menu methods, service providers seek out the most suitable method for maintain compliance. Existing collection methods rely on the service providers to collect and remit fees to the designated E911 Fund and typically receive vendor's compensation for a percentage of all funds remitted.

All critique on the menu collection methods aside, given its use in many states, the menu collection method seems as if it can be a feasible, efficient, and effective approach to E911 fee collection. The collection methods included in menu collection approaches by states typically include two or more of the following *alternatives*:

1. Collection on a monthly basis of a flat or variable fee for each positive balance account.
2. Collection on a monthly basis of a flat fee or variable rate as calculated on an aggregate basis using the following formula: (monthly revenue divided by ARPU) times prepaid wireless fee.
3. Voluntary contractual arrangements for point of sale E911 prepaid wireless fee collection, according to agreed on terms/conditions.
4. Other collection alternatives.

The great majority of states using a menu collection solution use Alternative 1 and Alternative 2 above as either the complete solution or part of a menu solution. Few states use Alternative 3. Maine and Ohio are known exceptions, though no service provider currently opts for Alternative 3 above in Maine. A few states have tried other collection alternatives, including wildcards (a mutually agreeable to be-determined collection alternative), variable assessments on retail or wholesale sales, etc. It appears that many states may have in fact over complicated the menu collection approach by adding too many alternatives that do not significantly add value as alternatives. Potentially, including too many alternatives on a menu can complicate administration processes while not increasing compliance among service providers.

Best practice among implemented state collection method approaches is deemed to be a menu collection method approach using only Alternative 1 and Alternative 2 above. Such a collection method approach was put into the statutes in July 2008 in Michigan and this approach is based directly on the Tennessee Model. Alternative 1 above may not be executable in business practices by all service providers. Alternative 2 above facilitates aggregate modeling of similar results as Alternative 1 and should be executable by all service providers, regardless of technology employed or business processes in place. As essentially identical collection methods, Alternative 1 and Alternative 2 represent a consistent approach to fee collection. Most importantly, neither method allows seepage (operational or other loss of revenue streams), assuming that these collection methods are supported by best practice compliance/enforcement statutory language treating registration of service providers, penalties for non-timely compliance, audit authority, and periodic random audits. Voluntary contractual arrangements for point of sale are deemed to be an unsatisfactory collection method, particularly in association with a menu collection method approach using Alternative 1 and Alternative 2. Point-of-collection in localized or piecemeal fashion in concert with other collection methods is deemed untenable. Point-of sale collection on a statewide basis is not currently in use by any state.

Based on the above polling of states and related discussion, it is the finding in this section of the study that E911 prepaid wireless services fees are assessed feasibly under existing statutes in states employing menu collection method approaches, particularly when these menu solutions only include or focus on facilitation of Alternative 1 and Alternative 2 cited above. This finding is carried over to the feasibility analysis section and considered there.

d) Best Practices Relating to Collection Methods in Other States for Promoting Compliance to and Enforcement of E911 Fee Prepaid Wireless Statutes

Based on a review of numerous states' prepaid wireless statutes and conversations with 911 emergency management and 911 fee administrators, the following best practices were observed:

- Well-crafted definitions of terms and conditions in statutory language;
- Statutory language stipulating collections by service providers on behalf of end users;
- Statutory language with specific treatment of prepaid wireless service;
- Required registration of prepaid wireless service providers;
- Use of a menu collection method for facilitating service providers in which each menu alternative is justifiable for promoting compliance;
- Penalties for service providers not in compliance with the statutes;
- Various compliance/enforcement processes to promote compliance such as periodic emails and letters, non-qualification for programs, etc.;
- Audit authority and random periodic audits when warranted; and
- Good working relationships and communications with service providers.

e) Assessment of NENA Model Baseline Guidelines for Drafting Statutes or Rules Associated with Prepaid Wireless Service and 911 Emergency Service Fees

In September 2008 the Regulatory/Legislative Committee of the National Emergency Number Association (NENA) published the document *NENA Model Baseline Guidelines for Drafting Statutes or Rules Associated with Prepaid Wireless Service and 9-1-1 Emergency Service Fees*. The document is intended as guidelines for federal, state, and local policymakers responsible for the establishment and implementation of prepaid wireless service 9-1-1 policies, regulations, and legislation.

The following collection methods are presented as the basic alternatives for prepaid wireless service collection methods administered by the prepaid wireless service providers:

(1) collect the wireless 9-1-1 fee on a monthly basis from each customer whose account balance is equal to or greater than the amount of the wireless 9-1-1 fee on the last day of the month for remittance to the government entity; or

(2) collect the wireless 9-1-1 fee, or make voluntary contractual arrangements with a retail seller of prepaid wireless telephone service to collect the wireless 9-1-1 fee and transfer those funds to the wireless telephone service provider for remittance to the governmental entity, from the customer at the point of sale for each 30-day increment of prepaid wireless telephone service that is purchased at the time of sale..., or

(3) collect the wireless 9-1-1 fee indirectly from customers by calculating the total wireless 9-1-1 fee owed by its customers and remitting that amount to the government entity. A prepaid wireless telephone service provider that elects the collection method specified in this subparagraph must calculate the total wireless 9-1-1 fee owed for the month by:

(A) dividing its total intrastate prepaid wireless revenue for the month by the national Average Revenue Per User for prepaid wireless service, as defined by the relevant statutory agency...; and

(B) multiplying the result obtained under subparagraph (1) by the amount of the wireless 9-1-1 fee.

It should be noted that NENA's findings are essentially a rephrasing of the current Maine statutes on prepaid wireless E911 fee collections (see the related Maine statutes in Appendix 2 of this study). NENA's Alternative 1 and Alternative 3 seem feasible and are included within the feasibility analysis of this study. However, there may be potential problems associated with Alternative 2. Though Alternative 2 is in the statutes of Maine, this point of sale alternative as phrased has never been put into practice in Maine. For the purposes of this feasibility study, Alternative 2 is not deemed feasible due to its provision that collection from the customer at the point of sale is based on "each 30-day increment of prepaid wireless telephone service that is purchased at the time of sale." While this study supports a point of sale approach as potentially feasible, this study does not consider a point of sale collection method by a 30-day increment to be fair and equitable policy to service providers or end users. It is unclear how a 30-day increment can be implemented. Such a provision introduces numerous policy and technical questions that would need to be addressed in detail with stakeholders prior to finalization of statutory language. Another related concern with NENA's point of sale option has to do with the "voluntary contractual arrangement with retail outlets that sell prepaid service" aspect and potential "seepage" of revenues. Since the point of sale alternative is described as a "voluntary contract arrangement," there may be instances in which not all point of sale outlets are under a contractual arrangement to collect and remit the fee. Missed E911 fee collections in such a piecemeal, partial system are termed "seepage," or an unplanned circumventing of fee collection and remittance. In any non-statewide point of sale fee collection alternative, seepage needs to be adequately addressed because seepage is a breakdown of the collection method and creates inequity among service providers and end users. Similar issues are addressed in the feasibility analysis of non-statewide point of sale collection methods in this study. Point of sale without the 30-day provision and on a statewide, singular (no other collection methods) basis is upheld in this study as a potentially feasible E911 fee collection method in the State of Florida.

The NENA guidelines enumerate three methods for providers of prepaid wireless telephone service to choose from to collect 9-1-1 fees on behalf of their customers. The NENA findings are in agreement with the findings of this study that there are multiple feasible alternatives for collecting E911 fees from end users using service providers as a needed partner in the process. While this study puts forward very similar alternatives for E911 fee collection, it should be noted that this study, unlike the NENA document, additionally addresses the groupings of mutually compatible alternatives into a menu approach. This additional step is very helpful to policymakers interested in considering a menu approach to collecting E911 fees.

Overall, NENA's guidelines represent an excellent resource for policymakers interested in crafting new 9-1-1 statutes relating to fee collection methods. The authors of NENA's 9-1-1 prepaid wireless fee collection guidelines are experienced with what works and what does not work in many states.

f) Perspectives in the Wireless and Prepaid Industries

Most large wireless service providers and related associations are strong proponents of the point-of sale E911 fee collection method. For instance, CTIA-The Wireless Association®, an international nonprofit membership organization founded in 1984, is a supporter of the point of sale collection method

and formed a Work Group with Retailers of Common Interests (ROCI) to promote the point of sale collection method for E911 prepaid wireless fees. At this juncture, smaller wireless providers are typically not supporters of the point of sale solution due to the transition costs of implementation.

The major wireless service providers and leading associations maintain that regulatory fees are too high nationally and, in particular, in Florida. Service provider concerns seem to be justified. A recent article “Excessive Taxes and Fees on Wireless Service: Recent Trends,” by telecommunications economist and consultant Scott Mackey, observes the disparity between the rates of taxation and fees on the telecommunications/wireless industries and other regulated and non-regulated industries. For the calendar year ending July 2007, Mackey presents a state-by-state analysis of the state/local/federal taxes and fees on wireless services. Florida comes in as the third highest, down from the top spot the year before. Florida’s tax/fee policy makers need to continue to consider the fair apportionment of the financial burden across industries to ensure fair treatment across industries.

While Mackey’s observations are well founded, it should be noted that the bigger tax and fee picture needs to be considered within the State of Florida, while recognizing the significant burden on the wireless industry as a whole. There is no income tax in the State of Florida, for instance. The E911 fee is a user fee and is not currently assessed on prepaid wireless services, only postpaid wireless services. Additionally, it should be recognized that the E911 user fee is not assessed on the company but on the subscriber of the services. Cost recovery is also paid to service providers performing E911 collection and support services. Relative to the collection of E911 fees, the service provider is a facilitator under the Florida statutes, not the payer per se. In most states collecting the E911 fee, the service provider is the purveyor of the E911 user fee. The service provider collects and remits the fees, according to the statutes in force. User fees are not intended to be corporate taxes, or fees, and policies must clearly delineate user fees, such as the E911 user fee, as a subscriber fee, not to be borne by the service provider, but to be collected with the facilitation of the service provider, according to standard service provider practices found in the majority of states’ E911 fee statutes.

g) Perspectives in the Retail Industry

The retail industry is characterized by strong associations within each state to advocate defined positions on issues that are important to retailers. Most of these retailer associations have a defined position against the collection of prepaid wireless fees at the point of sale. For instance, in the last legislative session in Michigan, four collection method options were passed to the Michigan Legislature for consideration. Strong opposition was voiced by the leading Michigan retailing associations. The Michigan Legislature adopted a menu of two options that became law July 1, 2008. The two options selected by the Legislature did not include point of sale.

Most of Florida’s leading retailer associations, such as the Florida Retail Federation, are opposed to statewide-mandated point of sale collection of prepaid wireless E911 fees. Its leadership team considers such a fee a hardship on too many retailers. Unlike specialized situations, such as with car battery or tire disposal, or the collection of gas taxes, the sale of prepaid wireless services is executed by a widely encompassing number of retailers. In particular, the associations are concerned about the effects of a point of sale solution on small and mid-sized retailers. The negative impact will be felt greatest among them, according to the assessment of associations. Some type of cost recovery program would be needed, according to the associations, to pay for the significant costs to retailers.

Voluntary point of sale collection under contract to prepaid wireless service providers is viewed as a possibility, assuming that retailers can negotiate favorable terms of cost recovery from service providers, or participating retailers are willing to perform the services under contract on a gratis basis for

another service provider, or the retailer is a service provider, and is agreeable to collecting the prepaid wireless E911 fees.

The retailing industry does not understand why it should get involved in the fee collection for a user fee within a particular industry. Tax policy in the state of Florida and most jurisdictions reserves the retail collection point of sale collection to sales tax, for which retailers are compensated, and a few specific special cases.

h) Perspectives Among 911 Associations and Practicing Professionals

There are several important practicing 911 emergency services professional associations consisting of members active in federal, state, and local 911 and related public and private emergency management focused organizations.

Three leading associations are the National Emergency Number Association (NENA), National Association of State 9-1-1 Administrators (NASNA), and Association of Public Safety Communications Officers (APCO). These professionals are not only familiar with 911 emergency services. By their interactions and information sharing, these professionals guide the progress of 911-related policies, including tax policies.

Of special significance are two noteworthy public statements from the listed organizations. In March, 2007, in association, NASNA, NENA, and APCO adopted a resolution emphasizing that “providers of prepaid wireless communication services should contribute on an equitable basis to funding 9-1-1 emergency services and should be accountable on a basis similar to that of providers of traditional wireless communication connections.” This resolution relates directly to the policy consideration section “The Issue of E911 Fee Equity Across E911 Fees Under Florida Statutes” in this study.

In September 2008, NANA published baseline guidelines for drafting statutes or rules relating to prepaid wireless services. See the policy consideration section “Assessment of the *NENA Model Baseline Guidelines for Drafting Statutes or Rules Associated with Prepaid Wireless Service and 911 Emergency Service Fees*” in this study for additional assessment details. NENA’s guidelines represent an excellent resource for policymakers.

i) Perspectives from the Florida Department of Revenue (DOR)

To support the feasibility analysis in this study, prepared questions were submitted to the Florida Department of Revenue in October 2008 regarding background questions relating to the point of sale collection of prepaid wireless fees. The comments provided for the review of the authors of this study do not necessarily represent the viewpoints of DOR. At this juncture, DOR’s comments represent the best-effort comments from one tax analyst’s initial viewpoint.

Initial comments received from the DOR indicate some concern with the costs of administration and the efficiency of a statewide point of sale collection method for sales tax surcharges. The point of sale contestant in this study is the Best Practice Point of Sale Flat Fee Collection Method (SPOSFFCM). One of the attributes of this collection method is that a surcharge to the sales tax is collected on a per transaction basis at the point of sale. While acknowledging that similar special surcharge collections were being made in Florida, the DOR expressed concern on the appropriateness of doing so for the purposes of prepaid wireless services given the numerous points of sale and relatively small projected revenues of under \$10M.

According to DOR, the current sales tax return would not lend itself to handling a separate fee for prepaid wireless services. A separate registration and return would probably be needed (as with tire and battery) to identify the sellers and track the payments. The cost might be prohibitive versus the revenue because the sales are a small portion of collecting companies' overall businesses, meaning small amounts of tax from a very large number of taxpayers. Remote (including Internet, mail order, etc.) sales are also a concern. If the service provider has nexus they are required to collect and remit tax with remote sales. However, many service providers may not have nexus. As a result, the state only receives tax if the Florida purchaser voluntarily remits the tax or through some fairly costly enforcement methods. This situation could result in reduced revenues due to remote sales.

While special surcharges are presently handled under the sales tax collections, these collections are typically collected and remitted by a small number of taxpayers on separate returns. For prepaid wireless services, the population of prepaid retailers would potentially be much greater and more diverse, yet the amount of tax much smaller.

Prior to a fuller establishment of feasibility for the point of sale collection of prepaid wireless services, additional analysis will need to be undertaken on the efficiency/effectiveness of employing the Florida Department of Revenue as the administrative agency for collection of proposed sales tax surcharges.

j) Related Economic and Financial Considerations

The possible collection of the E911 fee on prepaid wireless services is not primarily an economic or financial decision for the State of Florida. The decision is primarily one of tax/fee policy. Within the overall revenue plan for financing the State of Florida, what is the best policy in regard to the E911 fee on prepaid wireless services? Should the fee be collected, or should prepaid wireless services be exempt from the E911 fee? If the fee should be collected, is there a feasible way to collect it? There are important financial considerations; however, especially concerning if the year-to-year funding of the 911 emergency services from E911 fees is ample. The decision on the E911 fee affects the budgeting and planning processes of the Florida E911 Board. It is tasked with collecting an appropriate amount of revenue from E911 fees to finance the ongoing costs of 911 emergency services support.

The following information is excerpted from *Florida E911 Board 2007 Annual Report*. Last year the State of Florida E911 Board collected \$90 million from the E911 fee to support 911 in Florida. The Board approved the disbursement of \$69 million to counties to help support operational. The E911 Board approved \$22 million for actual costs of implementing and maintaining wireless E911 in Florida.

E911 fees are collected in accordance with Florida Statute §365.172(8) and disbursed in accordance with Florida Statute §365.173. The E911 Board adjusts the allocation percentages or reduces the amount of the fee, or both, if necessary to assure full cost recovery or to prevent over-recovery of costs incurred in the provision of E911 service, including costs incurred or projected to be incurred. The 2007 legislation set the following allocation percentages:

Wireless E911 Fee Allocation Percentages:

- Sixty-seven percent distributed each month to counties for purposes of providing E911 service (payments are based on the number of wireless subscribers in each county)
- Thirty percent available for distribution to wireless service providers in response to sworn invoices for the actual costs incurred in providing E911 service

- Two percent used to provide extra assistance to rural counties for providing 911 or E911 service
- One percent of the funds is retained by the E911 Board for administrative and operational purposes

Non-wireless E911 Fee Allocation Percentages:

- Ninety-seven percent distributed each month to counties for the purpose of providing E911 service (payments are based on the number of non-wireless subscribers in each county)
- Two percent used to provide extra assistance to rural counties for providing 911 or E911 service
- One percent of the funds is retained by the E911 Board for administrative and operational purposes

With the lack of data on the collections for non-wireless revenue and the effect of the suspension of prepaid wireless calling arrangement fees, the E911 Board did not adjust the allocation percentage as allowed during the legislated special November 1, 2007 allocation adjustment period. The E911 Board is reviewing and collecting data on the prepaid issue along with all fee remittance information, the county and service provider costs and the E911 State grant program.

For the 2008 budget year in progress, the standard wireless increase of ten percent was offset by an estimated eight percent reduction because of the prepaid suspension. The short-term and long-term effects of extending the suspension of the collection of the E911 fee on prepaid wireless service will need to be reviewed and better understood in light of revenue trends associated with E911 fees from postpaid wireless and wireline services. Wireline contributions to E911 are declining. Prepaid contributions would help offset such declines.

k) Related Statutory Considerations

There are several important statutory considerations. Many of these considerations are treated in the major section “E911 Prepaid Wireless Tax/Fee Policy and the Florida Statutes” in this study. A brief focus on four related considerations follows.

The first consideration involves if the temporary suspension of the prepaid wireless fee is to be extended or made permanent by creating an exemption from the E911 fee for subscribers of prepaid wireless services.

The second consideration involves Florida tax/fee policy. Is prepaid wireless services considered significantly different from postpaid wireless services? If so, treating prepaid wireless services different than postpaid services is good policy. One such fundamental difference may be if no feasible collection method can be determined to collect prepaid wireless E911 user fees.

The third consideration is the statutory revisions that may need to be put into legislation next session, depending on if no prepaid wireless fee is to be collected or if a prepaid wireless fee is to be collected.

A fourth consideration is the importance of maintaining the user fee dimension of the E911 fee for prepaid wireless services, as currently facilitated under the Florida Statutes for all E911 fees actively assessed. If policy decision makers opt for implementing a menu collection method or point of sale collection method for prepaid wireless services, it is recommended that the mode of collection and related

terminology and policies facilitate treatment of the E911 fee on prepaid wireless services as a user fee. Such an E911 fee implementation as a “user fee” maintains a consistency of purpose with the reasons for the fee and maintains consistency between all E911 fee assessments.

I) Stakeholder Considerations

There are many stakeholders in Florida impacted by the policy decision on whether the E911 fee should be collected or not collected on prepaid wireless services. Likewise, if the E911 fee is collected, there are stakeholders who are impacted by which collection method is selected. Likewise, there are stakeholders impacted if no E911 is collected for prepaid on prepaid wireless services.

All Florida’s citizens—whether subscribers to prepaid wireless services, subscribers to postpaid wireless services, subscribers to wireline services, subscribers to Voice over IP services—all Florida citizens— are impacted in small or large part by the policy considerations in this study. On any given day, a citizen may need to call 9-1-1 for emergency services in a life or death situation.

The Florida E911 Board and its budget are potentially impacted according to the outcomes of this study. A reliable funding source is needed for the E911 Board to fund its important mission year after year and to facilitate an orderly planning and budgeting process.

911 professionals working at the local level in Florida and in professional associations are potentially impacted. These professionals and associations work closely in concert with the Florida E911 Board.

Service providers of prepaid wireless services, postpaid wireless services, wireline services, and Voice over IP serves are all impacted. Their support for a non-discriminatory, neutral, and feasible E911 fee collection method is well-documented.

The retail industry is potentially impacted. Presently, prepaid wireless services are routinely sold at the retail level like a toaster or shirt. For any new exception to the standard collection of sales tax, the retailers will want to understand the justification if they are asked to collect sales tax surcharges at the point of sale for prepaid wireless services. Are prepaid wireless services really just another commodity like a toaster or shirt, or do prepaid wireless services warrant special treatment at the point of sale? Retailers will want to understand the justifications.

The main stakeholders are well-known: Florida’s citizens, the E911 Board, 911 professionals and associations, service providers, and retailers. All major stakeholder perspectives need to be taken under consideration in the E911 prepaid wireless fee policy review process. The feasibility or non-feasibility assessment rendered in this study needs to be defensible from a public policy point of view. The authors of this study, under the oversight of the E911 Board, are committed to doing so in this study.

VI. FEASIBILITY ANALYSIS OF PREPAID WIRELESS E911 FEE COLLECTION METHODS

INTRODUCTION TO FEASIBILITY ANALYSIS CONTEST PROCESSES (LEVELS 1-3)

Overview of Levels 1-3

As stated in the “Approach” section of this study, the feasibility analysis of collection methods proceeds across three process stages: Stage 1, Stage 2, and Stage 3. See Figure 3 on P. 46 of this study for an illustration of process stages. These stages equate to feasibility analysis levels. At each process stage in the feasibility evaluation process of this study, the feasibility analysis level becomes increasingly less conceptual and more actual, or implementation-based. In the feasibility evaluation contest rules in effect in this study, the final qualifying collection method candidates are termed “contestants” as readied and passed to Stage 3 or Level 3. The three stages or levels of feasibility evaluation are presented below:

- **Feasibility Level 1 - Entry to Study Level (Stage 1):** Each individual collection method selected for inclusion in this feasibility contest is initially perceived as potentially feasible, that is, showing the potential to warrant further analysis for ranking as the most feasible individual collection method, or part of a combination of collection methods solution at the completion of the feasibility analysis process. Individual methods passing this filtering criterion are included in this study’s feasibility analysis process. Six individual collection methods qualified into Level 1, or inclusion in this study. These six methods are listed at a later juncture.

Feasibility Level 1 Rules:

- * Individual Method Analysis Only
- * Qualifying Entry Level Evaluation
- * Multiple methods qualify for Feasibility Level 1 according to feasibility potential
- * All methods evaluated in Feasibility Level 2 passed Feasibility Level 1 (inclusion)

Feasibility Level 1 Justification:

All potentially most feasible collection method alternatives should be included for feasibility evaluation up to the point that the likelihood of winning the feasibility competition versus the number of contestants limits the number of alternatives considered in Feasibility Level 1.

- **Feasibility Level 2 - Conceptualization Level (Stage 2):** Through a customized qualitative point-by-point analysis review process, the individual collection methods are evaluated. This evaluation is used to build the best one or two feasibility solutions that pass to Feasibility Level 3 (if any), including individual collection methods and/or combinations of collection methods, whichever are deemed among the one or two most efficient/effective alternatives for feasibility purposes.

Feasibility Level 2 Rules:

- * Individual Method Analysis with Multi-Method Points to Ascertain Combinations
- * Conceptual Level to Implementation Level (What-If Analysis) Evaluation

- * Only top one or two implementation-level collection methods can pass (if any)
- * Individual method(s) or combination(s) of individual methods pass Feasibility Level 2
- * At the end of Level 2, the remaining collection method candidates are “contestants”

Feasibility Level 2 Justification:

A detailed analysis of qualifying collection methods is needed to determine if one individual collection method and/or combination of collection methods is/are the most feasible alternative(s). A maximum of two collection methods can pass to facilitate head-to-head competition in Feasibility Level 3 and to promote a focus on the most feasible collection method contestants. There may be no collection methods that pass to Feasibility Level 3 as well, in which case the feasibility analysis is at end.

- **Feasibility Level 3 – Implementation Readiness Level (Stage 3):** One collection method or a combination of collection methods is deemed to be the winner through qualitative and quantitative point-by-point AICPA Tax Policy analyses and an open-ended implementation readiness analysis review process and passes as the highest ranked, most feasible collection method, or there is a tie between two contesting collection methods, or no collection method passes Feasibility Level 3.

Feasibility Level 3 Rules:

- * If only one collection method or combination of collection methods passes to Feasibility Level 3, it is tested for feasibility at the tax policy level
- * If two collection methods and/or combinations of collection methods pass to Feasibility Level 3, they are tested for feasibility at the tax policy level
- * Each collection methods passing Feasibility Level 3 is deemed feasible for implementation
- * If two collection methods pass Feasibility Level 3, a determination on the most feasible collection method is provided, based on quantitative/qualitative findings

Feasibility Level 3 Justification:

A detailed review of the top one or two implementation-level collection method solutions is needed to test for feasibility at the tax policy and implementation-readiness levels. If two collection methods qualify, a head-to-head competition is facilitated. If only one collection method passes to Feasibility Level 3, minimal qualification is needed to demonstrate feasibility for implementation. The number of qualifying contestants is limited for facilitating a focus on the most feasible solution alternatives.

For an E911 prepaid wireless collection method to be deemed feasible enough for use as a collection method (or approach) in the State of Florida, it must pass Feasibility Level 1, Feasibility Level 2, and Feasibility Level 3. Included individual collection methods are evaluated in Feasibility Level 2 using a customized qualitative point-by-point analysis to ascertain the one or two collection method solutions that proceed to implementation-level evaluation in Feasibility Level 3. At the end of Feasibility Level 3, as well, the collection method(s) will be assessed against the No Collection Method alternative for determination of the most feasible solution alternative going forward.

Of particular significance in this Feasibility Level 2 evaluation is if the individual collection method is suitable or unsuitable for use in a combination of collection methods. At the end of Feasibility Level 2, potential combinations are considered as alternatives for passing to Feasibility Level 3, along

with each of the individual methods. The top two most feasible implementation level alternatives pass to Feasibility Level 3. According to the rules of the contest, no more than two contestants pass to Level 3. The alternatives passing to Feasibility Level 3 may be an individual collection method or a menu (combination or compound or hybrid) collection method. In Feasibility Level 3, implementation-specific details are specified for each contestant. Feasibility Level 3 includes three phases: Tax Policy Evaluation Phase, Implementation Readiness Evaluation Phase, and an Assessment Phase.

The feasibility analysis processes in this study were executed in progressive stages during the development of this study (use of the term “level” enables treatment in the present). Each stage represented a higher and more specific level of evaluation, going from entry level to conceptualization level to implementation readiness level. The following sections in this study describe in greater detail the feasibility processes and demonstrate the execution of these processes. Illustrated below in Figure 3 is an overview of the E911 prepaid wireless fee collection feasibility analysis contest used in this study.

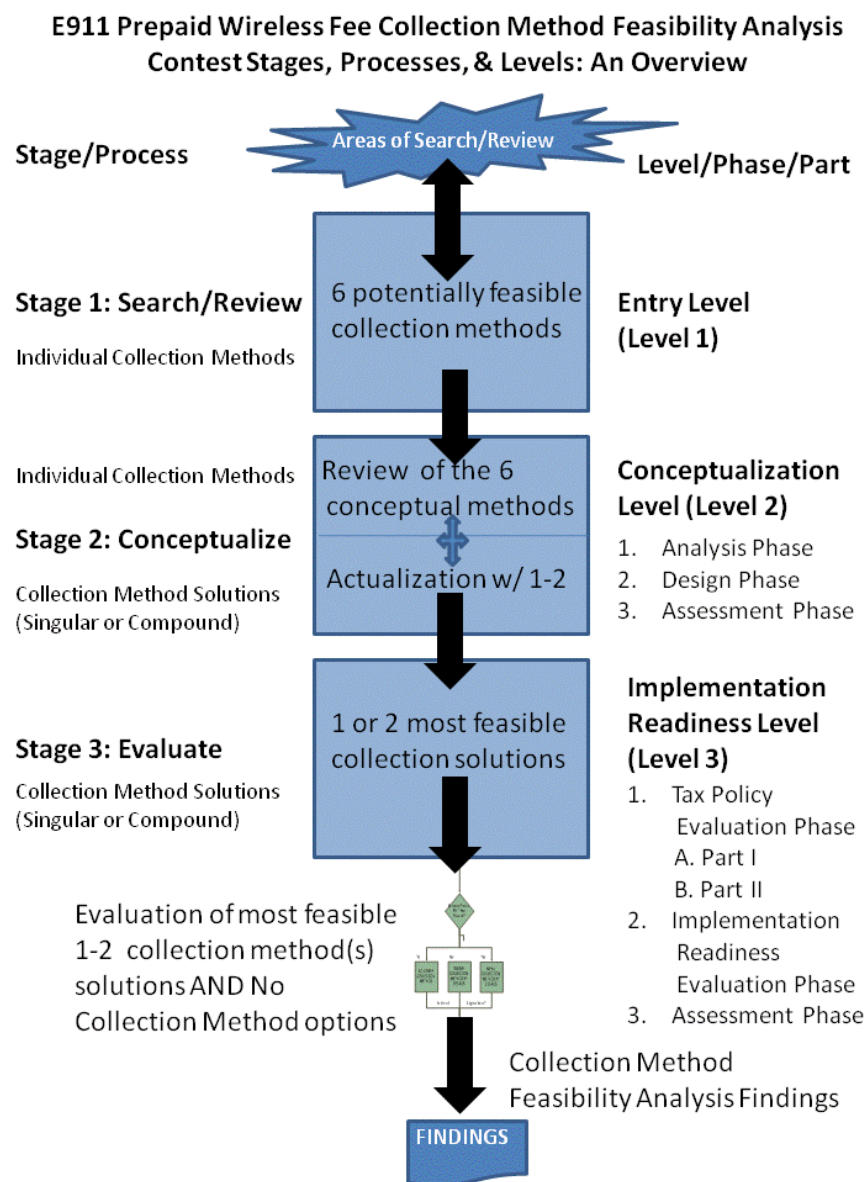


Figure 3.

Introduction to Feasibility Level 1 (Entry Level for Study)

Given the statutory mandate for this study, a search and review was conducted to establish potentially feasible prepaid wireless E911 fee collection methods for closer evaluation in this study. For a three-month period, from June 2008 through August 2008, this search/review process was conducted.

By the end of this three-month period, six potentially feasible prepaid wireless E911 fee collection methods had been “vetted” for initial evaluation in this study at a conceptual level.

These six selected collection methods are presented in the Level 1 section that follows the introductory sections for Feasibility Level 2 (next section) and Feasibility Level 3 (section after next).

Introduction to Feasibility Level 2 (Conceptualization Level)

For purposes of analysis, it was determined that a point-by-point analysis technique was appropriate for evaluating the feasibility of the six collection methods in the Level 2 Analysis Phase 2 of the defined feasibility analysis process. The Feasibility Level 2 point-by-point analysis employed contains the following analysis points:

- a) Brief Title
- b) Brief Description
- c) Extended Description
- d) Source(s)
- e) Pro's
- f) Con's
- g) Possible Variations
- h) Recommended Variations
- i) Assessed Feasibility as a Singular Collection Method
- j) Assessed Feasibility as One Collection Method in a Menu of Collection Method Options
- k) Efficiency Evaluation Comments
- l) Effectiveness Evaluation Comments
- m) Overall Feasibility Comments and Ratings for Feasibility Level 2

After the above point-by-point analysis, the Level 2 Design Phase considers the design ramifications of the analysis results. After the Level 2 Design Phase, the Assessment Phase determines which one or two collection methods are deemed feasible, if any, and up to the two most feasible collection methods are passed to Feasibility Level 3 for further evaluation.

Introduction to Feasibility Level 3 (Implementation Readiness Feasibility)

The Feasibility Level 3 analysis processes consist of Part 1 and Part II of the Tax Policy Phase Point-by-Point Evaluation, the Implementation Readiness Phase Evaluation, and the Assessment Phase.

The Level 3 Tax Policy Phase point-by-point analysis employs the following analysis points:

- a) Equity and Fairness
- b) Certainty
- c) Convenience of Payment
- d) Economy of Collection
- e) Simplicity
- f) Neutrality

- g) Economic Growth and Efficiency
- h) Transparency and Visibility
- i) Minimum Tax Gap
- j) Appropriate Government Revenues
- k) Overall Qualitative Assessment

Part I evaluates the above points qualitatively for all considered collection methods. Part II evaluates the above points quantitatively for all considered collection methods.

The Implementation Readiness Evaluation Phase evaluates each remaining contestant collection method in terms of its implementation and operations readiness using the following filtering criteria:

1. Track Record and Availability for Use
2. Required Rulemaking Implementation Steps
3. Risk Factors
4. Efficiency/Effectiveness of Operations
5. Viability/Sustainability
6. Open Issues Requiring Attention

The Assessment Phase reviews the findings of the Tax Policy Phase and Implementation Readiness Phase and assesses what is the most feasible collection method and if the collection method is feasible enough for implementation in the State of Florida, given any other alternatives such as No Collection Method. With the No Collection Method alternative, either a temporary or permanent suspension or exemption from the E911 fee requirements is an alternative.

FEASIBILITY ANALYSIS OF INDIVIDUAL PREPAID WIRELESS E911 FEE COLLECTION METHODS AT THE ENTRY TO STUDY LEVEL (LEVEL 1)

The search and review period of this study yielded six potentially feasible prepaid wireless E911 fee collection methods for feasibility evaluation in this study at a conceptual level. These six selected collection methods are the following:

- Collection Method 1: Flat Fee per Account with a Positive Balance (Active Account)
- Collection Method 2: Flat Fee per Account Based on Average Revenue Per User (ARPU)
- Collection Method 3: Variable Fee on Wholesale Price
- Collection Method 4: Variable Fee on Retail Price
- Collection Method 5: Any Mutually Agreed Upon Collection Method (Wildcard)
- Collection Method 6: Point of Sale

Each of the above methods is an individual collection method at a conceptual level. “Conceptual” terms a general, non-specific individual method under review for assessing general feasibility at a more detailed, specific implementation level. At the conceptual level, variations and terms/conditions of these conceptual collection methods can be studied and evaluated for capabilities.

FEASIBILITY ANALYSIS OF INDIVIDUAL PREPAID WIRELESS COLLECTION METHODS AT THE CONCEPTUALIZATION LEVEL (LEVEL 2)

Feasibility Level 2 Analysis Phase

Six collection methods reviewed in Level 1 are analyzed for feasibility in this Feasibility Level 2 Analysis Phase using a standardized point-by-point evaluation method.

Collection Method Option 1: Flat Fee per Account with Positive Balance

a) Brief Title:

Flat Fee per Account (Connection/Line) with Sufficient Positive Balance (Active Account)

b) Brief Description:

Collect on a monthly basis the E911 user fee from each active prepaid customer account, or on behalf of each customer, whose account balance is positive, such that it is equal to or greater than the user fee.

c) Extended Description:

The service provider will collect on a monthly basis the E911 user fee from each active customer or on behalf of each end user. If the customer is unable to be notified or coordinated with, the service provider will collect the fee on behalf of each customer. For a customer to have the fee levied against the account, the account must have a positive balance, such that it is equal to or greater than the user fee. Service providers are released from any debt liabilities from accounts with less than the E911 fee amount.

d) Source:

Tennessee, Iowa, Ohio, Virginia, Wisconsin, Maine, and Michigan.

e) Pro's:

The main advantage of this collection method is that it provides a flat fee method for collection similar to the other E911 flat fees on other 911-connected communication services. At a general level, the service provider can approximate how many accounts are active. Some service providers have the ability to decrement the minutes on prepaid accounts (however other service providers do not). This collection method does not assess the E911 fee on inactive accounts or any accounts that do not have a positive airtime balance equal to or greater than the monthly E911 user fee assessment.

f) Con's:

There may not be a capability across all service providers for identifying that the prepaid subscriber was active in the use of prepaid service for any given monthly time period. Because the subscriber is purchasing and using a prepaid service that does not have monthly billing statements, the service provider must "assess" the fee on a monthly basis so the fee collection is comparable to other 911 policies. Additionally, not all service providers are technically capable of decrementing minutes.

g) Possible Variations:

If there is difficulty in determining by a service provider on a monthly basis if the account is active, the account can be considered active if the account balance is equal to or greater than the user fee. For

Florida, that would mean each month on assessment day designated by the service provider, if the account balance was equal to or greater than \$.50, then the subscriber would be deemed active and the user fee would be assessed. Service providers without such operational capabilities could independently establish or estimate the number of active accounts and remit the appropriate amount of funds on behalf of the end user.

h) Recommended Variations:

The status of “active” can be defined in the statutes as greater or equal to the user fee, if it is determined this is helpful. This is a close approximation of active status. Most states that use a similar statute indicate that service providers are not responsible for collecting the fee from end users who are not capable of paying the fee (inactive users). This provision is needed to release service providers from the collection of debts relating to end users who have an amount of airtime on account less than the monthly end user fee assessment.

i) Assessed Feasibility as a Singular Collection Method:

As a singular collection method, this option does not appear to be reasonable and in the best interests of the State of Florida or all service providers. The reason is that not all service providers are clearly capable of meeting the requirements of this collection method either because of technical or business model limitations in collecting the fee from the end user, or due to an unwillingness to collect the fee on behalf of the end user by establishing or estimating the number of total active users with a positive balance and computing the resulting amount for remittance.

j) Assessed Feasibility as One Collection Method in a Menu of Collection Method Options

This collection method is particularly well suited for use as a collection option on a menu collection approach. Many states, in fact, currently include this method as a collection menu option, albeit as a carryover from a bygone era.

k) Efficiency Evaluation Comments

As a singular method, this collection option has problems with manageability and certainty because not all service providers may have the technical capability or business model policy in place to comply. As a collection method option in a menu collection approach, these technical and business model issues are not critical because another option may be satisfactory for facilitating compliance.

l) Effectiveness Evaluation Comments

As a singular method, this collection option has problems with incidence in situations with service providers that are not able to ascertain the exact number of accounts with a positive balance or decrement minutes. The incidence of the fee collection can be interpreted by service providers as shifting from the end user to the service provider. This, in turn, creates consistency issues and horizontal equity issues between service providers and customers whose fees are calculated differently. As a collection method option in a menu collection approach, consistency may be an issue, as in any menu collection approach, but concerns are ameliorated.

m) Overall Feasibility Ratings (1 to 10, where the higher is the better, based on expert assessment)

- Singular Collection Method Use: 1
- One Collection Method in a Menu of Collection Method Options Use: 7

Collection Method Option 2: Average Revenue per User (ARPU)

a) Brief Title

Flat Fee per Each Account (Connection/Line) with Sufficient Positive Balance (Active account) Using the Average Revenue per User (ARPU) Computation for Determining the Number of Subscriber Accounts

b) Brief Description:

Calculate the number of subscribers (from Florida) to be assessed the monthly user fee by dividing the monthly intrastate revenue by the defined ARPU value (typically \$50). Multiply the number of subscribers by the Florida user fee (currently \$.50) to obtain the total amount to be collected and remitted by the service provider on behalf of end users. This formula is a means of establishing approximately how many user accounts are active in any given month, if other means are not available.

c) Extended Description:

Calculate the number of subscribers (from Florida) to be assessed the monthly user fee by dividing the monthly intrastate revenue by the defined ARPU, typically using \$50. Multiply the number of subscribers by the Florida user fee (currently \$.50) to obtain the amount to be collected and remitted by the service provider. This formula is a means of establishing approximately how many user accounts are active. The ARPU is an industry-recognized metric based on the fact that the average postpaid wireless phone bill is approximately \$50 per subscriber.

d) Source(s):

Iowa, Michigan, North Carolina, Ohio, Tennessee, and Maine.

e) Pro's:

Some service providers may have difficulty determining the number of subscribers. This collection method facilitates service providers by making available a financial modeling method of calculating the approximate number of active accounts. Since the ARPU value of \$50 is based on postpaid wireless services, there is a standardized metric assessed for all wireless services. The greatest advantages of this collection method are that it promotes compliancy from service providers who otherwise maintain inability to follow another collection method's requirements and is in wide usage in many states. Compliancy for this method is good when used with a menu collection method solution and coupled with a statutory passage outlining the responsibilities of the service provider in the collection of E911 fees.

f) Con's:

While this method increases the pool of end users who pay the fee and assists service providers with the calculation of active accounts, there is some question as to if \$50 is the appropriate average monthly cost for prepaid wireless subscribers whose monthly costs are considerably less than postpaid subscribers' costs per month. Industry statistics indicate the approximate average monthly spend for a prepaid customer is considerably less (this study's data suggests between \$25 and \$30). The survey results for this study supports the assertion that prepaid subscribers have a lesser monthly cost amount than postpaid subscribers. *It should be noted, however, that the higher the number of the ARPU in this calculation, the less money that the service providers have to collect and remit. To use \$25 instead of \$50, for example, in this collection alternative would be to substantially increase the amount that the service providers need to*

collect and remit. Also some service providers may object that the user fees are intended as user fees to subscribers, and such a method of collection puts the burden on service providers.

g) Possible Variations:

One variation of this method would be to collect the fee on a lower ARPU value than \$50.

h) Recommended Variations:

Since most of the vendors who responded to the E911 prepaid fee survey indicated a monthly revenue amount significantly less than \$50.00, a decreased threshold value would increase revenue potential. However, since the standard across states is \$50, this amount for the ARPU is recommended in the calculation. This policy has FCC guidelines as its basis and gives the benefit of the doubt to prepaid wireless subscribers and service providers.

i) Assessed Feasibility as a Singular Collection Method:

As a singular collection method this option may not be in the best interests of the State of Florida or all service providers. Further analysis may be needed on this question as it may be a viable singular collection method.

j) Assessed Feasibility as One Collection Method in a Menu of Collection Method Options

This collection method does provide a viable method for some vendors if included as part of a menu of options. Numerous states, including Tennessee, Ohio, Georgia, Wisconsin, Maine, and Michigan, include this method as an option in a menu collection solution.

k) Efficiency Evaluation Comments

As a singular method, this collection option demonstrates moderate levels of manageability and certainty because most service providers have the technical capability and business model policy in place to comply. This collection method option in a menu collection approach may facilitate compliance if other options on the menu cannot be executed by various service providers.

l) Effectiveness Evaluation Comments

As a singular method, this collection option may have problems with incidence in situations with service providers that maintain aggregately modeling the amounts service providers need to collect and remit is not collection from end users but a fee assessed against service providers. The incidence of the fee collection can be interpreted by service providers as shifting from the end user to the service provider. As a collection method option in a menu collection approach, consistency may be an issue, as in any menu collection approach, but concerns are ameliorated.

m) Overall Feasibility Ratings (1 to 10, where the higher is the better, based on expert assessment)

- Singular Collection Method Use: 7
- One Collection Method in a Menu of Collection Method Options Use: 7

Collection Method Option 3: Variable Fee on Wholesale Price

a) Brief Title:

Charge and collect a percent surcharge fee on the prepaid wireless service wholesaler

b) Brief Description:

Charge and collect a specified percent E-911 surcharge fee from prepaid wireless providers by collecting on a monthly basis from the wholesaler of the prepaid service a fee on the retail price of any prepaid wireless service sold.

c) Extended Description:

Charge and collect a 1% percent E911 surcharge fee from prepaid wireless providers by collecting on a monthly basis from the wholesaler of the prepaid service a fee on the retail price of any prepaid wireless service sold. The wholesale price will be defined as a percentage of the retail price. Typically wholesale prices are approximately 70% of suggested retail prices. Further research is needed on the appropriate percentage if this option is closely considered. This 1% collection is comparable to \$.50 per month. The State of Florida can then exempt the prepaid wireless providers from the standard \$.50 per month per subscriber fee placed on all other wireless, wireline, and Voice over IP providers tasked with collecting and remitting the fee for subscribers. The fee should be collected from each block of prepaid wireless service purchased by each telephone subscriber.

d) Source(s):

Kansas, Georgia

e) Pro's:

This collection method provides an alternative to more commonly used methods. There is some efficiency in collecting the fee from the wholesaler. There are fewer service providers to coordinate with and these large service providers typically have mature systems and processes in place for collecting and remitting fees. The collection of 1% of the retail price from the wholesalers has been in effect in Kansas since July 1, 2004 and in Georgia since July 1, 2007. In Kansas this is the sole method of collecting E911 fees from prepaid subscribers. No amendments of note have been necessary to date in Kansas or Georgia. No compliance problems are known. This method may provide greater revenue collected in fees and reduced costs to the state than other methods, since efficiency of collection may be higher than more commonly used methods.

f) Con's:

Only two states are using a variation of this method. Though the method seems to be working satisfactorily in Kansas, Georgia reports that this is the only method of its five permissible methods that no service providers have opted for. The fact that service providers have to this point not found this method attractive to use is a reason for concern. Perhaps the problem with this alternative is that at the wholesale level the sourcing of the service to a state through a zip code and an area code are not known, so the service cannot be assessed per se by any state at the end user level. In regard to Georgia, it may also be that 70% of the suggested retail price is too high for the wholesale price, so service providers in Georgia are opting for the suggested retail price option instead. Some ambiguity exists in terms of what the wholesale price is. This definition is probably best defined as the price direct from the carrier, or a

similar differentiation. Specific definition is needed in the statutes if adopted. Business processes may need customization for the Florida service providers. It is unclear how this method would co-exist with other collection methods, if it were implemented in Florida as one available method of many collection methods.

g) Possible Variations:

There appear to be two variations: as used in Kansas and as used in Georgia. The differences between the Georgia variation and the Kansas variation need additional analysis if this conceptual collection method is seriously considered.

h) Recommended Variations:

The differences between the Georgia variation and the Kansas variation need additional analysis if specific recommendations are needed between variations.

i) Assessed Feasibility as a Singular Collection Method:

This method seems well suited for singular usage. However, the fact that it is not more commonly adopted in other states is a reason for concern. This method seems better suited to be a singular, or exclusive method for a state rather than a collection method option from a menu. This fee is a variable fee, as opposed to a flat fee. There are advantages and disadvantages to each type of fee according to one's views and the context of use.

j) Assessed Feasibility as One Collection Method in a Menu of Collection Method Options

Georgia reports that this is the only method of its five permissible methods that no service providers have opted for. This method seems better suited to be an exclusive method for a state than a collection method option from a menu.

k) Efficiency Evaluation Comments

As a singular method, this collection option demonstrates moderate levels of manageability and certainty because most service providers have the technical capability and business model policy in place to comply. This collection method option in a menu collection approach may facilitate compliance if other options on the menu cannot be executed by various service providers. However, better menu options exist. Defining "wholesale" represent a potential problem.

l) Effectiveness Evaluation Comments

As a singular method, this collection option may have problems with sourcing since wholesale-level sales are pre-sourcing to a state. This collection method option in a menu collection approach may facilitate compliance if other options on the menu cannot be executed by various service providers. However, better menu options exist.

m) Overall Feasibility Ratings (1 to 10, where the higher is the better, based on expert assessment)

- Singular Collection Method Use: 3
- One Collection Method in a Menu of Collection Method Options Use: 5

Collection Method Option 4: Variable Fee on Suggested Retail Price

a) Brief Title:

Charge and collect a percent surcharge fee on the prepaid wireless service suggested retail price

b) Brief Description:

Charge and collect on a monthly basis a specified percent E911 surcharge fee from prepaid wireless providers by collecting from the retailer of the prepaid service a 1% fee of the suggested retail price of any prepaid wireless service sold.

c) Extended Description:

Charge and collect on a monthly basis a 1% E911 surcharge fee from prepaid wireless providers by collecting from the retailer of the prepaid service a 1% fee on the suggested retail price of any prepaid wireless service sold. This 1% collection is comparable to \$.50 per month. The State of Florida can then exempt the prepaid wireless providers from the standard \$.50 per month per subscriber fee placed on all other wireless, wireline, and Voice over IP providers tasked with collecting and remitting the fee for subscribers. The fee should be collected from each block of prepaid wireless service purchased by each telephone subscriber.

d) Sources(s):

Georgia.

e) Pro's:

This collection method provides an alternative to more commonly used methods. This method may be well suited for service providers that are primarily reseller and/or retailers. More analysis of the Pro's of this method is needed if this alternative garners closer consideration.

f) Con's:

Only one state is definitely using this method. The fact that many states have not opted for a similar method is a reason for concern. Some ambiguity exists in terms of what the suggested retail price is. This definition is probably best defined as the suggested retail price after acquisition directly from the carrier, or a similar differentiation. Specific definition is needed in the statutes if adopted.

g) Possible Variations:

None known

h) Recommended Variations:

As used in Georgia.

i) Assessed Feasibility as a Singular Collection Method:

This method seems well suited for singular usage. However, the fact that it is not more commonly adopted in other states is a reason for concern.

j) Assessed Feasibility as One Collection Method in a Menu of Collection Method Options

This method seems better suited to be an exclusive method for a state than as a collection method option from a menu.

k) Efficiency Evaluation Comments

As a singular method, this collection option demonstrates moderate levels of manageability and certainty because most service providers have the technical capability and business model policy in place to comply. This collection method option in a menu collection approach may facilitate compliance if other options on the menu cannot be executed by various service providers. However, better menu options exist.

l) Effectiveness Evaluation Comments

As a singular method, this collection option may have problems related to collecting from service providers based on retail sales. This collection method option in a menu collection approach may facilitate compliance if other options on the menu cannot be executed by various service providers. However, better menu options exist.

m) Overall Feasibility Ratings (1 to 10, where the higher is the better, based on expert assessment)

- Singular Collection Method Use: 3
- One Collection Method in a Menu of Collection Method Options Use: 5

Collection Method Option 5: Any Mutually Agreed Upon Method (Wildcard)

a) Brief Title:

A Mutually Agreed on Collection Method by Service Provider and E911 Board Resulting in a Remittance of the Applicable User Fee (currently \$.50).

b) Brief Description:

Use any other method to charge, collect, and remit the E911 fee, provided, however, that the amount collected per subscriber is \$.50 per month.

c) Extended Description:

When multiple options are available for E911 fee collection, some providers may still not be able to easily or efficiently to comply with stipulated collection methods for collection and remittance of the assessed user fees. After mutual agreement between the E911 Board and the service provider on a collection method, this collection method option would allow a service provider to use any method agreed on to collect and remit the user fee.

d) Source(s):

Georgia

e) Pro's:

This method introduces a viable option of including all prepaid end users into the E911 fee collection pool. While many providers have the ability to generate monthly numbers of active or inactive subscribers allowing a monthly collection and remittance, some service providers may have operational limitations in determining the number of monthly subscribers and similar key metrics. However, for instance, all providers know when a call has been made because this determines revenue for them. This method assists providers with an alternate plan. When a call is made, the service provider knows what month and day the call was made. With this option, each service providers has a fall-back alternative. If the service provider wants to be compliant with the statutes but is unable to technically comply, this collection method would provide additional options.

f) Con's:

The main disadvantage to this option is that increased administration and oversight is needed by the E911 Board and its administrators. An open-ended solution is flexible but more complex to administer. Also, as part of a menu of collection methods, this option has the potential of creating disproportionate fee collection requirements on some service providers when compared to other options. Since it would be expected service providers use the most advantageous option for their company, this may create a competitive advantage or disadvantage.

g) Possible Variations:

None known

h) Recommended Variations:

As used in Georgia

i) Assessed Feasibility as a Singular Collection Method:

As a singular collection method this option does not appear to be in the best interests of the State of Florida or all service providers.

j) Assessed Feasibility as One Collection Method in a Menu of Collection Method Options:

This collection method does provide a viable method for some vendors if included as part of a menu of options. However, only one state, Georgia, has included this method as an option.

k) Efficiency Evaluation Comments:

As a singular method, this collection option is not viable as it is too open-ended. This collection method option in a menu collection approach may facilitate compliance if other options on the menu cannot be executed by various service providers but is not deemed a good option.

l) Effectiveness Evaluation Comments

As a singular method, this collection option is not viable as it is too open-ended. This collection method option in a menu collection approach may facilitate compliance if other options on the menu cannot be executed by various service providers but is not deemed a good option.

Overall Feasibility Ratings (1 to 10, where the higher is the better, based on expert assessment)

- Singular Collection Method Use: 1
- One Collection Method in a Menu of Collection Method Options Use: 3

Collection Method Option 6: Point of Sale

To facilitate the presentation of point of sale collection method variations, three variations of point of sale are examined. A point-by-point analysis is conducted on each variation. The three identified variations are: 1) 1 % E911 fee on prepaid wireless service sales collected statewide at point of sale; 2) 1% E911 fee collected on prepaid wireless service sales at contracted and/or self-administered points of sale; 3) Only Florida state sales tax (currently 6%) collected at the point of sale on prepaid wireless service sales and those tax revenues commiserate with the amount due if there were an E911 fee on prepaid wireless are allocated to the special E911 fund. An analysis of each variation follows in a separate section. *Note: 1% assessment is used to approximate the \$.50 monthly fee assessments on other mediums subject to the E911 fee. This is based on Average Revenue per User (ARPU) of \$50. Flat fee variations of this variable fee approach are also discussed in this section.*

1) 1% E911 Fee Collected Statewide at Point of Sale

a) Brief Title:

1% E911 fee collected statewide on prepaid wireless service sales at point of sale.

b) Brief Description:

1% E911 fee on sales of prepaid wireless services collected statewide at point of sale from all sales at all points of sale relating to Florida accounts.

c) Extended Description

1% E911 fee on prepaid wireless service sales collected statewide at point of sale from all sales at all points of sale relating to identified Florida accounts. Services include all prepaid wireless services (airtime) included with the initial purchase of a wireless telephone (handset) or other device purchased by any device or method, including services purchased remotely by telephone or Internet, or in person at a Florida storefront.

d) Source(s):

No state has presently statewide collection of an E911 fee. West Virginia, like Florida, collects regular sales tax on prepaid wireless sales. However, West Virginia allocates historically pegged amounts of sales taxes on prepaid wireless sales to a special E911 Fund. Maine and Ohio have limited contract-based and/or self administered point of sale collection methods in place currently as one option in a menu of collection methods. In Ohio the state does not keep track of which of two available menu options is in use by the service providers. At the time of this writing, no service provider in Maine is currently using the point of sale option in Maine.

e) Pro's :

Potentially, statewide point of sale is a more efficient/effective way to collect E911 prepaid wireless fees. The overhead costs of the collection of E911 fees from “traditional” service providers and the point of sale need to be compared to determine if over the long run collections at the point of sale are more efficient than collection of the E911 fees by “traditional” service providers. Similar comparisons are needed for effectiveness. In the short term, it would seem that E911 fee collections at the point of sale would be more costly because transition costs for the state and service providers would be substantial for implementation of the statewide point of sale collection. An advantage of collecting from the point of sale

is that the fee is collected from the purchaser (which may or may not be the subscriber to the services but is more directly involved) of the prepaid wireless services. According to some perspectives, such a direct collection from the purchasers, or potential subscribers, is preferred over collection methods in states that put the burden for collections on the “traditional” service providers to collect the fees and remit them to the State’s designated administrators. Potentially, the main advantage of this collection method is increased compliance (the potential also exists for reduced revenues due to remote sales such as via the Internet). Presently, in states requiring collection and remittance of prepaid wireless E911 fees, some service providers are collecting and remitting the fees and other service providers are not collecting and remitting the fees. There is both a compliance and enforcement problem presently in most states. Point of sale may potentially be one way to level the playing field among service providers and promote more widespread compliance. Potentially, statewide point of sale can result in increased compliance and the bringing in of additional revenues, if a satisfactory resolution to the remote sales issue can be determined.

f) Con’s:

Potential increases in fee revenues may not be cost-justifiable, given the substantial costs associated with the implementation of statewide point of sale collections of E911 fees for prepaid services. In the short term, E911 fee collections at the point of sale statewide would be more expensive because one-time transition costs would be substantial for implementation of a statewide point of sale collection, especially for store POS systems and related retail labor for facilitation of the collection method among retailers and increased administration costs on the government side. There are two main disadvantages. The first disadvantage of a statewide point of sale solution is that short-term costs would be considerable and long-term savings due to efficiency are open to conjecture. Implementing a statewide point of sale solution would face substantial opposition from retailers and retail associations, unless considerable vendor’s compensation to retailers was included in the implementation plan. Implementation planning details would be complex and upfront financial and labor costs would be considerable to retailers, especially small retailers, as well as government. Though there is no guarantee that compliance levels would increase, the administration costs of a implementing and supporting surcharge for sales tax on a widespread basis would add considerable overhead and complexity to the collection process, especially in relation to the relatively small revenues involved in E911 fee collections. Especially of concern is the impact on small to mid-sized retailers. The second major disadvantage is the potential loss of revenue through remote sales (Internet, mail order, phone-in, email, etc.). Though Florida joined the Streamlined Sales Tax Project (SSTP) in 2001, it is unlikely that the Congress will pass a bill to statutorily force remote sellers without nexus in Florida to collect sales tax on the goods they sale and deliver to other states. Such concerns will need addressing.

g) Possible Variations:

Other than 1% variable cost assessments are possible. 1% closely equates to the E911 fee amounts currently collected from other subscribers in Florida. A flat fee per transaction mode of collection is also a possibility and has some advantages over the variable fee. A flat fee more closely resembles the flat fees collected from other 911-connected end users and a flat fee may have advantages for retailer implementation, especially in regard to small retailers.

h) Recommended Variations:

A variable fee and flat fee are both viable options and further analysis is needed to reach a determination. The fact that the new Fall 2008 CTIA-ROCI statewide point of sale collection method applies a flat fee is noteworthy, as its designers, expert retailer and prepaid Subject Matter Experts (SMEs), opted for a flat fee over the variable fee as a method of implementation.

i) Assessed Feasibility as a Singular Collection Method:

This collection method is only feasible as a singular collection method. This is both the determination of the CTIA-ROCI Work Group that developed a statewide collection method and the authors of this study.

j) Assessed Feasibility as One Collection Method in a Menu of Collection Method Options

As noted in the preceding item, this collection method is not feasible as one collection method in a menu collection method solution.

k) Efficiency Evaluation Comments

As a singular method, this collection option demonstrates moderate to good levels of manageability and certainty because most retailers have the technical capability and business model policy in place to comply. Operational efficiency is a potential issue. This collection method option is not very well suited for use as an option on a menu of collection methods.

l) Effectiveness Evaluation Comments

As a singular method, this collection option improves incidence if the purchaser can be assumed to be the future end user. This collection method option is not very well suited for use as an option on a menu of collection methods.

m) Overall Feasibility Ratings (1 to 10, where the higher is the better, based on expert assessment)

- Singular Collection Method Use: 7
- One Collection Method in a Menu of Collection Method Options Use: 5

2) 1% E911 Fee Collected on Prepaid Wireless Sales at Contracted and/or Self-administered Points of Sale

a) Brief Title:

1% E911 fee collected on prepaid wireless service sales contracted and/or self-administered points of sale.

b) Brief Description:

1% E911 fee collected on prepaid wireless service sales contracted and/or self-administered points of sales relating to Florida accounts.

c) Extended Description:

1% E911 fee collected on prepaid wireless service sales contracted and/or self-administered points of sales relating to Florida accounts. Services include all prepaid wireless services (airtime) included with the initial purchase of a wireless telephone (handset) or other device purchased by any device or method, including services purchased remotely by telephone or Internet, or in person at a Florida storefront.

d) Source(s):

Maine and Ohio have limited contract-based point of sale collection methods in place currently as one option in a menu of options. In Ohio the state does not keep track of which of two menu options is in use by service providers. At the time of this writing, no service providers are currently using the point of sale option in Maine.

e) Pro's :

The main advantage of this method is the offering of additional flexibility to service providers to collect the fee at the point of sale.

f) Con's:

The main disadvantage of this collection method is that it is not done on a statewide basis as a singular collection method. Point of sale is better suited to use as a singular method. If the point of sale method is in use along with other methods, a more complex, ambiguous situation is created. For instance, if Service Provider X sells prepaid wireless services on its website and contracts with Service Provider Y to resell the prepaid wireless services and Service Provider Z to sell the prepaid wireless services at a storefront, but the prepaid wireless services are sold at other websites and stores as well, there is a clear collection problem, if other collection methods are not collecting the fee. In the described situation, no collection of E911 fees may be taking place on some sales and "double assessments" may be taking place on other sales. "Double assessments" may also be possible, if other collection methods are in place without adequate collection process controls and safeguards. In a non-statewide method, there may be poor efficiency and compliance, and enforcement is complicated.

g) Possible Variations:

Other than 1% (variable cost) assessments are possible. 1% closely equates to the E911 fee amounts currently collected from other subscribers in Florida. A flat fee per transaction mode of collection is also a possibility and has some advantages over the variable fee. A flat fee more closely resembles the flat fees collected from other 911-connected end users and a flat fee may have advantages for retailer

implementation, especially in regard to small retailers.

h) Recommended Variations:

A variable fee and flat fee are both viable options and further analysis is needed to reach a determination. The fact that the new Fall 2008 CTIA-ROCI statewide point of sale collection method applies a flat fee is noteworthy, as its designers, expert retailer and prepaid Subject Matter Experts (SMEs), opted for a flat fee over the variable fee.

i) Assessed Feasibility as a Singular Collection Method:

This collection method is not feasible as a singular collection method, unless 100% of sales can be guaranteed to be made on a self-administered and/or contracted basis. Otherwise, there is a greater risk that collections are not made on all sales or there may be “double assessments.”

j) Assessed Feasibility as One Collection Method in a Menu of Collection Method Options:

This collection method is most feasible as one collection method in a menu of collection method options. Some process management of service providers and oversight by state administrators would be needed to ensure that collections are not missed or “double assessments” do not occur. Such hybrid solutions are deemed not feasible.

k) Efficiency Evaluation Comments

As a singular method, this collection option demonstrates low to moderate levels of manageability and certainty. This collection method option is not very well suited for use as an option on a menu of collection methods. The limited scope of point of sale is an issue.

l) Effectiveness Evaluation Comments

As a singular method, this collection option improves incidence if the purchaser can be assumed to be the future end user. This collection method option is not very well suited for use as an option on a menu of collection methods. The limited scope of point of sale is an issue.

m) Overall Feasibility Ratings (1 to 10, where the higher is the better, based on expert assessment)

- Singular Collection Method Use: 1
- One Collection Method in a Menu of Collection Method Options Use: 3

3) State sales tax (currently 6 %) collected at the point of sale on prepaid wireless service sales and all sales tax revenues relating to prepaid wireless sales are allocated to a special E911 fund

a) Brief Title:

State sales tax (currently 6 %) collected at the point of sale on prepaid wireless service sales and all sales tax revenues relating to prepaid wireless sales are allocated to a special E911 fund.

b) Brief Description:

State sales tax (currently 6 %) collected at the point of sale on prepaid wireless service sales and all sales tax revenues relating to prepaid wireless sales relating to Florida accounts are allocated to a special E911 fund.

c) Extended Description

State sales tax (currently 6 %) collected at the point of sale on prepaid wireless service sales and all sales tax revenues relating to prepaid wireless sales relating to Florida accounts are allocated to a special E911 fund. Services include all prepaid wireless services included with the initial purchase of a wireless telephone (handset) or other device purchased by any device or method, including services purchased remotely by telephone or Internet, or in person at a Florida storefront.

d) Source(s):

West Virginia, like Florida, collects regular sales tax on prepaid wireless sales. However, West Virginia allocates all sales taxes on prepaid wireless sales to an E911 Fund. West Virginia is the source for this option under the point of sale collection method. Note: Prior to the enactment of this collection method in West Virginia the state collected an E911 fee on prepaid wireless services but did NOT collect sales tax on prepaid wireless services.

e) Pro's :

The pro's for this collection method would seem to be the same as if prepaid wireless services are exempt from the E911 user fee. Presently in Florida regular sales tax is collected on the sale of prepaid wireless services. If there were an exemption from the E911 fee for prepaid wireless services, the missing funds would need to be made up for from the fees of non-prepaid subscribers or from general revenues, including sales tax. According to some perspectives, E911 funding is better handled from general revenues.

f) Con's:

It should be noted that no additional fee revenues are taken in with this collection method. Only a different means of channeling the funds to the 911 Program is facilitated. The main disadvantage of this collection method is that a general revenue source is transformed into a revenue source for a specific purpose. Additional record keeping would be needed by state administrators and/or retailers that are facilitated presently by the budgeting process. Consultation with the Department of Revenue may be needed to ensure that state policies are adhered to in regard to the sales tax. If this option gains support, consultation will be undertaken with the Department of Revenue to assess any related issues.

g) Possible Variations:

No variations at this time

h) Recommended Variations:

No variations at this time.

i) Assessed Feasibility as a Singular Collection Method:

This collection method is only feasible as a singular collection method.

j) Assessed Feasibility as One Collection Method in a Menu of Collection Method Options:

This collection method is not feasible as one collection method in a menu of collection method options.

k) Efficiency Evaluation Comments

As a singular method, this collection option demonstrates a high level of manageability and certainty. This collection method option is not very well suited for use as an option on a menu of collection methods.

l) Effectiveness Evaluation Comments

As a singular method, this collection option resolves any incidence considerations as sales taxes are general revenue. This collection method option is not very well suited for use as an option on a menu of collection methods.

m) Overall Feasibility Ratings (1 to 10, where the higher is the better, based on expert assessment)

- Singular Collection Method Use: 1
- One Collection Method in a Menu of Collection Method Options Use: 1

Summary of Feasibility Analysis on E911 Prepaid Collection Methods

E911 FEE COLLECTION METHOD FEASIBILITY ANALYSIS SUMMARY				
#	METHOD	PRO's	CON's	COMMENTS
1	Flat fee on each account with balance > or = to user fee	<ul style="list-style-type: none"> -Comparable w/ other E911 fee phone options (monthly user fee) -Subscriber equity (same) -Used in 20+ other states -Well-suited as menu option 	<ul style="list-style-type: none"> -Unused phone is decremented (but same with other phone options) -Some service providers report compliance issues 	<ul style="list-style-type: none"> -Collected monthly -A notable variation is each "active account" -1 of 2 menu options in Tennessee Model
2	Flat fee on each account (# of calculated accounts = (Revenue/ARPU) *user fee)	<ul style="list-style-type: none"> -Provides calculation for determining approximate # of active accounts -Subscriber equity (same) -Used in an estimated 13+ states -Well-suited as menu option 	<ul style="list-style-type: none"> -Approximation not actual -Based on aggregate data -ARPU value a factor -Some service providers question if the fee is assessed to the subscriber 	<ul style="list-style-type: none"> -Collected monthly -This method introduced due to compliance issues with CM#1 -1 of 2 menu options in Tennessee Model -\$50 is typical ARPU
3	Variable fee (%) on wholesale price on sales (each block purchased by subscriber)	<ul style="list-style-type: none"> -Related to sales like POS -Used in at least 1 state -Well-suited as menu option 	<ul style="list-style-type: none"> -Definition of wholesale needed (1st sale?) -Fee on wholesale price for retail sale? -Needs delineation 	<ul style="list-style-type: none"> -Wholesale price is 70% of retail price in GA -No service providers use this option in GA, presumably due to %
4	Variable fee (%) on (suggested) retail price on sales (each block purchased by subscriber)	<ul style="list-style-type: none"> -Related to sales like POS -Used in 2 states -Well-suited as menu option 	<ul style="list-style-type: none"> -Definition of retail needed -Needs delineation 	<ul style="list-style-type: none"> -Few states using
5	Any mutually agreeable method (E911 Board & Service Provider)	<ul style="list-style-type: none"> -Flexible -Used in 1 state 	<ul style="list-style-type: none"> -Too open-ended? -Requires extra coordination 	<ul style="list-style-type: none"> -Provides "safety net" if needed
6	Point of sale (POS)	(See options below)	(See options below)	(See options below)
	POS 1: 1% statewide	-Service providers support	-No states / retailers "no"	-High transition costs
	POS2: 1% contracted	-Service providers support	-Non-POS loophole, Web?	-POS perceived as tax?
	POS3: West VA Model	-Service providers support	-"Tax" but same as exempt revenue wise	-General Revenue or not?

Part 1: Synthesis of Key Findings from Level 2 Analysis Phase

This stage of the feasibility determination is to determine which of the six identified collection methods passes to the Feasibility Level 3, either as an individual method or as an option in a combination or menu solution. Based on the Analysis Phase point-by-point review, the following “What-If” design findings are made:

- **Collection Method 1:** Flat Fee per Account with a Positive Balance (Active Account)
 - Unfeasible as a singular collection method alternative
 - Feasible as a menu collection method alternative
 - Displays excellent consistency of focus with Collection Method #2
- **Collection Method 2:** Flat Fee per Account Based on Average Revenue Per User (ARPU)
 - Feasible as a singular collection method alternative
 - Feasible as a menu collection method alternative
 - Displays excellent consistency of focus with Collection Method #1
- **Collection Method 3:** Variable Fee on Wholesale Price
 - Unfeasible as a singular collection method alternative
 - Feasible as a menu collection method alternative
 - Potentially conflictive with Collection Method #4 and other methods
 - Variable fee deemed more problematic administratively than flat fee
- **Collection Method 4:** Variable Fee on Retail Price
 - Unfeasible as a singular collection method alternative
 - Feasible as a menu collection method alternative
 - Potentially conflictive with Collection Method #3 and other methods
 - Variable fee deemed more problematic administratively than flat fee
- **Collection Method 5:** Any Mutually Agreed Upon Collection Method (Wildcard)
 - Unfeasible as a singular collection method alternative
 - Feasible as a menu collection method alternative
 - Advantages to including in a menu collection method outweigh disadvantages unless the menu collection does not otherwise facilitate the compliance of all service providers
- **Collection Method 6:** Point of Sale
 - Feasible as a singular collection method alternative using statewide point of sale collections
 - *Feasible as a menu collection method alternative for non-statewide fee collections (*only in clearly defined non-conflicting uses of point of sale as conflicts with existing other fee collection methods and seepages (non-payment) are an identified risk
 - Statewide point of sale needs additional specification since it is a new collection method

Part 2: Listing of Potential Contestants for Passage to Level 3

The decision option of choosing no collection option is addressed later in Level 3. For this juncture, the objective is to identify the most feasible individual and combination collection methods for passage to Level 3 evaluation. A listing of potential candidates based on the Part I findings follow for review and design consideration.

<u>Most Feasible Individual Collection Methods</u>	<u>Most Feasible Combination Collection Methods</u>
Point of Sale Method 6	Positive Balance and ARPU Collection Methods Method 1 and Method 2
ARPU Method 2	Positive Balance , ARPU, Variable: Wholesale or Retail Method 1, Method 2, Method 3 or Method 4
	Positive Balance , ARPU, Variable: Wholesale or Retail, and Point of Sale (non-statewide w/ defined conditions) Method 1, Method 2, Method 3 or Method 4, Method 6

Note: Above ordering is not significant. Inclusion is significant. Method 5 is not feasible as an individual collection method. Method 5 is not included under “Most Feasible Combination Collection Methods” because the combinations do not require a wildcard. Method 1, Method 3, and Method 4 are not deemed feasible as individual collection methods given their ranking relative to other alternatives.

According to the design “What-If” considerations above, there are two candidates for most feasible individual collection method and three candidates for most feasible combination collection method.

Part 3: Selection of Contestants for Passage to Level 3

Based on the analysis of the Level 2 Analysis Phase and Part 1 and Part 2 of the Design Phase, the following two contestants are passed to Level 2 Assessment Phase for additional detailed assessment:

- Combination of Positive Balance and ARPU Collection Method Solution (Menu Solution)
- Singular Point of Sale Collection Method Solution

The preferred combination method for the Positive Balance and ARPU Collection Method is determined to be a menu collection method. Such a menu has been used widely in many states and is deemed the best combination technique for these two individual collection methods.

Note: If both of these above contestants are deemed unfeasible in the Assessment Phase, then by default No Collection Method will be the recommendation of this study. Each collection method solution deemed feasible in the Assessment Phase will pass to Level 3 for additional feasibility analysis.

Additional detailing of the “actual” implementation-ready Singular Point of Sale Collection Method Solution AND Combination of Positive Balance and ARPU Collection Method Solution (Menu Solution) follow in the next section. At this higher level of analysis for implementation, key attributes will be listed and values assigned for key attributes so features of each collection method can be compared and contrasted.

Feasibility Level 2: The Assessment Phase

Collection methods determined to be the two most feasible collection method solutions and passed from the Feasibility Level 2 Design Phase are the following:

- Menu Combination of Positive Balance and ARPU Collection Method Solution
For this solution, Tennessee and Michigan can serve as best practice baselines, along with several other states that employ identical or similar solutions.
- Singular Point of Sale Collection Method Solution
For this solution, the new CTIA-ROCI Work Group statewide point of sale collection method can serve as a best practice baseline as no state has implemented a statewide point of sale surcharge collection method to this point, though at least two states, Ohio and Maine, have limited point of sale facilitation of E911 fees on the statutes.

In this section, each of the conceptual collection method solutions above will be detailed and assessed. This detailing process includes giving each conceptual solution an appropriate name and specifies a set of standardized functional attributes/values, by which the actualized collection method will be subsequently assessed. “Attributes” refers to attributes or characteristics. “Values” refers to the specific value in place for an attribute. For instance, E911 Fee Type is one attribute that applies and possible values for this attribute are flat fee and variable fee, to name a couple of possible values. Such a detailing process is needed for reaching a more detailed and implementation-ready analysis level in Level 3. In addition, for purposes of easy identification within this feasibility contest, each candidate will be assigned a contestant number and be subsequently referred to as a “contestant.” This has to do with the fact that feasibility assessment is a contest. Additional assessment process steps follow this attribute/value detailing process.

The Menu Combination of Positive Balance and ARPU Collection Method Solution (previously) is referred to going forward as *Contestant 1: Best Practice Menu Flat Fee Collection Method Solution*

In Place or New Collection Method?

In place in following states with exact same menu alternatives: Michigan, Tennessee, and others.
In place in following states with same alternatives in a larger menu: Georgia, Maine, Ohio, and others.

Risk Assessment Comments

Low level of risk due to the fact that many states have successfully implemented this solution.

Functional Attributes/Values:

1. Simple/Compound (1 or more methods): Compound (2 collections methods make up solution)
2. Singular/Multiple (proposed for singular or multiple use): Singular (intended for singular use)
3. Statewide: Yes
4. Menu Method: Yes
5. Fee Type/Rate: Flat fee / \$.50 per month
6. Timeframe/Context of Collection: Monthly / designated day by service provider
7. Incidence: End Users (Either individually or aggregately)
8. Point of Collection: Service provider collects on behalf of State according selected menu option

9. Sourcing: Zip code and/or area code
10. Exemptions: Indemnification/Liability Protection: Yes, can be added to statutes
11. Exportability: No, according to Florida zip code or area code
12. Service Provider/Retailer Required: Yes, service provider (provider of prepaid wireless services)
13. State of Florida Administrator(s) Required: Yes, to coordinate with service providers
14. Level of Service Required of State of Florida Administration: Assessed as low (E911 Fund)
15. Overhead % of Revenues Required of State of Florida Administration: Estimated <1% (tentative)
16. Projected Service Level of Services Projected from State of Florida Administrators: Fair
17. Vendor's Comp: Yes
18. Vendor's Comp % of Revenues: Estimated 1% (tentative)
19. Brief Process Flow for Collection/Remittance: Purchaser-POS - Service-Provider - State
20. Brief Process Flow for Compliance/Enforcement: State - Service Provider

Singular Point of Sale Collection Method Solution (previously) is referred to going forward as *Contestant 2: Best Practice Statewide Point of Sale Flat Fee Collection Method Solution*

In Place or New Collection Method?

Not in place in any states

Risk Assessment Comments

Moderate to high level of risk due to the fact that no states have implemented this solution to date

Functional Attributes/Values:

1. Simple/Compound (1 or more methods): Simple (1 method)
2. Singular/Multiple (proposed for singular or multiple use): (1 collections method make up solution)
3. Statewide: Yes
4. Menu Method: No (simple)
5. Fee Type/Rate: Flat fee / \$.25 per retail transaction (per Model Statutes Draft in Appendix 3)
6. Timeframe/Context of Collection: At point of sale when a transaction occur (not time sensitive)
7. Incidence: End Users (purchasers are assumed to be the end users)
8. Point of Collection: Point of sale
9. Sourcing: Store location or Internet web site location (Note: sourcing issue exists for sales tax collection for remote sales such as the Internet as non-nexus companies collect no sales tax remotely)
10. Exemptions: Indemnification/Liability Protection: Yes, can be added to statutes
11. Exportability: Partial. Out-of-state visitors to store locations pay fee. Remote sales subject to sourcing.
12. Service Provider/Retailer Required: Yes, retailer (provider of point of sale services)
13. State of Florida Administrator(s) Required: Yes, to administer retailers and sales tax surcharge. FL DOR.
14. Level of Service Required of State of Florida Administration: Assessed as medium to high.
15. Overhead % of Revenues Required of State of Florida Administration: Estimated 1% (tentative)
16. Projected Service Level of Services Projected from State of Florida Administrators: Good
17. Vendor's Comp: Yes
18. Vendor's Comp % of Revenues: Estimated : 1% (tentative)
19. Brief Process Flow for Collection/Remittance: Purchaser - Retailer - State
20. Brief Process Flow for Compliance/Enforcement: State - Retailer

Contestant 1: Best Practice Menu Flat Fee Collection Method

Title of Collection Method: Best Practice Menu Flat Fee Collection Method (BPMFFCM)

Short Title of Collection Method: Best Practice Menu Collection Method

Long Title of Collection Method: Best Practice Tennessee Model Menu Flat Fee Collection Method

Brief Description: The Best Practice Menu Collection Method collects prepaid wireless service E911 fees from end users on a monthly basis according to a service provider's selection of one collection method from two provided alternatives or options: Option 1) By dividing the total earned prepaid revenue received by the service provider (CMRS supplier or reseller) within the monthly 911 reporting period by \$50.00 and then multiplying that number by the amount of the state 911 charge as established under section 365.172; or Option 2) By multiplying the amount of the state 911 charge as established under Section 365.172 for each active prepaid account of the service provider (CMRS supplier or reseller). Note: The current state 911 charge as established under section 365.172 is \$.50 per month.

Fee Type/Amount: Surcharge or user fee on the sale and usage of prepaid wireless services. \$.50 flat fee per month per end user collected by service provider.

Singular/Compound: Compound. This collection method consists of two distinct individual collection methods that are offered to service providers in a menu or "cafeteria plan" for collecting end user fees on behalf of and as a facilitator for the state. These two constituent collection method alternatives are deemed to be consistent with each other and the two alternatives are offered as a facilitating convenience because some service providers may not be able to facilitate Option 2 under "Brief Description."

Incidence (Who pays?): The end user (the service provider collects the fee from the stipulated revenue streams associated with each active individual user or an aggregated revenue stream of active end users.

Point of Collection: Post-point of sale end user monthly billing cycle point established by service provider.

Collection Method Tax Policy Ramifications: See detailed analysis in the Level 3 feasibility section.

Sourcing: The federal Mobile Telecommunications Sourcing Act (MTSA) controls sourcing of wireless telecommunications EXCEPT for prepaid telecommunications. Unlike MTSA transaction taxes based on residential or street address (place of primary residence), the de facto standard for sourcing prepaid sales and use by service providers and the state is the phone number and/or zip codes. (All phone numbers as used, like zip codes, are identifiable and source-able to a state's jurisdiction. Some questions may exist however if a state has authority under constitutional law to impose tax on the entire charge based on phone number or zip code.) Whether a prepaid wireless customer is anonymous or not to service providers is a function of the business model of the service provider. However, many prepaid customers are decidedly not anonymous to service providers and almost certainly not to investigating law enforcement officers.

Timeframe of Collection: At the time of the point of sale transaction

Fee Exemptions: Recommended: Standard E911 exemptions in Florida

Collection/Remittance Process:

Menu Option 1: Service provider assesses end user fees aggregately, collects fees, and remits fees on behalf of the state.

Menu Option 2: Service provider individually assesses end user fees, collect fees, and remits fees on behalf of the state.

Note on Option 1: The \$50 divisor has its origins in the Average Revenue Per Unit (ARPU) standard put forward some years ago. The average prepaid wireless Average Revenue per Unit (ARPU) in Florida is \$25-\$30, according to this study's survey results. If \$25 were used instead of \$50, the amount of monies the service provider was to collect and remit would be considerably higher. While the use of \$25 is a viable option here in this context, the use of \$50 may be better given the fact that \$50 is standardly used in other states, there is a consistency with postpaid wireless practices, and the amount collected facilitates a progressive dimension among a group of users who could be termed disadvantaged.

Vendor's Compensation: Yes. Prepaid wireless service providers receive a "vendor's comp" identical to the vendor's compensation provided to postpaid wireless, wireline, and VOIP service providers.

Detailed Collection Method Description:

Implementation:

Required rulemaking and statutory language are put in place based on customized rulemaking and statutory language best practices drawn from states such as Tennessee and Michigan. Various needed business processes, forms, etc. are developed and related coordination is executed.

Collections:

Under this collection method, identified service providers are responsible for collecting the fees from end users, whether on an individual or aggregate basis, based on stipulated rulemaking and statutory language. This responsibility of the service provider needs to be explicitly stated. The "Brief Description" entry in this section describes the two collection options used in this menu collection method. Each service provider may declare which of the two options is to be used for its collections.

Remittances:

Identified service providers collecting the fees are responsible for remittances, based on stipulated rulemaking and statutory language.

Administration/Compliance/Enforcement/Auditing Features: Administration, compliance, enforcement, and auditing features follow closely best practices and processes in various states using a similar collection method. Best practice includes identifying an administrative agency in the state well-suited to the collection administration process. In Florida, the most suitable agency, DOR or another agency will need to be determined. Best practice includes administrative processes/procedures include facilitation of service provider registration, compliance/enforcement processes, auditing authority, and periodic random audits. The designated administrative agency will transfer the monies on a monthly basis to a designated E911 Fund.

Indemnification/Liability Protection: Retail sellers will have the same liability protection and indemnification provided by states for acts of omission related to collecting of E911 charges and for handling of 911 calls as is currently provided to service providers under the Florida Statutes. In addition, as is in the statutes of many states, service providers are not held liable for defined situations in which uncollectible bad debts cannot be collected from end users.

Point of Sale Facilitation (store, online, phone in, etc.): None.

Exportability: No. Since the sourcing is based on telephone number and/or zip code, no exportability can be facilitated. This is not an issue because all other states currently do not have exportability with prepaid wireless service E911 fees, so there is in fact a de facto reciprocity between states. This said, because Florida is a tourist destination, exportability may have advantages to Florida.

Pro's:

1. An available and tried and true collection method in use by many states
2. Probably the best practice collection method currently available for feasibly collecting prepaid wireless fees.
3. Service providers are familiar with the Tennessee Model of collecting prepaid wireless fees and are generally cooperating and compliant in states using this collection method and related fee collection best practices.
4. Administrative costs and related processes can be termed efficient and demonstrably successful as this collection method is sustainable.
5. Relatively easy to implement, given the fact that the lessons learned from other states and statutory language is available for review.

Con's:

1. Offering two alternatives that service providers can choose from does not facilitate consistency across administration practices and is cited by some service providers as an issue.
2. Some service providers maintain that collections under the Tennessee Model do not guarantee collections are from end users and not service providers. However, if this is perceived as an issue, statutory language can be included to designate the service provider as a facilitator of end user collections as has been done in other states.
3. The effectiveness of collections/remittances in states employing similar or identical business may be in question but most states indicate satisfaction with these collection methods and maintain the statutes without revision.
4. There is definitely a better strategy for the collection of E911 fees at some point in the future (the question is when and how).

Key Issues:

1. Is there a better feasible collection method available immediately? If not, this collection method would seem to be feasible and the best available option.
2. The projected level of compliance when implemented according to best practice processes is the main key issue.
3. While not a new collection method, there are advantages to a post-point of sale solution that truly is a user's fee and is most consistent with the E911 fee assessments on other E911-connected services.

Related Definitions:

1. *Point of Sale*: Includes *all* points of sale, whether at a traditional store, website, or otherwise.
2. *ARPU*: As defined, the Average Revenue Per Unit for wireless service in general, or for prepaid wireless, or for postpaid wireless service, or other E911-connected communications.

Clarifications/Assumptions:

1. A menu collection method is a collection method consisting of collection method alternatives and is a collection method itself.
2. The best prepaid wireless collection fee at the present time is a flat fee because it is most consistent with other E911 fees as presently collected.

Source of Collection Method: This collection method was first implemented in Tennessee in 2003. This method of collection was termed the “Tennessee Model” in the 2005 Maine prepaid report.

States with Collection Method in Place: States with similar or identical menu collection methods: Michigan, Tennessee, and others to be determined.

Level 2 Assessment Phase Post-Assessment Status: Passed to Level 3 for additional feasibility analysis.

Contestant 2: Best Practice Statewide Point of Sale Flat Fee Collection Method

Title of Collection Method: Best Practice Statewide Point of Sale (POS) Flat Fee Collection Method (BPSPOSFFCM)

Short Title of Collection Method: Best Practice POS Collection Method

Long Title of Collection Method: Best Practice CTIA-ROCI Point of Sale Flat Fee Collection Method

Brief Description: The Best Practice POS Collection Method collects prepaid wireless service E911 fees at the point of sale on each transaction involving sales of Florida-based prepaid wireless service by assessing a \$.25 flat fee sales tax surcharge over and beyond sales taxes otherwise due at the point of sale. Note: \$.25 is the amount of the sales tax surcharge in the CTIA-ROCI model statutes. The amount of the surcharge may be stipulated as appropriate in the rulemaking and statutory language development process.

Fee Type/Amount: Sales tax surcharge only on prepaid wireless sales. \$.25 per transaction (item). *(The current CTIA-ROCI proposal is for a sales tax surcharge, but “user fee” may be substituted)*

Singular/Compound: Singular. The collection method is required statewide and other collection methods are not recommended as this collection method is most effective as a singular method.

Incidence (Who pays?): The purchaser (may or may not be the end user but incidence is appropriate).

Point of Collection: All points of sale (store, Internet web site, phone order, etc.).

Collection Method Tax Policy Ramifications: See detailed analysis in the Level 3 feasibility section.

Sourcing: The sales location (e.g. the state jurisdiction where the sale takes place) in line with the “cash and carry” transaction type. Purchasers may be deemed “anonymous” at the point of sale and the purchase of prepaid wireless services is treated as a toaster, shirt, or other commodity item. Purchasers may or may not be the end users (subscribers). For purposes of assessing the E911 charge as a surcharge to sales tax, the collection method supporting processes will include procedures for *sourcing* the non-storefront (remote) prepaid wireless services sales transactions consistent with those provided for in the Streamlined Sales Tax Agreement (SATA) for prepaid telecommunications. Those SATA sourcing rules follow the general sourcing rules for sales of tangible personal property but allow an option to the vendor to use the mobile telephone number. It should be noted, however, that the Streamlined Sales Tax Agreement has been considered for a decade and that its acceptance and implementation is in question at the time of this writing. Remote sales are an issue that will need further consideration, given, for example, the current federal laws that restrict the taxation by a state on articles in intra-state commerce. This issue is discussed at other points in this profile.

Timeframe of Collection: At the time of the point of sale transaction

Exemptions: None proposed by CCTIA-ROCI. But standard E911 exemptions in Florida is best policy.

Collection/Remittance Process: Purchaser to cashier to store’s finance dept. to corp. HQ to FL DOR (same as sales tax flow) (similar process for online/tel. sales, etc.) (collection on transaction basis and remittance on monthly basis).

Vendor's Compensation: Yes, to the retailer identically to how sales tax "vendor's comp" process.

Detailed Collection Method Description:

Implementation:

Required rulemaking and statutory language are put in place based on customized rulemaking and statutory language best practices drawn from the CTIA-ROCI Work Group model statutes and other sources. Various needed business processes, forms, etc. are developed and coordination is executed.

Collections:

Under this collection method, identified retailers are responsible for collecting the fees from consumers at the point of sale, based on stipulated rulemaking and statutory language. This responsibility of the retailer at the point of sale needs to be explicitly stated. Retailers add a stipulated flat fee sales tax surcharge or fee (ex. \$.25, \$.50, or another amount as stipulated) to the sales amount for each sales transaction (each item) relating to prepaid wireless airtime and itemize the individual item sales amounts and the final sales amount on the sales receipt to the best of each retailer's abilities. Collections are the cumulative sales tax surcharges or fees collected at the point of sale and itemized as such at the point of sale.

Remittances:

Identified retailers collecting the fees are responsible for remittances, based on stipulated rulemaking and statutory language. Remittances will most likely follow closely either similar current practices for sales taxes or similar practices for battery and tire disposal, depending on subsequent rulemaking.

Administration/Compliance/Enforcement/Auditing Features: Administration, compliance, enforcement, and auditing features follow closely standard Florida DOR sales tax processes, except that this tax is a surcharge on the sales tax specific to prepaid wireless sales at the point of sale. Such an administrative function is advantageous because of the more formalized procedures and processes applied. On the retailer side, procedures and processes are already in place for the general sales tax but provisions for this surcharge will need to be implemented and maintained. Compliance/enforcement processes need to be in place. Auditing authority needs to be present, along with facilitation of an audit trail. As the final step in the collection/remittance process, Florida DOR will transfer the monies on a monthly basis to a designated E911 Fund.

Indemnification/Liability Protection: Retail sellers will have the same liability protection and indemnification provided by states for acts of omission related to collecting of E911 charges and for handling of 911 calls as is currently provided to service providers under the Florida Statutes.

Point of Sale Facilitation (store, online, phone in, etc.): For purposes of assessing the E911 charge as a surcharge to sales tax, the collection method supporting processes will include procedures for sourcing the non-storefront (remote) prepaid wireless services sales transactions consistent with those provided for in the Streamlined Sales Tax Agreement (SATA) for prepaid telecommunications. Those SATA sourcing rules follow the general sourcing rules for sales of tangible personal property but allow an option to the vendor to use the mobile telephone number. It should be noted, however, that the Streamlined Sales Tax Agreement has been considered for a decade and that its acceptance and implementation is in question at the time of this writing. Remote sales are an issue that will need further consideration, given, for example, the current federal laws that restrict the taxation by a state on articles in intra-state commerce. This issue is discussed at other points in this profile.

Exportability: Yes/No. Since the sourcing is based on the sales location, exportability is excellent for store purchases from non-residents visiting Florida. These non-residents benefit from the 911 emergency services delivered within Florida when in Florida. However, remote sales, such as Internet sales, not only has no exportability but potentially no sourcing to Florida (no fee can be collected), depending on sourcing factors such as sales location and nexus status of the retailer. At a minimum, this remote issue will require closer review. See the “Sourcing” item in this profile.

Pro’s:

1. Transparency/Clarity of fee with sales receipt indicating itemized E911 user fee assessment.
2. Improved intake process and funds accountability due to designation of the Florida DOR as the central intake agency and treatment as a sales tax surcharge.
3. Potentially a higher level of compliance among retailers than among prepaid wireless service providers as administered under most “open ended” current collection method practices.

Con’s:

1. The perception of a sales tax surcharge vs. a surcharge on usage (user fee) needs addressing.
2. Potentially large implementation and ongoing administration costs for government that may be considered inefficient on the government side (Florida DOR) due to the relatively small amount of funds collected in the surcharge vs. the added costs of administration.
3. Potentially disruptive business processes and transition costs for small business.
4. While the flat fee tax type is consistent to existing flat fees for other E911-connectable services, this flat fee is transaction-based and not monthly based as the other E911 user fees are, introducing potential equality//fairness issues. Ex. It is possible for a purchaser to buy enough airtime (prepaid wireless services) in one transaction to last for one year and a smart consumer with a little disposable income may opt to do so, allowing the consumer of prepaid wireless service to contribute at much lower rate towards the support of 911 emergency services.

Key Issues:

4. The newness of this approach comes with considerable risks that suggest a separate risk analysis is needed to be sure all pertinent decision factors are considered.
5. Initial assessment by the Florida DOR is that initiation of a sales tax surcharge for prepaid wireless service will not be efficient to administer, given the costs of implementation and administration versus the relatively small amount of funds (\$5 to \$10M) expected to be won as annual revenue earmarked for 911 emergency services.
6. Current U.S. and Florida laws pertaining to taxation of Internet and other inter-state commerce transactions represent a major issue to the feasibility of point of sale collection on prepaid wireless sales. Already the states are suffering under revenue shortfalls related to this issue. In particular, Internet sales of prepaid wireless service is currently sizable and can be expected to increase in proportion to store sells, given the convenience of acquiring online the “virtual” product of airtime. Thus Internet sales represents an obstacle to the certainty the sales tax surcharge is collected and has ramifications for other guiding principles of good tax policy, such as equity and fairness (nexus vs. non-nexus collection issues), neutrality (nexus vs. non-nexus collection issues), economic growth and efficiency (issue of favoring tax-free Internet sales vs. taxed store sells), minimum tax gap (issue of favoring tax-free Internet sales vs. taxed store sells), and appropriate government revenues (issue of potential revenue shortfalls).
7. Some consideration should be given to whether prepaid wireless service indeed should be treated as an “anonymous” purchase like a toaster, shirt, or other commodity item. All other E911-

connectible services provide law enforcement various means of tracking the origination point to where communication was initiated. Many service providers of prepaid services collect personal information from end users (subscribers) prior to activation of service. Is anonymous phone service to be facilitated?

Related Definitions:

3. *Point of Sale*: Includes all points of sale, whether at a traditional store, website, or otherwise.
4. *Transaction*: One item of prepaid wireless services on the same or a different sales receipt.
5. *Statewide*: Indicates all points of sale are required to collect the proposed E911 sales tax surcharge.
6. *Nexus* is a legal term indicating a company's business legal presence within a state (storefront).
7. *Exportability* concerns the ability to extend a tax base fairly and equitably beyond Florida residents.

Clarifications/Assumptions:

3. \$.25 is selected value for the per transaction fee because according to the CTIA sources consulted, the average monthly prepaid wireless bill (spend) is \$27 and CTIA-ROCI Model statutes call for no more than one half the E911 fee assessed on other 911-connected communications. Thus in Florida \$.25 is the recommended amount. This amount represents slightly less than 1% of \$27 similarly to how postpaid wireless users are assessed \$.50 monthly based on the fact that the average monthly postpaid bill is \$50, or 1%. This value may be substituted for as policymakers see fit. \$.50 may be a good choice because it closely parallels the E911 per month assessment for other E911 fees.
4. The assessment level in the flat fee, currently proposed at \$.25 per transaction, may be revised according to stakeholder feedback.
5. A transaction, as used here, is a per item of purchase of prepaid wireless service. Ex. Whether \$25, \$100, or \$1000 of prepaid services is purchased, this is one transaction and assessed at \$.25 (or the designated surcharge or fee amount). If two items are purchased, that is two transactions.
6. Most consumers will opt to purchase a month's worth of prepaid wireless minutes at a time (though many service providers offer large increments of minutes and a year-long period of use).
7. A flat fee based fee is more suitable for retailers to implement at the point of sale for prepaid wireless services and is consistent with the way other E911 fees are assessed.
8. A statewide "singular" system is the way a point of sale collection method should be deployed.

Source of Collection Method: CTIA partnered with ROCI (Retailers of Common Interest) to develop a prepaid wireless statewide point of sale flat fee collection method, here called BPSPOSFFCM. CTIA-The Wireless Association®, is an international nonprofit membership organization founded in 1984, representing all sectors of wireless communications – cellular, personal communication services and enhanced specialized mobile radio. ROCI is a tax-focused retailing organization. The CTIA-ROCI Work Group developed the prototype for BPSPOSFFCM in the Fall 2008 timeframe. It should be noted that the CTIA-ROCI Work Group is well-suited to put forward this innovative collection method proposal, given the expertise of its team members in both prepaid product packaging and retail sales.

States with Collection Method in Place: None to this date. Ohio and Maine have point of sale (on a non-statewide basis) as a menu alternative for the collection of E911 fees on prepaid wireless service; however, few collections point of sale collections are made in Ohio and none are made in Maine.

Level 2 Assessment Phase Post-Assessment Status: Passed to Level 3 for additional feasibility analysis.

FEASIBILITY ANALYSIS OF PREPAID WIRELESS E911 COLLECTION METHODS AT THE IMPLEMENTATION READINESS LEVEL (LEVEL 3)

Overview of the Feasibility Level 3 Contestants and Contest Processes

The two collection methods assessed at the Feasibility Level 3 Level in this section are the following:

- Best Practice Menu Flat Fee Collection Method (BPMFFCM)
- Best Practice Statewide Point of Sale Flat Fee Collection Method (BPSPOSFFCM)

Feasibility Level 3 consists of both a qualitative and quantitative part. Both parts are a point-by-point analysis based directly on the AICPA's ten guiding principles of good tax policy. Part 1 is the qualitative part consisting of a point-by-point feasibility analysis of each point for each collection method. Part 2 is the quantitative part consisting of the assignment of a numerical score for each tax policy principle for each collection method. Scores will be totaled for each collection method, rendering an assessment for how well the collection method addresses the tax policy guiding principles. According to the AICPA, all ten of its guiding principles are equal in importance, so the total score of each collection method will need no weighted average adjustment. A discussion of the feasibility of each collection method follows these two parts and leads to the recommendations presented at the end of this collection method analysis process.

The Feasibility Level 3 analysis points employed for the qualitative and quantitative parts follow for previewing:

1. Equity and Fairness
2. Certainty
3. Convenience of Payment
4. Economy of Collection
5. Simplicity
6. Neutrality
7. Economic Growth and Efficiency
8. Transparency and Visibility
9. Minimum Tax Gap
10. Appropriate Government Revenues

Contestant 1: Best Practice Menu (BPM) Collection Method

1. Equity and Fairness

Collection Method Level:

Generally speaking, considerable equity and fairness is facilitated because similarly situated taxpayers are taxed similarly with no significantly negative revenue/system impact. There are some issues regarding whether similarly situated taxpayers are taxed similarly due to the fact that two different collection methods are facilitated and each service provider selects one or the other method. Thus consistency is lacking to a degree, even though the incidence and burden on the taxpayer are very similar between the two alternatives within the menu. The incidence, or who pays, is the end user, albeit indirectly via a connection (Menu Option 1) or revenue stream (Menu Option 2) and the service provider is responsible for collection and remittance. Horizontal equity *per se* between taxpayers with equal abilities to pay is maintained since both individual collection methods are based on a flat fee assessment. Vertical equity *per se* is not facilitated; however, this is also the case with E911 flat fees in general and not an issue at the collection method or individual tax level, only the revenue system level.

E911 Fee Type and Overall Revenue/Tax System Level:

Very important is that even given the potential shortcomings of this collection method is that assessment of the E911 fee on prepaid wireless end users through collection by the service provider allows for improved equity and fairness across the E911 fee type and the overall revenue system of the State of Florida. The assessment on a monthly basis of a comparable flat fee on prepaid wireless promotes tax parity across all E911 fee taxpayers. This issue of perceived tax parity between the individual E911 fees (wireline, prepaid/postpaid wireless, & VOIP) is an important tax policy consideration. Equity and fairness are of highest importance at the revenue/tax system level.

2. Certainty

Collection Method Level:

Generally speaking, considerable certainty is facilitated because specifics on when the tax is to be paid, how it is to be paid, and how the amount to be paid is to be determined is clearly stated. The tax burden for end users is stipulated as the designated monthly flat fee. Service providers are instructed to collect the fee on behalf of the end user in one of two ways and each of these two ways is clearly stated and familiar in the industry for years. The business rules for assessing the fee are easy for service providers to identify and value. Valuations are not subjective but objective, based on connections (Menu Option 1) or number of accounts (Menu Option 2). Given the menu options, it is imperative that the statutes be detailed and clearly presented and that administrative guidance is available to service providers. It should be noted that the principle of certainty is closely related to simplicity. This menu collection method with its two options for service providers to choose from, though perhaps not the simplest available, is not complex.

E911 Fee Type and Overall Revenue/Tax System Level:

Certainty must be addressed predominately at the collection method level.

3. Convenience of Payment

Collection Method Level:

Generally speaking, convenience of payment is facilitated for the taxpayer, the end user. Convenience may be achieved by collection at any point in the lifecycle of acquisition and use of a service. This collection method is designed to conveniently make collections after acquisition and use by the end user. In both Menu Option 1 and Menu Option 2, the taxpayer is assessed the fee without any needed action. The burden of collection and remittance of the fee falls on the service provider. For this burden, “vendor’s comp” is paid to the service provider. Under Menu Option 1 the service provider has considerable flexibility; the collections are based on the number of collections and these collections from the service provider may be directly decremented from the accounts of end users, “taken off the top” of revenues from end users based on the number of accounts or connections, or otherwise as may meet the requirements of the statutory language. Under Menu Option 2, collections from “end users” are “taken off the top” of revenues from end users based on the number of accounts or connections calculated using a defined Average Revenue Per User (ARPU). Since its inception as a collection method, the purpose of ARPU has been intended as a convenience to service providers that otherwise would not be capable of complying with statutory language because the number of active monthly full time users was not known. Convenience is also related to compliance. While many current service providers have collected and remitted these fees, some service providers contend that the fee as assessed in this collection method is not an “end user” fee and have not complied. A key factor in assessing the convenience of an E911 fee assessment is explicitly the definition of the fee as an assessment on the *sale OR use* of prepaid wireless service. Is the fee on the sale or on the use of the prepaid wireless service? In this feasibility analysis situation, the opportunity exists to more explicitly define the purpose of the fee, but it should be duly noted that *other E911 fees are assessed on the use* of E911-connected services. A tax on the sale or purchase of prepaid wireless services would seem most convenient at the point of sale when the purchaser (who may or may not be the end user) still has the choice to complete the sale/purchase. If a tax is on the use of prepaid wireless services, a post-use juncture of tax assessment may be determined to be more convenient. Convenience is not the same as appropriateness, but convenience must serve reasonably what is appropriate.

E911 Fee Type and Overall Revenue/Tax System Level:

Convenience must be addressed predominately at the collection method level.

4. Economy of Collection

Collection Method Level:

Generally speaking, economy of collection is facilitated with this collection method for the government, the taxpayer, and the facilitating service provider. Collection costs, including administrative and compliance/enforcement costs, are kept to a reasonable minimum. Administration and compliance/enforcement costs are typically minimized by the government. Taxpayers incur no costs relating to the collection of E911 fees, other than the paying of the actual fee assessed or incurring higher costs to support the fee collection by service providers on behalf of end users. The service providers are paid a percentage of all funds remitted as a “vendor’s comp,” or cost recovery compensation for administrative costs associated with collecting and remitting the fee. Typically, this amount is set in each state and is between 1% and 2% of funds remitted. While this percentage is relatively small, simplicity of implementation helps keep costs of administration on both the service provider and government sides. Administrative costs of facilitating two collection methods (Menu Option 1 and Menu Option 2) in a menu collection method are not deemed to be significantly higher than for the administration of only one of the two methods. In particular, it should be noted that on the government side, compliance/enforcement

costs are typically minimized, and increased attention to compliance/enforcement details in statutory language followed up with increased administrative attention to compliance/enforcement processes could yield higher compliance rates and potentially a greater return on investment (ROI) if efficiently/effectively implemented.

E911 Fee Type and Overall Revenue/Tax System Level :

Economy of collection must be addressed predominately at the collection method level.

5. Simplicity

Collection Method Level:

Generally speaking, simplicity is facilitated with this collection method. Taxpayers and facilitators (service providers) can understand the rules and comply with them in a cost-efficient manner. See the related discussion of this collection method in the “Economy of Collection” section. Related rules are not deemed overly complex and contributory to a reduction in non-compliance. Facilitated menu options represent a convenience. Menu options are clearly presented and not overly complex. Consistency, not simplicity, is a pertinent issue. An important aspect of simplicity is the enabling of taxpayers and service providers to better understand the tax consequences of tax-related processes in which they engage or consider engaging in. This aspect of simplicity is treated in the “Transparency/Visibility” section of this analysis. Another related aspect of simplicity is convenience facilitating appropriateness. This aspect of simplicity is treated in the “Convenience of Payment” section.

E911 Fee Type and Overall Revenue/Tax System Level:

Simplicity must be addressed predominately at the collection method level.

6. Neutrality

Collection Method Level:

Generally speaking, neutrality is facilitated with this collection method. As defined by the AICPA, this principle is primarily concerned with the effect of a tax law on a taxpayer’s decisions as to how to carry out a particular transaction or whether to engage in a transaction. For the purposes of this study, this analysis also addresses the neutrality of taxpayers and service providers such that the effect of a tax collection method is reviewed in regard not only to taxpayer behavior but as well to service provider behavior. Does the collection method facilitate competitive, technology, and non-discriminatory neutrality? As defined by the AICPA, this collection method is deemed neutral in regard to how it affects taxpayer decisions relating to transactions. In addition, this collection method is deemed for taxpayers and service providers to facilitate competitive, technology, and non-discriminatory neutrality. The main caveat to this assessment is awareness that compliance by service providers under similar current statutes is not exemplary and could potentially create competitive advantages for non-complying service providers. Supporting compliance/enforcement policies may be needed to protect against this possibility. Another caveat is maintaining competitive neutrality between companies selecting menu Option 1 versus Menu Option 2. Appropriate statutory phrasing and supporting compliance/enforcement policies may be needed to ensure that the burden service providers collecting and remitting fees using either Menu Option 1 or Menu Option 2 on behalf of taxpayers are demonstrably close to identical in amount. This can be facilitated because menu Option 1 and Menu Option are very similar while allowing for facilitation of different technical and business capabilities among service providers.

E911 Fee Type and Overall Revenue/Tax System Level:

Neutrality must be addressed predominately at the collection method level.

7. Economic Growth and Efficiency

Collection Method Level:

Generally speaking, economic growth and efficiency is facilitated because this collection method does not impede or reduce the productive capacity of the economy.

E911 Fee Type and Overall Revenue/Tax System Level:

Economic growth and efficiency must be addressed at both the collection method level, fee type, and overall revenue/tax system level but most importantly at the revenue/tax system level. This is a good juncture to note that though telecommunications taxes have been cited among industry sources as high that these taxes have not led to any demonstrable competitive disadvantage for U.S. firms relative to foreign firms. Furthermore, the E911 fee is considered to be a surcharge payable on end users and collectible by facilitators (service providers, retailers, etc.). However, the E911 fees are collected and remitted, these facilitators will need to be provided vendor's compensation and the amount of the surcharge considered in pricing the prepaid wireless services. Generally speaking, economic growth and efficiency is facilitated at the fee type and overall revenue/tax system levels because there is no evidence that the collection method and/or fee impedes or reduces the productive capacity of the economy.

8. Transparency and Visibility

Collection Method Level:

Generally speaking, considerable transparency and visibility are facilitated through this collection method. Taxpayers and service providers should know that a tax exists and how and when it is imposed upon taxpayers and is to be collected and remitted by service providers. This said, cooperative efforts between government and service providers may be needed to improve the transparency/visibility among end users. Because service providers typically collect the fees on behalf of government, end users may not have adequate transparency/visibility unless supporting statutes are included with the tax policy requiring that service providers make reasonable efforts to inform end users that an identified cost to end users collected on a monthly basis by service providers is specifically assessed at the point of sale for supporting of 911-related emergency services. There are ample opportunities before, during, and after transactions for reputable service providers to make this information available for review by information-attentive consumers and end users. In cooperation with service providers, government needs to participate in the process of improving transparency/visibility facilitated under both Menu Option 1 and Menu Option 2 of this collection method. Positively impacting transparency/visibility can be facilitated under this collection method with the cooperation of service providers with government. Examples of exemplary practices already in place include service providers that promote transparency/visibility on product packaging and website pages.

E911 Fee Type and Overall Revenue/Tax System Level:

Transparency/visibility must be addressed predominately at the collection method level.

9. Minimum Tax Gap

Collection Method Level:

Generally speaking, a minimal tax gap is facilitated with this collection method. This tax gap principle has to do with the fact a collection method should be structured to minimize noncompliance. The tax gap is the difference between taxes that are owed and taxes that are voluntarily paid by taxpayers and remitted by service providers. Given the fact that it is common practice with this collection method that the service provider collects the fees from end users on behalf of the government, it is particularly important to include both the taxpayers and service providers in this discussion. In some cases, taxpayers may not even be aware that an E911 fee is in effect (see the “Transparency/Visibility” section). However, this situation does not reduce the obligation of the service provider to collect and remit statutorily mandated fees. Rather, it increases the need for the government to work with service providers so that transparency/visibility is increased, applicable fees are assessed using Menu Option 1 and Menu Option 2, and applicable fees are collected and remitted to the government. Tax gap problems may be intentional errors such as non-filing errors, underreporting of assessed taxes, omission of transactions or unintentional errors such as through a misunderstanding of tax rules or mathematical errors. Supporting statutory language is needed to promote compliance. Compliance measures need to balance the costs of enforcement with the potential loss of revenues and related inequities. A tax gap does exist with the use of this collection method. Improved compliance/enforcement measures may be needed to improve efficiency/effectiveness.

E911 Fee Type and Overall Revenue/Tax System Level:

Minimizing the tax gap must be addressed at both the collection method level, fee type, and overall revenue/tax system levels. Failure to do so undermines the equity of the tax and tax system in addition to creating a revenue shortfall.

10. Appropriate Government Revenues

Collection Method Level:

Generally speaking, appropriate government revenues are facilitated with this collection method in a predictable and reliable way that facilitates planning efforts. Government needs to be able to plan on how much tax revenue will be forthcoming in a particular timeframe. The level of compliance is the biggest factor affecting planning efforts with this collection method. This issue relates to the “Minimum Tax Gap” section. Theoretically, under Menu Option 1 and Menu Option 2, while keeping informed on trends affecting usage patterns, it should be possible to ascertain the numbers of approximate active users per month across all service providers in a preceding month’s timeframe and be able to use this metric for multiplying times the assessed surcharge monthly fee to approximately calculate available revenues for a month.

E911 Fee Type and Overall Revenue/Tax System Level:

Ensuring appropriate government revenues must be addressed at both the collection method level, fee type, and overall revenue/tax system levels. Through diversity of fee types within the overall revenue/tax system, stability is maintained in changing economic times.

Contestant 2: CTIA-ROCI Point of Sale (CRPOS) Collection Method

1. Equity and Fairness

Collection Method Level:

Generally speaking, excellent equity and fairness is facilitated because similarly situated taxpayers are taxed similarly with no significantly negative revenue/system impact. There are no issues regarding whether similarly situated taxpayers are taxed similarly due to the fact that all prepaid wireless taxpayers are facilitated with a uniform, singular collection method. Thus consistency is maintained. The incidence, or who pays, is the purchaser (who may or may not be the end user), and the retailer is responsible for collection and remittance. Horizontal equity *per se* between taxpayers with equal abilities to pay is maintained since a flat fee is collected for each transaction without prejudice to other factors. Vertical equity *per se* can be said to be at least partially facilitated because the fee is collected at the point of sale for each transaction. Horizontal and vertical equity impact issues are insignificant and not an issue at the collection method or individual tax level, only the revenue system level.

E911 Fee Type and Overall Revenue/Tax System Level:

It is significant to note that the point of sale collection method is significantly different than the collection methods for the other E911 fees. Very important is that even given the potential shortcomings of this collection method is that assessment of the E911 fee on prepaid wireless end users through collection at the point of sale by the retailer allows for improved equity and fairness across the E911 fee type and the overall revenue system of the State of Florida. This issue of perceived tax parity between the individual E911 fees (wireline, prepaid/postpaid wireless, & VOIP) is an important tax policy consideration. Equity and fairness are of highest importance at the revenue/tax system level.

2. Certainty

Collection Method Level:

Generally speaking, considerable certainty is facilitated because specifics on when the tax is to be paid, how it is to be paid, and how the amount to be paid is to be determined is clearly stated. The tax burden for purchasers is stipulated as a flat fee (sales tax surcharge) due at the point of sale. Retailers are instructed to collect this fee on behalf of the purchaser of the prepaid wireless services. The business rules for assessing the fee are easy for retailers to identify and value. Valuations are not subjective but objective, based on a designated flat fee assessment amount per transaction. It should be noted that the principle of certainty is closely related to simplicity. This point of sale collection method is deemed simple to administer at large retail chain store locations. Small business may find the tax administration processes not so simple. Administration at retail locations, even for small businesses, however, is not deemed to be a significant issue other than at startup and within the first year. A potentially greater issue relating to certainty/simplicity is the problem of tax administration relating to Internet point of sale. Many complex legal issues must be reviewed to determine the certainty of collecting and remitting the fee from the Internet point of sale. Put simply, according to the current legal environment, it is doubtful that the fee (sales tax surcharge) can be collected from Internet sales unless the selling company maintains a nexus within the state of Florida. This Internet issue could potentially influence many other principles but is only mentioned here.

E911 Fee Type and Overall Revenue/Tax System Level:

Certainty must be addressed predominately at the collection method level.

3. Convenience of Payment

Collection Method Level:

Generally speaking, convenience of payment is facilitated for the taxpayer, the purchaser of the prepaid wireless service (supposed to be the end user). Convenience may be achieved by collection at any point in the lifecycle of acquisition and use of a service. This collection method is designed to conveniently make collections at the point of sale prior to use. The purchaser may not be the end user but is assumed to be the end user with this point of sale tax, or at least to have a vested interest in the subsequent use of the prepaid wireless services. The burden of collection and remittance of the fee falls on the retailer. For this burden, “vendor’s comp” is paid to the retailer. The purchaser (supposed end user) is conveniently facilitated by payment of the fee at the point of sale. The amount of the fee is a defined flat fee conveniently added to the point of sale transaction amount consisting of the cost of all goods/service purchased, regular due sales tax, plus the extra E911 sales tax surcharge (defined flat fee) conveniently added on to the sales receipt along with an itemizing of the sales tax surcharge as “E911 Fee,” or as deemed appropriate. Convenience is also related to compliance. While many current service providers have collected and remitted these fees, some service providers contend that the fee as assessed in this collection method is not an “end user” fee and have not complied. A key factor in assessing the convenience of an E911 fee assessment is explicitly the definition of the fee as an assessment on the *sale OR use* of prepaid wireless service. Is the fee on the sale or on the use of the prepaid wireless service? In this feasibility analysis situation, the opportunity exists to more explicitly define the purpose of the fee, but it should be duly noted that *other E911 fees are assessed on the use* of E911-connected services. A tax on the sale or purchase of prepaid wireless services would seem most convenient at the point of sale when the purchaser (who may or may not be the end user) still has the choice to complete the sale/purchase. If a tax is on the use of prepaid wireless services, a post-use juncture of tax assessment may be determined to be more convenient. Convenience is not the same as appropriateness, but convenience must serve reasonably what is appropriate.

E911 Fee Type and Overall Revenue/Tax System Level:

Convenience must be addressed predominately at the collection method level.

4. Economy of Collection

Collection Method Level:

Generally speaking, economy of collection is facilitated with this collection method for the government, the taxpayer, and the facilitating service provider. Collection costs, including administrative and compliance/enforcement costs, are kept to a reasonable minimum. However, it should be noted that substantial one-time costs for implementing this point of sale solution may be required on the government and retailer sides. On the government side, the Florida Department of Revenue would need to devise a detailed plan for implementation, support, and maintenance. Likewise each of the retailers selling prepaid wireless services would need to acquaint themselves with the ramifications of new related statutes and devise a plan for implementation, support, and maintenance. Considerable expense could be involved on both sides. Three issue potentially needs closer review before final feasibility in regard to this principle is confirmed: 1) Opportunity costs for other uses of surcharges (add-on) to sales taxes that preclude the use other more deserving or appropriate such uses (this may not be an issue if there are no other deemed more appropriate surcharge assessment on sales taxes at the point of sale); 2) The cost to government (FL Department of Revenue) is commiserate with the scale of collections and the increased revenues of improved compliance/enforcement, so that one-time and ongoing costs are justifiable and economy of collection is deemed satisfactory; 3) Small business is not overly disadvantaged, resulting in pressures to

opt out of the sale of prepaid wireless services due to the projected costs for efficiently/effectively facilitating point of sale tax collection; and 4) Sales on the Internet by companies without a nexus in Florida result in reduced E911 fee collections and potential competitive advantages over companies that have a nexus in Florida. Simplicity of implementation at the point of sale potentially contributes to improved economy of collection, especially in promoting increased compliance/enforcement and a better return on investment for administration costs.

E911 Fee Type and Overall Revenue/Tax System Level:

Economy of collection must be addressed predominately at the collection method level.

5. Simplicity

Collection Method Level:

Generally speaking, simplicity is facilitated with this collection method. Taxpayers and facilitators (retailers) can understand the rules and comply with them in a cost-efficient manner. See the related discussion of this collection method in the “Economy of Collection” section. Related rules are not deemed overly complex and contributory to a reduction in non-compliance. The payment of end user fees (by purchasers assumed to be end users) is simply facilitated at the point of sale with no negative impact on the taxpayer and minimal impact on the retailer’s operations after transitioning point of sale systems and/or processes. An important aspect of simplicity is the enabling of taxpayers and service providers to better understand the tax consequences of tax-related processes in which they engage or consider engaging in. This aspect of simplicity is treated in the “Transparency/Visibility” section of this analysis. Another related aspect of simplicity is convenience facilitating appropriateness. This aspect of simplicity is treated in the “Convenience of Payment” section.

E911 Fee Type and Overall Revenue/Tax System Level:

Simplicity must be addressed predominately at the collection method level.

6. Neutrality

Collection Method Level:

Generally speaking, neutrality is facilitated with this collection method. As defined by the AICPA, this principle is primarily concerned with the effect of a tax law on a taxpayer’s decisions as to how to carry out a particular transaction or whether to engage in a transaction. For the purposes of this study, this analysis also addresses the neutrality of taxpayers and service providers such that the effect of a tax collection method is reviewed in regard not only to taxpayer behavior but as well to service provider behavior. Does the collection method facilitate competitive, technology, and non-discriminatory neutrality? As defined by the AICPA, this collection method is deemed neutral in regard to how it affects taxpayer decisions relating to transactions. In addition, this collection method is deemed for taxpayers and service providers to facilitate competitive, technology, and non-discriminatory neutrality. The main caveat to this assessment is awareness that compliance by service providers under similar current statutes is not exemplary and could potentially create competitive advantages for non-complying service providers. Supporting compliance/enforcement policies may be needed to protect against this possibility. Another caveat is maintaining competitive neutrality between companies selecting menu Option 1 versus Menu Option 2. Appropriate statutory phrasing and supporting compliance/enforcement policies may be needed to ensure that the burden service providers collecting and remitting fees using either Menu Option 1 or Menu Option 2 on behalf of taxpayers are demonstrably close to identical in amount. This can be

facilitated because menu Option 1 and Menu Option are very similar while allowing for facilitation of different technical and business capabilities among service providers.

E911 Fee Type and Overall Revenue/Tax System Level:

Neutrality must be addressed predominately at the collection method level.

7. Economic Growth and Efficiency

Collection Method Level:

Generally speaking, economic growth and efficiency is facilitated because this collection method does not impede or reduce the productive capacity of the economy.

E911 Fee Type and Overall Revenue/Tax System Level:

Economic growth and efficiency must be addressed at both the collection method level, fee type, and overall revenue/tax system level but most importantly at the revenue/tax system level. This is a good juncture to note that though telecommunications taxes have been cited among industry sources as high that these taxes have not led to any demonstrable competitive disadvantage for U.S. firms relative to foreign firms. Furthermore, the E911 fee is considered to be a surcharge payable on end users and collectible by facilitators (service providers, retailers, etc.). However, the E911 fees are collected and remitted, these facilitators will need to be provided vendor's compensation and the amount of the surcharge considered in pricing the prepaid wireless services. Generally speaking, economic growth and efficiency is facilitated at the fee type and overall revenue/tax system levels because there is no evidence that the collection method and/or fee impedes or reduces the productive capacity of the economy.

8. Transparency and Visibility

Collection Method Level:

Generally speaking, considerable transparency and visibility are facilitated through this collection method. Taxpayers and service providers should know that a tax exists and how and when it is imposed upon taxpayers and is to be collected and remitted by service providers. Transparency/visibility with this collection method can be termed excellent, except for the transparency/visibility issue that the fee is assessed on the purchaser, not the end user directly. This issue may need to be addressed or may be deemed to be a reasonable assumption. The opportunity exists at the point of sale to itemize a charge on the sales receipt as an E911 fee. This itemization provides excellent transparency/visibility; however, it does not preclude the importance of promoting transactional transparency/visibility among taxpayers preceding the point of sale transaction by product/service packaging information dissemination, website pages, etc. Because retailers typically collect the point of sale fees on behalf of government, purchasers (end users) may not have adequate transparency/visibility unless supporting statutes are included with the tax policy requiring that service providers make reasonable efforts to inform end users that an itemized cost to purchasers is specifically assessed at the point of sale for supporting of 911-related emergency services.

E911 Fee Type and Overall Revenue/Tax System Level:

Transparency/visibility must be addressed predominately at the collection method level.

9. Minimum Tax Gap

Collection Method Level:

Generally speaking, a minimal tax gap is facilitated with this collection method, except for one possible caveat involving the issue of collecting Internet fees from companies with no nexus in Florida. This tax gap principle has to do with the fact a collection method should be structured to minimize noncompliance. The tax gap is the difference between taxes that are owed and taxes that are voluntarily paid by taxpayers and remitted by service providers. Given the fact that it is common practice with this collection method that the retailer collects the fees from purchasers (end users) on behalf of the government, it is particularly important to include both the taxpayers and retailers in this discussion. Tax gap problems may be intentional errors such as non-filing errors, underreporting of assessed taxes, omission of transactions or unintentional errors such as through a misunderstanding of tax rules or mathematical errors. A third gap may be defined to be legal issues affecting potential collections of revenues. In the “Neutrality” section, the issue of Internet sales was introduced. Companies without a nexus in Florida may not be mandated to collect and remit state sales taxes or surcharges on sales taxes. While store sales may make up the majority of sales of prepaid wireless services today, that may not be the case tomorrow with rapidly increasing online sales. Purchase of prepaid wireless services can be conveniently purchased off the Internet. Potentially, an increasing trend of consumers making online purchases of could result in a sizable tax gap and create inequities between Florida companies with nexus and Florida companies without nexus. Compliance measures need to balance the costs of enforcement with the potential loss of revenues and related inequities. Due to the issue with Internet sales, a potential tax gap issue does exist with the use of this collection method. Improved compliance/enforcement measures may be needed to improve efficiency/effectiveness.

E911 Fee Type and Overall Revenue/Tax System Level:

Minimizing the tax gap must be addressed at both the collection method level, fee type, and overall revenue/tax system levels. Failure to do so undermines the equity of the tax and tax system in addition to creating a revenue shortfall.

10. Appropriate Government Revenues

Collection Method Level:

Generally speaking, appropriate government revenues are well facilitated with this collection method in a predictable and reliable way that facilitates planning efforts. Government needs to be able to plan on how much tax revenue will be forthcoming in a particular timeframe. The level of compliance with a point of sale method may be higher than with other available collection methods, especially if they are not efficient/effectively administered. This issue relates to the “Minimum Tax Gap” section. Theoretically, under a point of sale collection method, while keeping informed on trends affecting usage patterns, it would be possible to ascertain the numbers of approximate flat tax charges per month across all retailers in a preceding month’s timeframe and be able to use this metric for multiplying the flat fee amount times the number of monthly fee assessments to approximately calculate available revenues for a month.

E911 Fee Type and Overall Revenue/Tax System Level:

Ensuring appropriate government revenues must be addressed at both the collection method level, fee type, and overall revenue/tax system levels. Through diversity of fee types within the overall revenue/tax system, stability is maintained in changing economic times.

Feasibility Evaluation Level 3: Tax Policy Analysis Phase (Part 2: Quantitative)

How each collection method contestant under evaluation demonstrates strengths and weaknesses relative to AICPA’s 10 guiding principles is demonstrated in the “Good Tax Policy Evaluation Matrix” below. Scoring is from 1 to 10 for each of AICPA’s tax policy guiding principle. Scoring is based on best effort assessment of the authors of this study. The higher the point rating, the more effectively the collection method is deemed to facilitate the principle at the operational or implementation level. “1” is the lowest score that can be assigned and “10” is the highest score that can be assigned.

Collection Method Good Tax Policy Evaluation Matrix		
AICPA Guiding Principle of Good Tax Policy	Best Practice Menu (BPMFFCM) (Contestant 1)	Best Practice POS (BPSPOSFFCM) (Contestant 2)
Equity and Fairness	9	9
Certainty	9	9
Convenience of Payment	9	8
Economy of Collection	9	8
Simplicity	9	9
Neutrality	9	9
Economic Growth & Efficiency	9	9
Transparency & Visibility	8	9
Minimum Tax Gap	8	9
Appropriate Gov. Revenues	9	9
TOTAL POINTS	88 of 100	88 of 100

BPMFFCM (Contestant 1) = Best Practice Menu Flat Fee Collection Method

BPSPOSFFCM (Contestant 2) = Best Practice Statewide Point of Sale (POS) Flat Fee Collection Method

Note: According to the AICPA, all ten of its guiding principles are equal in importance and the numbered order of the principles should not be taken as an indication of the order in importance. Therefore the AICPA principles facilitate unweighted quantitative review of the qualitative analysis of the collection methods. The quantitative review above is not intended to be a quantitative indication of the superiority of one collection method over another. The use of the quantitative analysis above is as a quantitative-based decision support tool for considering the relative strong points and weak points of the two evaluated collection methods relative to the 10 guiding principles of good tax policy from the AICPA.

Feasibility Evaluation Level 3: Implementation Readiness Phase

At this juncture in the feasibility analysis evaluation, the feasibility contest process is concerned with the feasibility evaluation of the two collection method contestants under evaluation:

- Best Practice Menu Flat Fee Collection Method
- Best Practice Statewide Point of Sale Flat Fee Collection Method

To this point, a determination has not yet been reached whether one or both of these above collection methods is feasible to collect E911 fees from the sale of prepaid wireless service on an equitable, competitively neutral, and nondiscriminatory basis. This analysis process takes place in the next phase, the Assessment Phase of Feasibility Evaluation Level 3.

At this juncture in the analysis process, the focus is on the evaluation of each collection method's feasibility and relative feasibility. The last section evaluated the tax policy feasibility level of each collection method. The purpose of this section is to evaluate each collection method at the implementation readiness level. While there may be some overlap of the two levels, this implementation readiness level evaluation is decidedly more focused on the implementation and operational level than the tax policy level. The purpose of this level of the analysis in this phase is to evaluate collection method characteristics of interest of that have to do with implementation and operational level success:

1. Track Record and Availability for Use
2. Required Rulemaking Implementation Steps
3. Risk Factors
4. Efficiency/Effectiveness of Operations
5. Viability/Sustainability
6. Open Issues Requiring Attention

1. Track Record and Availability for Use

Best Practice Menu Flat Fee Collection Method:

The collection method has a satisfactory to good track record, based on discussions with several 911 State Coordinators in states employing identical or similar collection methods. The collection method is available for use since the collection method has been employed by several states for years. It is recommended that implementation in Florida follow best practice statutes in states such as Tennessee and Michigan. Augmentation with additional best-practice statutory language is advised.

Best Practice Statewide Point of Sale Method Flat Fee Collection Method:

No track record to this point. This collection method is a new collection method and has never been put into practice in any state. At the time of this writing, the collection method is months old. However, the CTIA-ROCI Work Group is committed to making this collection available for use in a time frame compatible with immediate consideration and implementation by 7/1/2009, an acceptable timeframe. In November 2008, the CTIA-ROCI Workgroup made a model statutory language for this collection method available to interested parties. See Appendix 3 for additional information.

2. Required Rulemaking Implementation Steps

Best Practice Menu Flat Fee Collection Method:

None known at this time. Rulemaking authority may be within the authority of the Florida E911 Board.

Best Practice Point of Sale Method Flat Fee Collection Method:

Since the collection method involves a surcharge on the Florida sales tax, rulemaking authority of the E911 Board may require external coordination and agreement with the Florida Legislature and Department of Revenue (DOR) that is specifically tasked with administration of the surcharge fees. Additionally, the involvement of the DOR may involve a tax administration efficiency review or similar review to formally assess the technical feasibility of implementing and administering a sales tax surcharge under the existing state sales tax system.

3. Risk Factors

Best Practice Menu Flat Fee Collection Method:

Identifying risk factors is fairly straightforward since the collection method has a track record. Identification of risk factors would primarily need to include the appropriateness of the fit of the collection method to the State of Florida environment. Other possible risk factors would include the following: Potential misinformation on the satisfactory level of performance in the states employing the collection method, potential lack of cooperation or compliance of service providers, and potential issues of efficiency/effectiveness for self-administration of E911 fees.

Best Practice Point of Sale Method Flat Fee Collection Method:

Identifying risk factors is a significant exercise for establishing the feasibility of any new tax collection method. Identification of risk factors would need to include all areas of the point of sale collection method processes. Identification of risks should include the following factors at a minimum: consideration of risk factors associated with the newness of the collection method and various factors that may not have been taken into consideration in advance planning; the readiness and capability of retailers to implement and support point of sale collection, including large, mid-size, and small retailers; and the viability/sustainability of the collection method for all stakeholders given the implementation and support costs of the collection method versus the revenues collected and remitted; remote sales) including Internet) issues with current statutes and laws that could negatively impact the collection of revenues at the remote points of sale (Internet, mail order, phone-in, email/mail, etc.).

4. Efficiency/Effectiveness of Operations

Best Practice Menu Flat Fee Collection Method:

The collection method is deemed to be cost-efficient and easy to administer. Effectiveness is satisfactory and related to cost-efficiency. Implementation of collection/remittance best practices in the statutes is important for promoting efficiency/effectiveness.

Best Practice Point of Sale Method Flat Fee Collection Method:

Efficiency is somewhat in question due to the projected costs of implementation and support of a sales tax surcharge statewide relative to the projected revenues. Effectiveness can be expected to be excellent with the Department of Revenue involved in the administration of sales tax surcharge collection and remittance processes.

5. Viability/Sustainability

Best Practice Menu Flat Fee Collection Method:

Deemed to be viable and sustainable.

Best Practice Point of Sale Method Flat Fee Collection Method:

Deemed to be viable and sustainable, subject to approval by the Florida E911 Board and the Department of Revenue (DOR). Additional analysis of projected revenues to the State of Florida versus implementation and support costs and loss of fee revenue in remote sales may be needed for assessing the viability/sustainability of the collection method.

6. Open Issues Requiring Attention

Best Practice Menu Flat Fee Collection Method:

If there are any open issues, it is the demonstration that this collection method can efficiently/effectively collect E911 fees on prepaid wireless services compared to the alternative method of the best practice point of sale flat fee collection of surcharges on sales tax.

Best Practice Point of Sale Method Flat Fee Collection Method:

The main open issue is the demonstration that this collection method can efficiently/effectively collect E911 fees on prepaid wireless services compared to the alternative method of the best practice menu flat fee collection method. However, since this is a new collection method that has never been implemented in any state, the potential risk factors are of significance. Identification of risk factors needs to include all areas of the point of sale collection method processes. Identification of risks should include the following factors at a minimum: consideration of risk factors associated with the newness of the collection method and various factors that may not have been taken into consideration in advance planning; the readiness and capability of retailers to implement and support point of sale collection, including large, mid-size, and small retailers; and the viability/sustainability of the collection method for all stakeholders given the implementation and support costs of the collection method versus the revenues collected and remitted; remote sales) including Internet) issues with current statutes and laws that could negatively impact the collection of revenues at the remote points of sale (Internet, mail order, phone-in, email/mail, etc.).

Introduction

In this phase two contestants are assessed for feasibility based upon previous evaluation and the assessment is compared with the standards of feasibility for a collection method in the Florida Statutes.

Summary of Tax Policy Level Analysis Findings

The principles of good tax policy were assessed in Part 1 and Part 2 of the Tax Policy Phase within Feasibility Level 3. Please see those parts for treatment of tax policy issues.

Summary of Implementation Readiness Analysis Findings

Various characteristics of the collection methods having to with implementation and operational level success were analyzed. Together this analysis represents a comprehensive review.

Is One or More of the Evaluated Feasibility Collection Methods Feasible for State of Florida?

At this juncture in the Feasibility evaluation process, there are three public policy alternatives:

- Best Practice Menu Flat Fee Collection Method (Contestant 1)
- Best Practice Statewide Point of Sale Method Flat Fee Collection Method (Contestant 2)
- No Collection Method (temporary/permanent suspension of E911 prepaid wireless fee)

It should be noted that these alternative or options are in line with the prepaid wireless approach solution approach put forward at the beginning of this study. A section of the “E911 Prepaid Wireless Collection Study Solution Design” from P. 11 follows as Figure 4 as the illustration is relevant to this context in the feasibility analysis process.

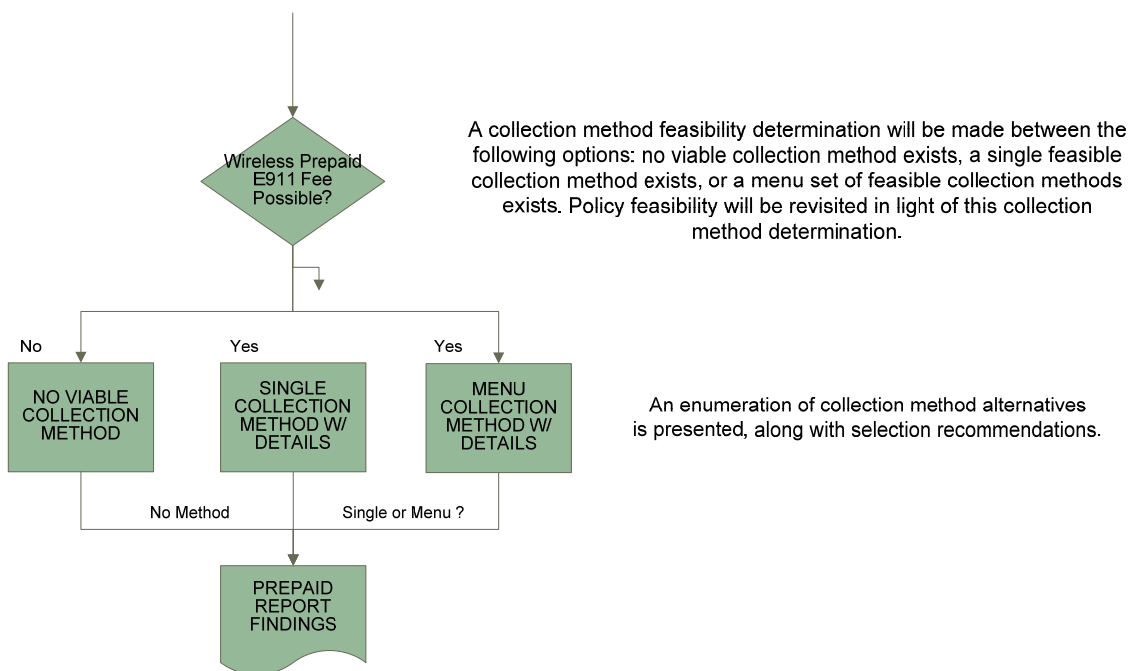


Figure 4.

Statement of Juncture

At this juncture in the feasibility analysis process, the two most feasible collection methods for collecting E911 fees from prepaid wireless services have been determined to be the following two collection methods: 1) Best Practice Menu Flat Fee Collection Method (Contestant 1); and 2) Best Practice Statewide Point of Sale Method Flat Fee Collection Method (Contestant 2). Additionally, another policy alternative exists. It is possible to make a determination that no E911 fee collection method is adequately feasible for collection of the E911 fee. Thus the decision at this juncture in this feasibility study is to determine which of these tax policy options is the best course of action for the E911 Board, the State of Florida and its citizens, and all stakeholders. For the purposes of the following analysis, the two collection methods will be grouped together. A comparative analysis of the two main decision alternatives follows. For the purposes of this comparison of alternatives, the two collection methods under consideration are one option.

Assessment Determination of No Collection Method

Were there no acceptably feasible collection methods, this would be the better choice. Implementation of an unfeasible collection method is impractical and not good public policy. If the determination is made to use no collection method for prepaid wireless services while E911 fees are collected on all other E911-connected, an inequity would be present if there were a feasible collection method. Pro's/Cons's are therefore clearly dependent on the determination of feasibility on one or more collection methods.

Assessment of Collection with Best Practice Menu Flat Fee Collection Method OR Best Practice Point of Sale Flat Fee Collection Method

One or both of these two collection methods is acceptably feasible to collect E911 fees from the sale of prepaid wireless service on an equitable, competitively neutral, and nondiscriminatory basis.

Recommendations

- It is feasible to collect E911 fees from the sale of prepaid wireless service on an equitable, competitively neutral, and nondiscriminatory basis.
- Collection of prepaid wireless fees should be as consistent with other E911 fees as can reasonably be done while feasibly collecting E911 fees from the sale of prepaid wireless service.
- Collection of fees on prepaid wireless service using the collection method(s) deemed feasible in this study do constitute an efficient use of public funds, given the technological and practical considerations of collecting the fee.
- The Best Practice Menu Flat Fee Collection Method (BPMFFCM) evaluated in this study is tentatively deemed feasible, subject to approval by the Florida E911 Board.
- The Best Practice Statewide Point of Sale Flat Fee Collection Method (BPSPOSFFCM) evaluated in this study is tentatively deemed feasible, subject to approval by the Florida E911 Board and a satisfactory efficiency of operations review by Florida Department of Revenue (DOR).
- From the options discussed in this study, the most feasible course of action may be navigated by the E911 Board, according to the outcomes of follow-on factfinding related to the two feasible collection methods and related policy formulations.

Summary

In this section, the Feasibility Level 3 is applied to the determination of which reviewed collection method option is the most feasible for use as an E911 fee collection method in the State of Florida. According to the defined process, three options were available for selection as the most feasible collection method solution: No Collection Method, The Best Practice Menu Flat Fee Collection Method (BPMFFCM), and the Best Practice Statewide Point of Sale Flat Fee Collection Method (BPSPOSFFCM). Recommendations are carried forward to the next section “Recommendations” for documentation and to the “Conclusions” and “Executive Summary of Conclusions” section of this study.

RECOMMENDATIONS ON FEASIBILITY OF E911 PREPAID WIRELESS COLLECTION METHODS

1. It is feasible to collect E911 fees from the sale of prepaid wireless service on an equitable, competitively neutral, and nondiscriminatory basis.
2. Collection of prepaid wireless fees should be as consistent with other E911 fees as can reasonably be done while feasibly collecting E911 fees from the sale of prepaid wireless service.
3. Collection of fees on prepaid wireless service using the collection method(s) deemed feasible in this study do constitute an efficient use of public funds, given the technological and practical considerations of collecting the fee.
4. The Best Practice Menu Flat Fee Collection Method (BPMFFCM) evaluated in this study is tentatively deemed feasible, subject to approval by the Florida E911 Board.
5. The Best Practice Statewide Point of Sale Flat Fee Collection Method (BPSPOSFFCM) evaluated in this study is tentatively deemed feasible, subject to approval by the Florida E911 Board and a satisfactory efficiency of operations review by Florida Department of Revenue (DOR).
6. From the options discussed in this study, the most feasible course of action may be navigated by the E911 Board, according to the outcomes of follow-on factfinding related to the two feasible collection methods and related policy formulations.

VII. FEASIBILITY ANALYSIS OF E911 FEE EXEMPTIONS

INTRODUCTION

This fee exemption section of this study includes an evaluation of the following current E911 fee exemptions:

- State and local government
- Tribal territory
- Twenty-five line cap provision
- Coin phone (pay phone)

This study's evaluation will lead to a finding on whether the current exemption on the collection of fees represents the appropriate State of Florida E911 fee policy, or whether an alternative policy may be appropriate for some reason(s).

The E911 Board has specifically requested that this evaluation review of current E911 fee exemptions be carried out and included in this feasibility study.

BACKGROUND INFORMATION ON EXISTING STATUTORY EXEMPTIONS

At the current time, there are E911 fee exemptions for state and local government, tribal territory, twenty-five line cap provision, and coin phone. These exemptions are included in the 2008 Florida Statutes § 365.172.

Section § 365.172.8.3.c. states: “For purposes of this section {(8) E911 FEE.--}, the state and local governments are not subscribers.” This statement constitutes an exemption.

Tribal territory exemptions have as their basis the U.S. Constitution and the Florida’s Statutes that tend to treat State or federally recognized tribal territories as sovereign, except under special conditions or situations. Tribal territory exemptions for the E911 fee are not explicitly stated but are tacitly recognized, similarly to exemptions for the U.S. government.

Section § 365.172.8.a.1. states: “Each local exchange carrier shall bill the fee to the local exchange subscribers on a service-identifier basis, up to a maximum of 25 access lines per account bill rendered.” This statement constitutes an exemption.

Section § 365.172.8.a. states: “The fee shall not be assessed on any pay telephone in the state.” This statement constitutes an exemption.

POTENTIAL ISSUES IN ELIMINATING EXEMPTIONS

The four cited exemptions have been put in place for a combination of technical, statutory, and practical reasons. There may be potential issues with modifying existing exemptions. Decision makers need to consider these potential issues, along with the advantages/disadvantages of modifying recognized existing exemptions.

EVALUATION OF THE FOUR EXISTING E911 FEE EXEMPTIONS

An evaluation of the four existing E911 fee exemptions follows.

a) State and Local Government Exemption

Section § 365.172.8.3.c. states that “For purposes of this section {(8) E911 FEE.--}, the state and local governments are not subscribers.” This statement constitutes an exemption.

Such fee and tax exemptions for state and local government are standard in most, if not all states. The basic rationale is that a government imposes fees and taxes to raise revenues for financing government. It would be unduly inefficient if government itself paid fees and taxes and collected these same fees and taxes. More efficient is for government to exempt itself from fee and tax situations unless there are known conflicts of interest or other issues that preclude such an exemption policy. No such conflicts or issue have been ascertained in this study.

As a part of this study, a search of the statutes in many states did not result in the finding of any state that imposes a 911 fee on state and local government. While there may be some states that do not actively exempt state and local government from the payment of E911 fees, the authors of this study are not aware of any such states.

For the reasons cited in this section, the result of the foregoing analysis is a recommendation to retain Florida’s E911 exemption for state and local government.

b) Tribal Territory Exemption

Tribal territory exemptions have as their basis the U.S. Constitution, Florida Statutes, and various other agreements that treat State or federally recognized tribal territories as sovereign, except under special conditions or situations. Tribal territory exemptions for the E911 fee are not explicitly stated but are tacitly recognized, similarly to exemptions for the U.S. government.

All states maintain a federal exemption to E911 fees, whether explicitly stated or tacitly recognized. Likewise, many states with Native American tribal territories maintain explicitly stated or tacitly recognized tribal territory exemptions. Florida is one such state.

From a legal perspective, given this sovereign status of tribal territories under the U.S. Constitution that supersedes the authority of the State of Florida, the policy option may well not exist to eliminate the E911 exemption for tribal territories.

For the reasons cited in this section, the result of the foregoing analysis is a recommendation to retain Florida’s E911 exemption for tribal territories.

c) Twenty-five Line Cap Exemption

Section § 365.172.8.a.1. states: “Each local exchange carrier shall bill the fee to the local exchange subscribers on a service-identifier basis, up to a maximum of 25 access lines per account bill rendered.” This statement constitutes an exemption for access lines in excess of 25 per account. Each local exchange carrier shall bill the fee to the local exchange subscribers on a “service-identifier basis,” up to a maximum of 25 access lines per account bill rendered. The term "service identifier" means the service number, access line, or other unique subscriber identifier assigned to a subscriber, as established

by the Federal Communications Commission (FCC) for purposes of routing calls whereby the subscriber has access to the E911 system.

To understand the ramifications of this existing 25-cap exemption, it is necessary to understand the term “access lines.” Such an understanding in today’s business environment is widely open to interpretation by service providers under the current Florida Statutes. The result is varying assessments of E911 fees based on the interpreted number of access lines in regard to access lines, trunks, circuits, etc.

Given the newer, more advanced technologies in use, including T-1 lines and primary rate interfaces (PRI), the majority of business enterprise voice communication systems do not use more than 25 access lines, as may reasonably be interpreted under current service provider standard practices. Under these current service provider practices, it is questionable if the exemption were removed, if there would be any significant E911 fee revenue increases to the state due to additional E911 fees assessed.

Under current statutes, for instance, a T-1 circuit may be treated for the purpose of E911 fee assessments the same as the access line to a single end user voice-capable station, or telephone. A T-1 has 23 voice-capable circuits and may be interpreted according to existing disparate service provider practices to count as one access line or more than one access line. Given varying industry standards and no statutory prescription, there is considerable variance between service providers in regard to how E911 fee assessments are mapped from access line definitions. Given the fact that the current State of Florida statutes do not define access line terms granularly or distinguish between access lines for circuits, such as a T-1 and for voice-capable stations, such as a telephone, there are potential inequities that exist between how small, medium, and large firms’ end users are assessed E911 fees.

The issue of access line terminology, as defined in the Florida Statutes, is a separate issue to the 25-cap E911 exemption focused on in this study. However, this issue of access lines impacts the ramifications of the existing exemption. Without a terminology revision, elimination of the 25-cap exemption would have no significant impact. For this reason, it is advised that the terminology issue be addressed prior to the exemption issue. Should this terminology issue be resolved so as to make a distinction between end user voice-capable stations and other access lines, especially access lines facilitating a large number of end user voice stations, then the authors of this study recommend the elimination of the 25-cap provision exemption; for under such circumstances, a potentially positive revenue flow is generated to the state while improving equity among E911 service providers and end users.

As a part of this study, a search of the statutes in many states resulted in finding a number of states that maintain this 25-line cap exemption. It was also noted in our search of statutes in many states that some states define access lines at a more granular level or establish specific quotas for how many E911 user fees a particular variety of access line may represent.

At the present juncture, the first step may be to consider the access line terminology issue. If revisions to this language are targeted for distinguishing between access lines, the 25-cap provision exemption may need revisiting as well. However, without such a terminology revision, there is no significant justification for elimination of the existing 25-cap provision exemption. Such a review of the statutory terminology is out of the scope of this study but is recommended for review by the E911 Board.

For the reasons cited in this section, the result of the foregoing analysis is a recommendation to retain Florida’s E911 exemption for the 25-line cap, *subject to review of the related terminology issues.*

d) Coin Phone Exemption

Section § 365.172.8.a. states that “The [E911] fee shall not be assessed on any pay telephone in the state.” This statement constitutes an exemption.

According to regulations from the Florida Public Service Commission, among the services that a coin telephone (pay telephone) must provide is access to 911 emergency services at no cost.

Unlike the other Florida-based voice communication mediums capable of accessing 911 emergency services, including prepaid/postpaid wireless services, non-coin wireline services, and VOIP services, for which end users have subscriber relations, there is no subscriber relation for coin phone users. A subscriber is clearly one who subscribes. Here the word “subscribe” is defined as “to receive a . . . service regularly on order,” according to the *Merriam-Webster Online Dictionary*.

While the term “pay as you go” may be widely used in a marketing sense by prepaid wireless service providers, the term is really more applicable to coin phone services than prepaid wireless services. The condition of “pay as you go” implies no subscription exists. End users of coin phones may be prompted during a call to insert coins or otherwise make payment. Unlike the other enumerated 911-accessible voice communication services, there are no subscribers to coin phones. Usage is typically on an *ad hoc* basis. In addition, it should be noted that unlike the other 911-accessible communication telephone devices used in the delivery of the referred to subscriber communication services, the coin phone is not typically dedicated to an individual end user or a small group of end users, such as a family. Coin phones are typically publicly available on a first come, first served basis.

Under Florida Statutes § 365.172, “Each local exchange carrier shall bill the [E911] fee to the local exchange subscribers on a service number.” For wireline telephones, as for wireless telephones and VOIP, the E911 fee is intended as a fee on subscribers. While service providers such as telephone service companies may be statutorily mandated to cooperate in the collection and remittance of E911 fees, such fees are intended for subscribers identifiable by a service number. However, there are no subscribers to coin phones, and the coin phone service number is not specific to any subscriber.

According to the definition of “subscriber,” no ongoing service is provided on order with coin phones. Since there is not sufficient similarity in the coin phone “pay as you go” arrangement to the other subscriber voice communication services capable of connecting to 911 emergency services, there is not an equity problem for end users or for service providers. From a consumer and a service provider perspective, competitive neutrality is satisfactorily maintained between competitive sets of voice communication services. The coin phone situation is a distinctive situation both for its users and for its service providers. There is not a competitive situation between coin phone operations and the other subscriber-based voice communication mediums able to access 911 emergency services.

As a part of this study, a search of the statutes in many states did not result in the finding of any state that imposes a 911 fee on coin phone usage.

For the reasons cited in this section, the result of the foregoing analysis is a recommendation to retain Florida’s E911 exemption for coin phones.

RECOMMENDATIONS

Based on the analysis of exemptions in this section, the following recommendations made and carried forward as conclusions:

1. The State and Local Government Exemption is deemed feasible “as is” and no changes in exemption status are recommended.
2. The Tribal Territory Exemption is deemed feasible “as is” and no changes in exemption status are recommended.
3. The Twenty-five Line Cap Provision Exemption is deemed feasible “as is” and no changes in exemption status are recommended.
4. The Coin Phone (Pay Phone) Exemption is deemed feasible “as is” and no changes in exemption status are recommended.

VIII. CONCLUSIONS

STATEMENT ON FULFILLMENT OF REQUIREMENTS OF STUDY

The five key “to-do’s” cited in the “Requirements” section of this study are listed below, along with a short “Conclusions” description of how the “to do” is addressed in this study:

1. To “determine whether it is feasible to collect E911 fees from the sale of prepaid wireless service”:

The determination has been made in this study that it is feasible to collect E911 fees from the sale of prepaid wireless service. For the purposes of this study, feasibility is defined as comprehensive implementation-level feasibility consisting of tax policy and operational considerations. At the tax policy level, this determination is reached for two reasons: 1) Because the fee makes good State of Florida policy, given the fact that such an E911 fee is collected on the other E911-connected communication services (postpaid wireless, wireline, and VOIP); and 2) Because there are one or more collection methods that are implementationally and operationally feasible for facilitating policy-level considerations, as well as being acceptably efficient and effective in the collection of E911 prepaid wireless fees.

2. To “include an evaluation of methods by which E911 fees may be collected from end users and purchasers of prepaid wireless service “on an equitable, competitively neutral, and nondiscriminatory basis”:

In this study, an evaluation of methods is presented by which E911 fees may be collected from end users and purchasers of prepaid wireless service on an equitable, competitively neutral, and nondiscriminatory basis. At Stage 1 of the prepaid wireless feasibility analysis process, six conceptual collection methods qualified for evaluation. At the end of the prepaid analysis process Stage 2 point-by-point evaluation process and review of design alternatives, two collection methods were identified as the most feasible collection methods for collecting the E911 fee from end users and/or purchasers of prepaid wireless service on an equitable, competitively neutral, and nondiscriminatory basis. In Stage 3 of the prepaid analysis process, these two collection methods were evaluated at a policy and operational level, and evaluation results were documented in this study.

3. To “consider whether the collection of fees on prepaid wireless service would constitute an efficient use of public funds given the technological and practical considerations of collecting the fee”:

The feasibility analysis evaluation techniques employed for evaluating the E911 fee collection methods in this study considered whether the collection of fees on prepaid wireless service using collection methods under review in this study would constitute an efficient use of public funds, given the technological and practical considerations of collecting the fee. This consideration process led to the finding that the collection method deemed feasible in this study does constitute an efficient use of public funds.

4. To “include a review and evaluation of the collection of E911 fees on prepaid wireless service at the point of sale within the state”:

A review and evaluation of the collection of E911 fees on prepaid wireless services at the point of sale within the state has been conducted in this study. In Stage 1 of the collection methods feasibility analysis, point of sale is included among reviewed conceptual collection methods. In Stage 2 of the feasibility analysis, point of sale alternatives are enumerated and evaluated. In Stage 3 of the feasibility analysis evaluation, the Best Practice Statewide Point of Sale Flat Fee Collection Method is reviewed and evaluated.

5. To include a review and evaluation of the four current exemptions for E911 fees:

A review and evaluation of the four current exemptions for E911 fees was executed in this study. The fee exemption section of this study includes a review and evaluation of the following current E911 fee exemptions: state and local government, tribal territory, twenty-five line cap provision, and coin phone (pay phone).

CONCLUSIONS OF STUDY

E911 Prepaid Wireless Fee Collection Feasibility Conclusions

1. It is feasible to collect E911 fees from the sale of prepaid wireless service on an equitable, competitively neutral, and nondiscriminatory basis.
2. Collection of prepaid wireless fees should be as consistent with other E911 fees as can reasonably be done while feasibly collecting E911 fees from the sale of prepaid wireless service.
3. Collection of fees on prepaid wireless service using the collection method(s) deemed feasible in this study do constitute an efficient use of public funds, given the technological and practical considerations of collecting the fee.
4. The Best Practice Menu Flat Fee Collection Method (BPMFFCM) evaluated in this study is deemed feasible.
5. The Best Practice Statewide Point of Sale Flat Fee Collection Method (BPSPOSFFCM) evaluated in this study is deemed feasible, subject to efficiency of operations review by Florida Department of Revenue (DOR).
6. From the options discussed in this study, the most feasible course of action may be navigated by the E911 Board, according to the outcomes of follow-on factfinding related to the two feasible collection methods and related policy formulations.

E911 Fee Exemptions Feasibility Conclusions

1. The State and Local Government Exemption is deemed feasible “as is” and no changes in exemption status are recommended.
2. The Tribal Territory Exemption is deemed feasible “as is” and no changes in exemption status are recommended.
3. The Twenty-five Line Cap Provision Exemption is deemed feasible “as is” and no changes in exemption status are recommended.
4. The Coin Phone (Pay Phone) Exemption is deemed feasible “as is” and no changes in exemption status are recommended.

IX. APPENDIX

APPENDIX 1: KEY CURRENT STATUTORY DEFINITIONS

Definitions.--Only as used in §section 365.172 and § 365.171, 365.173, and 365.174, the term:

"**Answering point**" means the public safety agency that receives incoming 911 calls and dispatches appropriate public safety agencies to respond to the calls.

"**Authorized expenditures**" means expenditures of the fee, as specified in subsection (9).

"**Automatic location identification**" means the capability of the E911 service which enables the automatic display of information that defines the approximate geographic location of the wireless telephone, or the location of the address of the wireline telephone, used to place a 911 call.

"**Automatic number identification**" means the capability of the E911 service which enables the automatic display of the service number used to place a 911 call.

"**Board**" or "**E911 Board**" means the board of directors of the E911 Board established in subsection (5).

"**Designed service**" means the configuration and manner of deployment of service the wireless provider has designed for an area as part of its network.

"**E911**" is the designation for an enhanced 911 system or enhanced 911 service that is an emergency telephone system or service that provides a subscriber with 911 service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated, or as otherwise provided in the state plan under §. 365.171, and that provides for automatic number identification and automatic location-identification features. E911 service provided by a wireless provider means E911 as defined in the order.

"**Fee**" means the E911 fee authorized and imposed under subsection (8).

"**Fund**" means the Emergency Communications Number E911 System Fund established in §. 365.173 and maintained under this section for the purpose of recovering the costs associated with providing 911 service or E911 service, including the costs of implementing the order. The fund shall be segregated into wireless and nonwireless categories.

"**Local exchange carrier**" means a "competitive local exchange telecommunications company" or a "local exchange telecommunications company" as defined in §. 364.02.

"**Local government**" means any municipality, county, or political subdivision or agency of a municipality, county, or political subdivision.

"**Medium county**" means any county that has a population of 75,000 or more but less than 750,000.

"**Mobile telephone number**" or "**MTN**" means the telephone number assigned to a wireless telephone at the time of initial activation.

"Nonwireless category" means the revenues to the fund received from voice communications services providers other than wireless providers.

"Office" means the Technology Program within the Department of Management Services, as designated by the secretary of the department.

"Order" means:

1. The following orders and rules of the Federal Communications Commission issued in FCC Docket No. 94-102:
 - a. Order adopted on June 12, 1996, with an effective date of October 1, 1996, the amendments to § 20.03 and the creation of § 20.18 of Title 47 of the Code of Federal Regulations adopted by the Federal Communications Commission pursuant to such order.
 - b. Memorandum and Order No. FCC 97-402 adopted on December 23, 1997.
 - c. Order No. FCC DA 98-2323 adopted on November 13, 1998.
 - d. Order No. FCC 98-345 adopted December 31, 1998.
2. Orders and rules subsequently adopted by the Federal Communications Commission relating to the provision of 911 services, including Order Number FCC-05-116, adopted May 19, 2005.

"Prepaid calling arrangements" has the same meaning as defined in §212.05(1)(e).

"Prepaid wireless service" means the right to access telecommunications services that must be paid for in advance and is sold in predetermined units or dollars enabling the originator to make calls such that the number of units or dollars declines with use in a known amount.

"Prepaid wireless service providers" includes those persons who sell prepaid wireless service regardless of its form, either as a retailer or reseller.

"Public agency" means the state and any municipality, county, municipal corporation, or other governmental entity, public district, or public authority located in whole or in part within this state which provides, or has authority to provide, firefighting, law enforcement, ambulance, medical, or other emergency services.

"Public safety agency" means a functional division of a public agency which provides firefighting, law enforcement, medical, or other emergency services.

"Rural county" means any county that has a population of fewer than 75,000.

"Service identifier" means the service number, access line, or other unique subscriber identifier assigned to a subscriber and established by the Federal Communications Commission for purposes of routing calls whereby the subscriber has access to the E911 system.

"Voice communications services" means two-way voice service, through the use of any technology, which actually provides access to E911 services, and includes communications services, as defined in § 202.11, which actually provide access to E911 services and which are required to be included in the provision of E911 services pursuant to orders and rules adopted by the Federal Communications Commission. The term includes voice-over-Internet-protocol service. For the purposes of this section, the term "voice-over-Internet-protocol service" or "VoIP service" means interconnected VoIP services having the following characteristics:

1. The service enables real-time, two-way voice communications;

2. The service requires a broadband connection from the user's locations;
3. The service requires IP-compatible customer premises equipment; and
4. The service offering allows users generally to receive calls that originate on the public switched telephone network and to terminate calls on the public switched telephone network.

"Voice communications services provider" or **"provider"** means any person or entity providing voice communications services, except that the term does not include any person or entity that resells voice communications services and was assessed the fee by its resale supplier.

"Wireless 911 system" or **"wireless 911 service"** means an emergency telephone system or service that provides a subscriber with the ability to reach an answering point by accessing the digits "911."

"Wireless category" means the revenues to the fund received from a wireless provider.

"Wireless communications facility" means any equipment or facility used to provide service and may include, but is not limited to, antennae, towers, equipment enclosures, cabling, antenna brackets, and other such equipment. Placing a wireless communications facility on an existing structure does not cause the existing structure to become a wireless communications facility.

"Wireless provider" means a person who provides wireless service and:

1. Is subject to the requirements of the order; or
2. Elects to provide wireless 911 service or E911 service in this state.

"Wireless service" means **"commercial mobile radio service"** as provided under §. 3(27) and 332(d) of the Federal Telecommunications Act of 1996, 47 U.S.C. §.151 et seq., and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, August 10, 1993, 107 Stat. 312. The term includes service provided by any wireless real-time two-way wire communication device, including radio-telephone communications used in cellular telephone service; personal communications service; or the functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, a personal communications service, or a network radio access line. The term does not include wireless providers that offer mainly dispatch service in a more localized, non cellular configuration; providers offering only data, one-way, or stored-voice services on an interconnected basis; providers of air-to-ground services; or public coast stations.

APPENDIX 2: STATUTES FROM STATES OF INTEREST

Introduction

The following section contains snapshot overviews of current prepaid wireless E911 fee collection methods in 10 states of interest. States have been selected according to the significance of recent developments and/or their usefulness in building policies and statutes in Florida.

Georgia

Georgia reports satisfaction with its new collection method statute in effect since 07/01/2007. The statute derives from HB394 (2007), sponsored by Mr. John Lunsford. Minor revisions are in the works. Five collection options are offered. The service provider selects one option and registers the selection. Compliance has been relatively good. Enforcement actions are in motion to improve compliance. Penalties for non-compliance are included in the statutes. This state has been selected as a state of interest due to its comprehensive collection method menu options for service providers and well-developed supporting policies and programs.

46-5-134.2. (Effective Date: 7/1/2007)

(a) A 9-1-1 charge shall be imposed on all prepaid wireless service subscribed to by telephone subscribers as provided in this Code section.

(b) A prepaid wireless service supplier shall:

(1) Charge and collect a fee in the amount of 3 percent of the wholesale price divided by .7 of each block of prepaid wireless service purchased by each telephone subscriber, whether such service is included with the initial purchase of a wireless telephone or other device or is recorded on a wireless telephone or other device by the purchase of a calling card, through an Internet transaction, by means of a wireless communication directly to the telephone subscriber's wireless telephone or other device, or by any other means;

(2) Charge and collect a fee in the amount of 3 percent of the suggested retail price of each block of prepaid wireless service purchased by each telephone subscriber,

whether such service is included with the initial purchase of a wireless telephone or other device or is recorded on a wireless telephone or other device by the purchase of a calling card, through an Internet transaction, by means of a wireless communication directly to the telephone subscriber's wireless telephone or other device, or by any other means;

(3) Divide the total prepaid wireless service revenue earned and received in this state by such prepaid wireless service supplier in a calendar month by \$50.00 and multiply the quotient by \$1.50 to determine the amount of the fee to be paid to the department;

(4) Charge and collect a fee in the amount of \$1.50 from the account of each prepaid wireless service telephone subscriber who has a sufficient positive balance as of the last day of the month; or

(5) Use any other method to charge and collect the fee; provided, however, that in no event shall the prepaid wireless service supplier charge and collect less than \$1.50 per the average monthly amount of prepaid wireless service actually provided to a telephone subscriber.

Iowa

Iowa's collection of prepaid wireless is clear and straight forward. Iowa adopted the Tennessee model for its legislation to collect from prepaid wireless providers. Iowa was selected to be in this section due to its previous leadership role in collection of E911 fees on wireless prepaid services and recent developments. {Research on recent developments is in progress}

Chapter 605-10.8(5)

(a) A 9-1-1 charge shall be imposed on all prepaid wireless service subscribed to by telephone subscribers. The wireless surcharge shall be 65 cents per month, per customer service number until changed by rule.

(1.) The wireless service provider shall list the surcharge as a separate line item on the customer's billing indicating that the surcharge is for E911 emergency telephone service. In the case of prepaid wireless service, this surcharge shall be collected under one of two methods:

a. The wireless service provider shall collect, on a monthly basis, the surcharge from each active prepaid customer whose account balance is equal to or greater than the surcharge; or

b. The wireless service provider shall divide the total earned prepaid wireless telephone revenue received by the wireless service provider within the calendar month and divide by 50 dollars, and multiply the quotient by the surcharge.

c. The surcharge shall be remitted based upon the address associated with the point of purchase, the customer billing address, or the location associated with the mobile telephone number for each active prepaid wireless telephone that has a sufficient positive balance as of the last days of the information, if that information is available. If the wireless service provider receives a partial payment of a monthly bill, the payment shall first be applied to the amount owed the wireless carrier with the remainder being applied to the surcharge. The wireless carrier shall bill and collect for a full month's surcharge in cases of a partial month's service. The wireless carrier is entitled to retain 1 percent of any wireless surcharge collected as a fee for collecting the surcharge as part of the subscriber's periodic billing. The wireless E911 surcharge is not subject to sales or use tax.

Relevant Statutes: - Chapter 605-10.8(5)

"The wireless service provider shall list the surcharge as a separate line item on the customer's billing indicating that the surcharge is for E911 emergency telephone service. In the case of prepaid wireless service, this surcharge shall be collected under one of two methods:

- a) The wireless service provider shall collect, on a monthly basis, the surcharge from each active prepaid customer whose account balance is equal to or greater than the surcharge; or
- b) The wireless service provider shall divide the total earned prepaid wireless telephone revenue received by the wireless provider within the calendar month and divide by 50 dollars, and multiply the quotient by the surcharge.

Maine

Maine reports satisfaction with its new collection method statute in effect since 07/01/2007. The statutes represent a refined version of the Tennessee Model, or menu of collection methods. Three collection options are offered. This state has been selected as a state of interest due to its noteworthy, well-known study in 2006 on prepaid wireless collection methods and associated issues. At the time of that report, Maine did not collect E-911 surcharges from prepaid companies. The collection method solution below arose from the 2006 study's recommendations.

§2927. 1-C. (Effective Date: 7/1/2007):

1-C. Statewide E-9-1-1 surcharge; prepaid wireless service. The statewide E-9-1-1 surcharge, referred to in this subsection as "the surcharge," must be collected from prepaid wireless telephone service customers by the prepaid wireless telephone service provider. The prepaid wireless telephone service provider is authorized to:

A. Collect the surcharge on a monthly basis from each customer whose account balance is equal to or greater than the amount of the surcharge; [2007, c. 68, §6 (NEW).]

B. Collect the surcharge, or contract with a retail seller of prepaid wireless telephone service to collect the surcharge, from the customer at the point of sale for each 30-day increment of prepaid wireless telephone service that is purchased at the time of sale; or [2007, c. 68, §6 (NEW).]

C. Collect the surcharge indirectly from customers by calculating the total surcharge owed by its customers and remitting that amount to the Treasurer of State in accordance with subsection 2-B. A prepaid wireless telephone service provider that elects the collection method specified in this paragraph must calculate the total surcharge owed by:

(1) Dividing its total intrastate prepaid wireless revenue for the month by the national average revenue per user for prepaid wireless service, as defined by the Public Utilities Commission by rule; and

(2) Multiplying the result obtained under subparagraph (1) by the amount of the surcharge. [2007, c. 68, §6 (NEW).]

[2007, c. 68, §6 (NEW) .]

Michigan

Michigan's statutes took effect on 7/1/2008. The E911 Coordinator in Michigan reports that a larger list of collection options was forwarded to the Michigan Legislature in its 2008 session for review and the Legislature determined selected a subset of those methods to enact into statutes in a menu of collection method options. The initial list of collection methods submitted to the Legislature for consideration included a method for collection at the point-of-sale. However, the point of sale collection option was eliminated from consideration after strong opposition to the method was put forward by Michigan's retailers. Three collection options are offered in the statutes. This state has been selected as a state of interest due to its recentness, as well as its consideration of a point of sale solution.

§484.1401c. (Effective Date: 7/1/2008)

484.1401c Collection of emergency 9-1-1 charge by CMRS supplier or reseller from prepaid customers; amount; method of determining amount; annual review; deposit of amount collected; effective date of section; definitions.

Sec. 401c. (1) Each CMRS supplier or reseller shall collect an emergency 9-1-1 charge from each of its prepaid customers. The amount of the emergency 9-1-1 charge shall be established annually by the committee by combining the amounts determined under subsections (2) and (3).

(2) The CMRS supplier or reseller shall have a 1-time option of selecting 1 of the following methods of determining the portion of the emergency 9-1-1 charge that represents the state 9-1-1 charge amount:

(a) By dividing the total earned prepaid revenue received by the CMRS supplier or reseller within the monthly 9-1-1 reporting period by \$50.00 and then multiplying that number by the amount of the state 9-1-1 charge as established under section 401a.

(b) By multiplying the amount of the state 9-1-1 charge as established under section 401a for each active prepaid account of the CMRS supplier or reseller.

(3) The committee shall review and annually establish the portion of the emergency 9-1-1 charge assessed under this section that represents the county 9-1-1 charge amount. The charge shall be based on the weighted average of all county 9-1-1 charges imposed statewide.

(4) The CMRS shall deposit the amount collected under this section into the emergency 9-1-1 fund to be distributed as provided under section 408.

(5) This section takes effect July 1, 2008.

(6) As used in this section:

(a) "Active prepaid accounts" means a customer who has recharged or replenished his or her account at least once during the billing period or calendar month and has a sufficient positive balance at the end of each month equal to or greater than the amount of the emergency 9-1-1 charge established under this section.

(b) "CMRS reseller" means a provider who purchases telecommunication services from another telecommunication service provider and then resells, uses a component part of, or integrates the purchased services into a mobile telecommunication service.

(c) "Earned prepaid revenue" means new revenue that has been generated from prepaid service accounts since the close of the last billing period or calendar month.

(d) "Prepaid customer" means a CMRS subscriber who pays in full prospectively for the service and has 1 of the following:

(i) A Michigan telephone number or a Michigan identification number for the service.

(ii) A service for exclusive use in an automotive vehicle and whose place of primary use is within this state. As used in this sub-subparagraph, "place of primary use" means that phrase as defined under 4 USC 124.

North Carolina

North Carolina had the statute below in effect below during the 2007 Legislative Session. In the session, a suspension of the E911 prepaid wireless fee was put in place until 6/30/08 and a legislative study was mandated to determine the feasibility of collecting the prepaid wireless E911 fee. This study was assigned to a legislative committee. In the 2009 Legislative Session, no progress was made on the study and an extension to the suspension was made for 9 months. Justifications for the extension were that the study had not been completed and there were prospects that prepaid service providers and retailers in North Carolina were expecting to enter discussions in the Autumn timeframe on a point of sale solution.

§62B-4(c) (Effective Date: 6/1/2006) (Note: Suspension of Prepaid Wireless Fee enacted 7/1/2007 and on 7/1/2008 extended for 9 months)

(c) Collections. – Voice communications service providers of prepaid wireless telephone service shall collect and remit to the Board the service charge imposed upon prepaid wireless telephone subscribers under one of the following methods:

- (1) The voice communications service provider shall collect, on a monthly basis, the service charge from each active prepaid wireless telephone service customer whose account balance is equal to or greater than the amount of the service charge; or
- (2) The voice communications service provider shall divide the total earned prepaid wireless telephone service revenue received by the voice communications service provider with respect to each active prepaid wireless telephone service customer in the State within the monthly 911 reporting period by fifty dollars (\$50.00) and multiply the quotient by the service charge amount.

Ohio

Ohio uses the Tennessee Model for collecting the surcharge but also allows for prepaid providers to collect at the point of sale as an alternative method for collection. Ohio seems to be the first state to put in place a point of sale option.

4931.61 Wireless 9-1-1 charge imposed on subscribers.

(A) Beginning on the first day of the third month following the effective date of this section and ending December 31, 2008, there is hereby imposed, on each wireless telephone number of a wireless service subscriber who has a billing address in this state, a wireless 9-1-1 charge of thirty-two cents per month. The subscriber shall pay the wireless 9-1-1 charge for each such wireless telephone number assigned to the subscriber. Each wireless service provider and each reseller of wireless service shall collect the wireless 9-1-1 charge as a specific line item on each subscriber's monthly bill. The line item shall be expressly designated "State/Local Wireless-E911 Costs (\$0.32/billed number)." If a provider bills a subscriber for any wireless enhanced 9-1-1 costs that the provider may incur, the charge or amount is not to appear in the same line item as the state/local line item. If the charge or amount is to appear in its own, separate line item on the bill, the charge or amount shall be expressly designated "[Name of Provider] Federal Wireless-E911 Costs." For any subscriber of prepaid wireless service, a wireless service provider or reseller shall collect the wireless 9-1-1 charge in any of the following manners:

- (1) At the point of sale. For purposes of prepaid wireless services, point of sale includes the purchasing of additional minutes by the subscriber along with any necessary activation of those minutes.
- (2) If the subscriber has a positive account balance on the last day of the month and has used the service during that month, by reducing that balance not later than the end of the first week of the following month by the amount of the charge or an equivalent number of air time minutes;
- (3) By dividing the total earned prepaid wireless telephone revenue from sales within this state received by the wireless service provider or reseller during the month by fifty, multiplying the quotient by thirty-two cents, and remitting this amount pursuant to division (A)(1) of section 4931.62 of the Revised Code.

(B) The wireless 9-1-1 charge shall be exempt from state or local taxation.

Tennessee

Tennessee's E911 statutes have not changed since 2003. The state is well known among E911 administrators for its Tennessee Model, or menu system collection method solution. Tennessee was selected to be in this section due to its leadership role in collection of E911 fees on wireless prepaid services by using a two-option menu.

TCA 7-86-108, Public Act, Chapter No. 205

“The service charge shall also be imposed upon customers who pay for service prospectively (prepaid customers). CMRS providers shall remit to the board the service charge under one of two methods:

- a) The CMRS provider shall collect, on a monthly basis, the service charge from each active prepaid customer whose account balance is equal to or greater than the service charge; or
- b) The CMRS provider shall divide the total earned prepaid wireless telephone revenue received by the CMRS provider within the monthly 911 reporting period by 50 dollars, and multiply the quotient by the service charge amount.

West Virginia

Prior to the 2008 Legislative Session, West Virginia calculated the amount owed for prepaid service by multiplying the number of active customer days for that month by the amount of the current statutory fee divided by 30. This resulted in a fee of \$3.00 per month for a full month's service. There was wide citizen and consumer group opposition to the cost of the monthly fee. Prior to the 2008 Legislative Session, no sales tax was collected on prepaid wireless sales. SB552 in the 2008 Legislature was passed and sales tax was collected on prepaid wireless calling service in lieu of the wireless enhanced 911 fee. Under the new statutes, the sales tax revenues on prepaid wireless services are earmarked for use in 911 and remitted to a special 911 account. {Additional research on recent developments is in progress}

§11.15.30(d) (Effective Date: 7/1/2008):

(d) *Prepaid wireless calling service.* -- The proceeds or collections of this tax from the sale of prepaid wireless service are dedicated as follows:

(1) The tax imposed by this article upon the sale of prepaid wireless calling service is in lieu of the wireless enhanced 911 fee imposed by section six-b, article six, chapter twenty-four of this code.

(2) Within thirty days following the end of each calendar month, the Tax Commissioner shall remit to the Public Service Commission the proceeds of the tax imposed by this article upon the sale of prepaid wireless calling service in the preceding month, determined as follows: For purposes of determining the amount of those monthly proceeds, the Tax Commissioner shall use an amount equal to one twelfth of the wireless enhanced 911 fees collected from prepaid wireless calling service under section six-b, article six, chapter twenty-four of this code during the period beginning on the first day of July, two thousand seven, and ending on the last day of June, two thousand eight. Beginning on the first day of July, two thousand nine, the Tax Commissioner shall adjust this amount annually by an amount proportionate to the increase or decrease in the enhanced wireless 911 fees paid to the Public Service Commission under said section during the previous twelve months. The Public Service Commission shall receive, deposit and disburse the proceeds in the manner prescribed in said section.

Potential States of Interest

Going forward, the eight states listed separately prior to this section are of interest to the State of Florida, given either their E911 fee approaches or the current E911 fee status of these states. Of particular interest are states with a Tennessee Model menu collection method, a point of sale collection method, or a state, such as North Carolina, that has its prepaid wireless E911 fee collection suspended like Florida does at the present time. The E911 fee collection method statutes for these eight states of interest are presented as examples of representative statutes.

Other states of note due to recent developments or originality of approach include the following states:

- Hawaii: Prepaid connections are specifically exempted from the E911 fees assessed on wireline and postpaid wireless connections.
- Kansas: Kansas collects an E-911 surcharge fee from prepaid wireless providers by collecting from the wholesaler of the prepaid service a 1% grant fee of the retail price of any prepaid wireless service sold. Prepaid providers are exempted from the standard 25 cent per month per subscriber fee placed on all other wireless providers.
- States with ongoing E911 fee-related litigation are of interest to the State of Florida, as related issues may be presented in the litigation arguments. These states presently include Indiana, Texas, and Washington.

APPENDIX 3: CTIA-ROCI BEST PRACTICE STATEWIDE POINT OF SALE FLAT FEE COLLECTION METHOD MODEL STATUTORY LANGUAGE DRAFT

Note: Section 4, the section of highest interest for this study, is excerpted below from the CTIA-ROCI statutory language draft as of November 2008. For the current and full statutory language, please contact CTIA's Jim Schuler at JSchuler@ctia.org.

SECTION 4. COLLECTION AND REMITTANCE OF E911 CHARGE. (DRAFT)

- A. AMOUNT OF CHARGE. The prepaid wireless E911 charge shall be \$[_____]¹ per retail transaction or, on and after the effective date of an adjusted amount per retail transaction that is established under paragraph F of this Section 4, such adjusted amount.
- B. COLLECTION OF CHARGE. The prepaid wireless E911 charge shall be collected by the seller from the consumer with respect to each retail transaction occurring in this state. The amount of the prepaid wireless E911 charge shall be either separately stated on an invoice, receipt, or other similar document that is provided to the consumer by the seller, or otherwise disclosed to the consumer.
- C. APPLICATION OF CHARGE. For purposes of paragraph B of this Section 4, a retail transaction that is effected in person by a consumer at a business location of the seller shall be treated as occurring in this state if that business location is in this state, and any other retail transaction shall be treated as occurring in this state if the retail transaction is treated as occurring in this state for purposes of [STATE LAW REFERENCE].²
- D. LIABILITY FOR CHARGE. The prepaid wireless E911 charge is the liability of the consumer and not of the seller or of any provider, except that the seller shall be liable to remit all prepaid wireless E911 charges that the seller collects from consumers as provided in Section 5 of this Act, including all such charges that the seller is deemed to collect where the amount of the charge has not been separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller.
- E. EXCLUSION OF E911 CHARGE FROM BASE OF OTHER TAXES AND FEES. The amount of the prepaid wireless E911 charge that is collected by a seller from a consumer, whether or not such amount is separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller, shall not be included in the base for measuring any tax, fee, surcharge, or other charge that is imposed by this state, any political subdivision of this state, or any intergovernmental agency.
- F. RE-SETTING OF CHARGE. The prepaid wireless E911 charge shall be proportionately increased or reduced, as applicable, upon any change to [the state E911 charge on postpaid wireless telecommunications service under [STATE LAW REFERENCE]].³ Such increase or reduction shall be effective on the effective date of the change to the postpaid charge or, if later, the first day of the first calendar month to occur at least 60 days after the [enactment]⁴ of the change to the postpaid charge. The Department shall provide not less than 30 days of advance notice of such increase or reduction on the Department's website.

¹ Since prepaid wireless service purchase amounts are typically much less than monthly wireless postpaid per-line charges, the prepaid wireless E911 charge should be set at an amount that is not more than one-half of the state's monthly postpaid E911 charge.

² Cross reference to the state transaction tax that provides sourcing rules to be piggybacked here.

³ Will need to be adjusted depending on whether a state-level postpaid E911 charge applies.

⁴ The term "implementation" may be substituted if the postpaid charge can change without enactment of a new law or an amendment to existing law.

APPENDIX 4: REPRESENTATIVE PREPAID WIRELESS CALLING ARRANGEMENTS

This appendix contains supporting background information on the thirteen representative prepaid wireless service providers listed in the body of the study and their calling arrangements available in Florida: Alltel, American Roaming Network (ARN), APC Wireless, AT&T Wireless, Great Call, OnStar, SouthernLinc, Sprint Nextel, T-Mobile, TracFone, Verizon, Virgin Mobile, and Ztar. The review of these providers is based on published information and searching of providers' websites. Information contained in this report included: Type of Plan, Cost of Plan, Minutes available in the Plan, Features of the Plan and Expiration/time-constraints of the Plan. The results of this review are contained within this section.⁵

Alltel

Alltel has captured a sizable portion of the wireless market share. Alltel provides U-prepaid™ plans to Floridians that include local, national, and international service. Voice-mail subscriptions are also available. Plans are available for purchase through the following arrangements: 1) pay-per-minute, 2) pay-per-day, and 3) pay-per-month packages. Optional features may be added for an additional charge: text messaging, picture messaging, and roaming services are and additional charge.⁶

Plan	Cost	Minutes	Features	Expiration
Pay-per-minute	\$.15/minute	Amount varies	Optional text messaging, ringtones	Varies as amount increases with 60, 90, 180, 365 day expirations
Pay-per-day	\$.75, \$1.00, \$1.25	\$.10 minute	Optional night/weekend, mobile-to-mobile, text messaging, favorite number	None noted
Pay-per-month	\$29.99-\$69.99	200, 400, 700	Optional unlimited text messaging, unlimited favorite number, ringtones	Replenish monthly

American Roaming Network (ARN)

American Roaming Network is the largest un-registered roaming service in the U.S. They process over 16 million un-billable calls each month generated by the major U.S. mobile carriers. They process calls that are typically generated by un-registered or inactive mobile phones. Most mobile carriers use ARN to provide Manual Roaming Service to fulfill their FCC requirement. ARN also offers a prepaid pay-per-minute plan.⁷ ARN is a subsidiary of Interactive Media Technologies, which is headquartered in south Florida.

Plan	Cost	Minutes	Features	Expiration
Pay-per-minute	\$10.00 \$20.00 \$30.00	10 60 120	Recharges receive the lowest rate of \$.25 per minute for all levels	1 year

⁵ This summary is based on a website review conducted between 7/28/08 and 8/10/08. The specific terms and availability of the various prepaid arrangements are specific to the timeframe of the review.

⁶ Source - www.alltel.com

⁷ Source - www.americanroaming.com

APC Wireless

APC Wireless has two subsidiaries: Cozac LLC (dba Liberty Wireless) and Cozac Wireless LLC (dba Movida Communications. Liberty Wireless was launched in 2003 and operates on the Sprint Nextel CDMA network. Movida Communications was launched in 2005 and principally provides services to the U.S. Hispanic market.⁸

Plan	Cost	Minutes	Features	Expiration
Liberty Wireless	\$20.00 \$30.00	200 anytime minutes	Plan C	Not available
Movida Comm	Rates not available	Not available	Not available	Not available

AT&T Wireless (Including GoPhone)

AT&T Wireless Services, created from a merger with Cingular Wireless, has 71 million subscribers nationwide. AT&T has branded the GoPhone® as the name for its prepaid wireless services business. GoPhone has captured a sizable portion of the prepaid wireless market share. Plans offered include Pay-as-you-go and Pay-per-month. Account payments are refilled in three ways; prepaid cards, online, or over the phone. AT&T is a full-services telecommunications company.⁹

Plan	Cost	Minutes	Features	Expiration
Pay-as-you-go	\$.10/minute+\$1.00 day on used days or \$.25/minute with no daily charge	Depends on dollar amount purchased	Unlimited mobile-to-mobile	Varies as amount increases with 30, 90, 365 day expirations
Pay-per-month	\$29.99-\$69.99 Price per minute decreases as monthly amount increases	200, 300, 400, 650	Unlimited mobile-to-mobile, night and weekend minutes	Replenish monthly. Rollover® available

GreatCall

GreatCall, Inc. provides wireless prepaid service under the Jitterbug™ trade mark and markets towards senior citizens and those who wish to have emergency-only cell phones. Plans offered include: Pay-per-month, Simply Share, and yearly. Account payments are refilled in three ways; prepaid cards, online, or over the phone. The models shown on the web site provide simple end user interfaces such as Yes/No buttons, large type number buttons, and a large number dialed display. A second model only includes buttons for an operator, tow, and 911.¹⁰

Plan	Cost	Minutes	Features	Expiration
Pay-per-month	\$10-\$80 per month	SOS only, 30, 60, 150, 300, PLUS Depends on monthly plan purchased. Add-on minutes can be purchased at reduced rate	Additional minutes can be purchased at \$.35/minute	90 days
Simply Share	\$15 per member on	150, 300, PLUS plan	Unlimited member-to-	90 days

⁸ Source - www.libertywireless.com and www.movidacellular.com

⁹ Source – www.wireless.att.com/cell-phone-service/go-phones/index.jsp

¹⁰ Source - www.jitterbug.com

	another member's plan	minutes shared among member's plan	member on account calling	
Yearly	\$120 per year	None. Add-on minutes can be purchased at \$.35	Free voicemail	90 days for add-on minutes

OnStar

OnStar® is an in-vehicle, two-way communication system, available on many General Motors vehicles. The product is aimed at providing diagnostic, safety, emergency, and navigation services to vehicle owners. The service is purchased on a monthly or yearly plan. OnStar Hands-Free Calling™ is available through an OnStar subscription or as a cellular phone service available to consumers who purchase an additional minute plan or by linking the account to a Verizon Wireless account.¹¹

Plan	Cost	Minutes	Features	Expiration
OnStar subscription	\$18.95 per month \$199.00 per year	Unlimited	Navigation and direction service available for \$28.90/month \$299/year for 2007 or newer vehicles	None noted
Cellular service	\$39.99 \$114.99 \$174.99 \$299.99	100 300 500 1000	Optional use of Verizon Wireless Family Plan	1 Year or end of subscription

SouthernLinc

SouthernLinc's prepaid service provides regional coverage predominantly in southern Georgia, Alabama, southeast Mississippi, and northwest Florida. Plans offered include Prepaid Plus, PAYGO, and Prepaid Basic. In addition, Push to Talk™ radio type calling between devices is possible.¹²

Plan	Cost	Minutes	Features	Expiration
Prepaid Plus	\$.10/minute+\$1.50 day on used days	Depends on dollar amount purchased	Unlimited text messaging available at \$.50 per day. Long distance and voicemail included	None noted
PAYGO	\$.20/minute+\$1.50 day on used days	Depends on dollar amount purchased	Radio to radio calls unlimited after first of each day. Unlimited nights and weekend minutes	None noted
Prepaid Basic	\$.10/minute	Depends on dollar amount purchased	Text messaging available at \$.10 per message. Long distance and voicemail included	None noted

¹¹ Source - www.onstar.com/us_english/jsp/index.jsp

¹² Source - www.southerlinc.com/prepaid.asp

Sprint Nextel (including Boost Mobile)

Sprint, Inc. recently merged with Nextel Corporation to form a larger, more encompassing telecommunications company. Sprint-Nextel's offering in the prepaid wireless market is sold under the Boost Mobile brand name. Plans offered include: Boost Pay-as-you-go Basic, Boost Pay-as-you-go, Boost Prepaid Premium, and Boost Unlimited. Boost Mobile has captured a sizable portion of the prepaid wireless market share.¹³

Plan	Cost	Minutes	Features	Expiration
Boost Pay-as-you-go Basic	\$.10/minute nights and weekends, \$.20/minute days	Depends on dollar amount purchased. Many convenient recharge options.	Radio to radio calls unlimited after first \$1.00 per day. Long distance and voicemail included.	Must recharge every 90 days or minutes expire
Boost Pay-as-you-go \$1.00/day	\$1.00 day unlimited nights and weekends, \$1.00/day +\$.10/minute days	Depends on dollar amount purchased. Many convenient options to recharge	Radio to radio calls unlimited after first \$1.00 per day. Unlimited text messaging. Long distance and voicemail included.	Must recharge every 90 days or minutes expire
Boost Prepaid Premium	\$30.00, \$50.00, \$60.00/month	0, 400, 600 + \$.10/minute over	Radio to radio calls unlimited. Text messaging unlimited after \$10.00/month	Must recharge every 90 days or minutes expire
Boost Unlimited	\$50.00, \$60.00, \$70.00/month	Unlimited calling from local area, Unlimited calling from local area + text, Unlimited calling from local area + text, web	Extended home coverage area available at \$5.00/month	None noted

T-Mobile

T-Mobile USA is a national provider of wireless voice, messaging, and data services. Plans offered include: Pay-as-you-go, Pay-by-the-day, and SideKick. Services provided under the various plans include: Long distance calling, voicemail, text messaging, unlimited domestic e-mail, web browsing, and instant messaging. T-Mobile USA is the US operating entity of T-Mobile International AG, the mobile communications subsidiary of Deutsche Telekom AG. Deutsche Telekom is one of the largest telecommunications companies in the world, with nearly 120 million customers worldwide.¹⁴

Plan	Cost	Minutes	Features	Expiration
Pay-as-you-go	\$10.00	30 minutes	Long distance and voicemail included	90 days, 365 days for \$100.00 activation or Gold membership
	\$25.00	130 minutes		
	\$50.00	400 minutes		
	\$100.00	1000 minutes		
Pay-by-the-day	\$1.00 day unlimited nights and weekends, \$1.00/day +\$.10/minute days	Depends on dollar amount purchased. Many convenient options to	Text messaging available. Long distance and voicemail included	Must recharge every 90 days or minutes expire

¹³ Source - www.sprint.com/en/boostlanding

¹⁴ Source - www.t-mobile.com

		recharge		
SideKick	\$.15 minute	Depends on dollar amount purchased.	Unlimited domestic e-mail, Web browsing, instant messaging, and text messaging for \$1.00 per day	Must recharge every 90 days or minutes expire

TracFone

TracFone is considered a leading prepaid cell phone provider in the nation. Its exclusive focus is the prepaid cellular market. Plans provided include: Value Plan, Buy Now, Service Protection. TracFone is a subsidiary of America Movil, the fourth largest cell phone company in the world, and the largest in all of the Americas with more than 141 million cell phone subscribers. TracFone also markets prepaid wireless services under the NET10 brand name.¹⁵

Plan	Cost	Minutes	Features	Expiration
Value plan	\$9.99 \$5.99 additional member	50 minutes 30 minutes	Service protection against expiration \$5.99	30 days
Buy now	\$19.99 \$29.99 \$39.99 \$79.99	60 minutes 120 minutes 200 minutes 450 minutes	None noted	90 days or purchase extended time
Service protection	\$5.99	0	Add 30 days of service	

Verizon

Headquartered in Basking Ridge, N.J., Verizon Wireless provides service to the largest number of retail customers in the industry. The company is a joint venture of Verizon Communications and Vodafone. Prepaid plans provided included: Core, Plus, and Power. Verizon has captured a sizable portion of the prepaid wireless market share.¹⁶

Plan	Cost	Minutes	Features	Expiration
Core	\$.99/day and \$.10 minute	Depends on dollar amount purchased	Mobile-to-mobile unlimited	\$15-\$29.99 expires in 30 days \$30-\$74.99 expires in 60 days \$75-\$99.99 expires in 90 days \$100 or more expires in one year
Plus	\$1.99/day and \$.05 minute	Depends on dollar amount purchased	Weekend minutes and texting unlimited	Same
Power	\$2.99/day	Depends on dollar amount purchased	Phone calls unlimited, texting \$.02/minute	Same

¹⁵ Source - www.tracfone.com

¹⁶ Source - www22.verizon.com/content/verizonglobalhome/ghp_wireless.aspx

Virgin Mobile

Launched over 20 years ago by Sir Richard Branson, Virgin Mobile seeks to be the preferred cellular service provider for younger populations. Plans provided includes: Monthly and Minutes Plans. Virgin Mobile's niche focuses on the music, travel, and entertainment industry. Cellular service is wide spread in the Florida area.¹⁷

Plan	Cost	Minutes	Features	Expiration
Monthly plan	\$24.99	200 minutes/500 nights/wknds	Texting \$5.00/month for 1000 or \$10.00/month for unlimited	None noted
	\$34.99	300 minutes/1000 nights/wknds		
	\$49.99	400 minutes		
	\$59.99	600 minutes		
	\$79.99	unlimited		
Minutes plan	\$20.00	200	Texting \$5.00/month for 200 or \$10.00/month for 1000 or \$20.00/month for unlimited	
	\$30.00	400		
	\$50.00	1000		

Ztar

Ztar Mobile is a dynamic Mobile Virtual Network Enabler (MVNE) that offers global wireless solutions for retailers, affinity groups and brand name labels. Ztar does not sell prepaid wireless services directly to end users. Ztar provides businesses with private- branded mobile services, including a complete outsourced solution. An example of such services is the branding of and delivery of prepaid wireless services to client 7-Eleven, which sells Ztar products under the SpeakOut™ trade mark.¹⁸

Other Related Information

For a more encompassing listing of nationally active prepaid wireless service providers, go to <http://www.prepaidwireless.com> and click on the button "Show All Carriers." The user is brought to the following web page: <http://www.prepaidwireless.com/products/airtime>. It should be noted that not all carriers may be active in the State of Florida and that some "carriers" are brand names of carriers and/or only resellers of carrier services.

¹⁷ Source - www.virginmobileusa.com

¹⁸ Source - www.ztarmobile.com

X. ATTACHMENTS

PREPAID SURVEY DOCUMENTS

Attachment #	Title	Page #
1	Carrier/Reseller Survey Form	129
2	High-level Work Breakdown Structure (WBS) for the Study <i>E911 Prepaid Wireless Fee Collection and E911 Fee Exemptions: A Feasibility Analysis</i>	133



FLORIDA
DEPARTMENT OF
MANAGEMENT SERVICES (DMS)

WIRELESS SERVICE PREPAID STUDY SURVEY
E911 BOARD

Directions: Please provide the requested company information relating only to State of Florida sales and accounts.

1. CONTACT INFORMATION

Company Name:		Address:		
Lead Contact Person:		City:	State:	ZIP:
E-mail Address: @		Phone: () - -		
Wireless Service Provider: Y N		Prepaid Retailer/Reseller: Y N	Today's Date: / /20	

2. SALES METHODOLOGY

Identify Current Sales Channels:	Storefront : Y N	Web Site: Y N	Telephone: Y N	Other (Specify):
Renewals facilitated? Y N	% of new prepaid service packages renewed?		Minutes can be carried over on renewals? Y N	
Sales Methodology Contact Name:		E-Mail Address: @		Phone: () - -

3. COLLECTION PRINCIPLES

A) Identify current payment collection channels:

Storefront : Y N	Web Site: Y N	Telephone: Y N	Other (Specify):
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B) Identify currently facilitated client prepaid payment arrangements:

Minutes with no time constraint: Y N	Minutes with monthly time constraint: Y N	Minutes with yearly time constraint: Y N
Minutes with more than 1 year time constraint: Y N	Other – Specify:	

Identify any transactions that transfer a Florida account to another state:

C) If an E911 prepaid wireless telephone services user fee were to become a statutory requirement for service providers and resellers, which of the following compliance options do you think would be your company's preferred compliance option?

- E911 fee collected on a monthly basis from each active prepaid customer whose account balance is = to or > than the amount of the fee.
- E911 fee collected on a monthly basis according to a computed formula of aggregate prepaid service revenues.
- E911 fee collected on a monthly basis according to a defined percentage of the aggregate prepaid service revenues.
- E911 fee collected at point of sale. Note: Collection of the E911 fee shall not reduce the sales price for purpose of taxes which are collected at point of sale.
- Other – Please state briefly below what you consider to be other potential compliance options that your company considers preferable.

If you have concerns about your company's operational ability to comply with any of the above collection methods (should compliance be statutorily required), please briefly cite your concerns:

Collection Principles Contact Name:	E-Mail Address: @	Phone: () - -
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4. OPERATIONS, SALES, & REVENUE METRICS

Prepaid service monthly revenue in January, 2007 (excluding non-prepaid service revenue):	\$
Prepaid service monthly revenue in December, 2007 (excluding non-prepaid service revenue):	\$
Prepaid service annual revenue for 2007 (excluding non-prepaid service revenue):	\$
Prepaid service average revenue by end user customer by month in 2007:	\$
Prepaid service average monthly number of minutes used by end user customer in 2007:	
Number of active prepaid accounts in January, 2007:	⇒
Number of active prepaid accounts in December, 2007:	⇒
Number of prepaid phone units sold in January, 2007:	⇒
Number of prepaid phone units sold in December, 2007:	⇒

List of telephone types (not models) currently sold:

Estimated annual revenue growth/decline of prepaid services for the following years:

2004:	2005:	2006:	2007:	2008:
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Ops, Sales, & Revenue Contact Name:	E-Mail Address: @	Phone: () - -
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FLORIDA
DEPARTMENT OF
MANAGEMENT SERVICES (DMS)

WIRELESS SERVICE PREPAID STUDY SURVEY
E911 BOARD

Questions? Contact Terry Williams (Contractor)
 (850) 385-5219 ext. 103

Company Name:

5. COUNTY-BY-COUNTY PREPAID SERVICE AND PHONE POINT OF SALE OVERVIEW

County	Prepaid Service Annual Revenue 2007	Number of Active Prepaid Accounts in December 2007	Prepaid Service Monthly Revenue in December 2007	Number of Phone Unit Sales in December 2007	Comments
Alachua					
Baker					
Bay					
Bradford					
Brevard					
Broward					
Calhoun					
Charlotte					
Citrus					
Clay					
Collier					
Columbia					
Desoto					
Dixie					
Duval					
Escambia					
Flagler					
Franklin					
Gadsden					
Gilchrist					
Glades					
Gulf					
Hamilton					
Hardee					
Hendry					
Hernando					
Highlands					
Hillsborough					
Holmes					
Indian River					
Jackson					
Jefferson					
Lafayette					
Lake					
Lee					
Leon					

Levy					
Liberty					
5. COUNTY-BY-COUNTY PREPAID SERVICE AND PHONE POINT OF SALE OVERVIEW - CONT.					
Questions? Contact Terry Williams (Contractor) (850) 385-5219 ext. 103		Company Name:			
County	Prepaid Service Annual Revenue 2007	Number of Active Prepaid Account in December 2007	Prepaid Service Monthly Revenue in December 2007	Number of Phone Unit Sales in December 2007	Comments
Madison					
Manatee					
Marion					
Martin					
Miami-Dade					
Monroe					
Nassau					
Okaloosa					
Okeechobee					
Orange					
Osceola					
Palm Beach					
Pasco					
Pinellas					
Polk					
Putnam					
Santa Rosa					
Sarasota					
Seminole					
St. Johns					
St. Lucie					
Sumter					
Suwannee					
Taylor					
Union					
Volusia					
Wakulla					
Walton					
Washington					
Totals	\$		\$	\$	



Questions? Contact Terry Williams (Contractor)
 (850) 385-5219 ext. 103

Company Name:

6. FEEDBACK FROM WIRELESS SERVICE PREPAID PROVIDERS

The main intent of this Department of Management Services Wireless Service Prepaid Study E911 Board study is to:

- 1) Determine whether it is feasible to collect E911 fees from the sale of prepaid wireless service.
- 2) Review and evaluate the collection of E911 fees on prepaid wireless service at the point of sale within the state.
- 3) Evaluate the methods by which E911 fees may be collected from end users and purchasers of prepaid wireless service on an equitable, efficient, competitively neutral, and nondiscriminatory basis, including a consideration of whether the collection of fees on prepaid wireless service would constitute an efficient use of public funds.

Your opinion on the following questions will aid the department greatly in this research.

Do you have any recommendations that may assist in the research and development of the WIRELESS SERVICE PREPAID STUDY currently in progress?

Do you have any additional company, industry, or governmental information that you think may be helpful as a source of information input to the WIRELESS SERVICE PREPAID STUDY currently in progress? If so, please briefly describe this source of information or include the source of information with this survey.

Note: All information provided by respondents in this survey is subject to Florida Statute 365.174. and will be treated as proprietary and confidential business information. Requested information is needed by the E911 Board for the study statutorily mandated in 365.172. and described above.

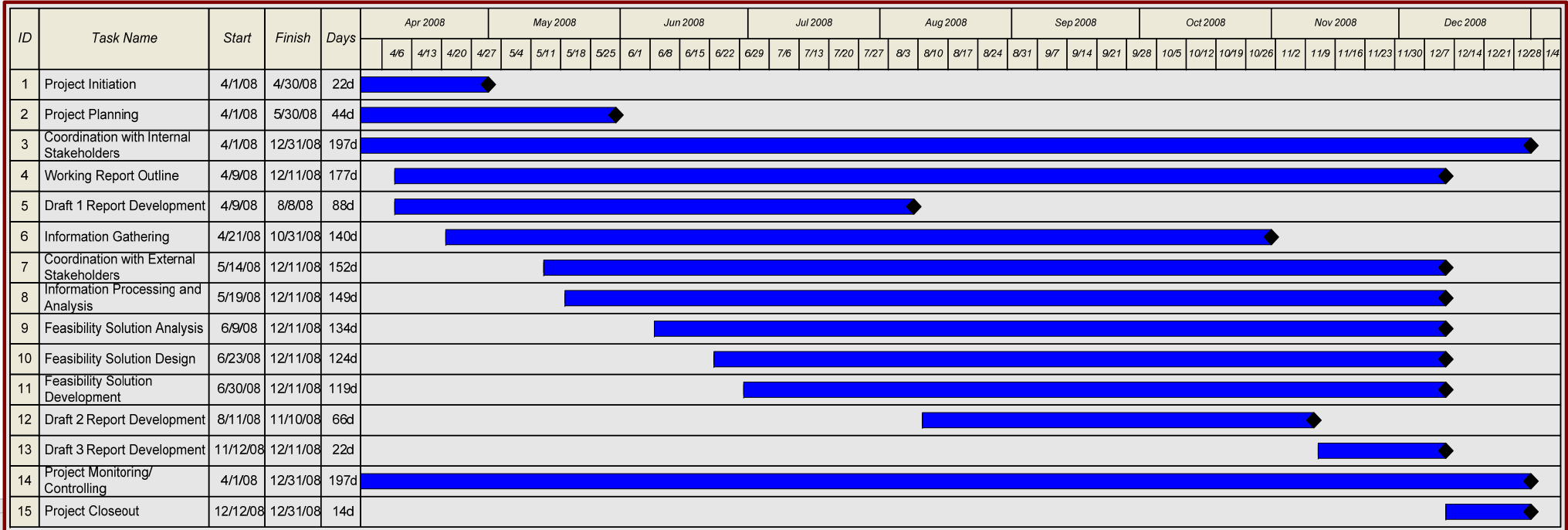
PREPAID SURVEY PROJECT PLAN



State of Florida
Florida E911 Board

High-level Work Breakdown Structure (WBS)
for the Study

E911 Prepaid Wireless Fee Collection and E911 Fee Exemptions: A Feasibility Analysis



E911 PREPAID WIRELESS FEE COLLECTION AND E911 FEE EXEMPTIONS: A FEASIBILITY ANALYSIS

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