

T H E C A B I N E T
S T A T E O F F L O R I D A

Representing:

STATE BOARD OF ADMINISTRATION
FINANCIAL SERVICES COMMISSION, OFFICE OF
INSURANCE REGULATION
FINANCIAL SERVICES COMMISSION, PRESENTATION
BOARD OF TRUSTEES, INTERNAL IMPROVEMENT TRUST FUND

The above agencies came to be heard before
THE FLORIDA CABINET, Honorable Governor Scott
presiding, in the Cabinet Meeting Room, LL-03,
The Capitol, Tallahassee, Florida, on Tuesday,
November 1, 2011, commencing at 9:05 a.m.

Reported by:
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Representing the Florida Cabinet:

RICK SCOTT
Governor

ADAM H. PUTNAM
Commissioner of Agriculture

PAM BONDI
Attorney General

JEFF ATWATER
Chief Financial Officer

* * *

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(Presented by ASH WILLIAMS)

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P R O C E E D I N G S

1
2 GOVERNOR SCOTT: The next Cabinet meeting
3 is Tuesday, November 15, 2011.

4 (Agenda items commenced at 9:23 a.m.)

5 GOVERNOR SCOTT: All right. The first
6 agenda is the State Board of Administration
7 presented by Ash Williams. Good morning.

8 MR. WILLIAMS: Good morning, Governor,
9 Trustees. Before we get started today, as
10 usual I'll give you an update on where we are
11 calendar year to date. As of last night's
12 close, the Florida Retirement System Trust Fund
13 stood at a balance of \$121.143 billion. That's
14 up 1.2 percent year to date, 34 basis points
15 above target.

16 Now, I would say that recent events
17 illustrate just how perilous the times are in
18 which we live. We saw a period of time from
19 the end of the fiscal year, June 30, through
20 the onset of the beginning of the month of
21 October where the markets, U.S. equity market,
22 was down 16 percent, 1-6 percent. Over the
23 course of October it came up 15 percent. So we
24 had the best October since 1987 on record, just
25 unbelievable volatility.

1 And then yesterday with the announcement
2 of uncertainties about a referendum in Greece,
3 the whole European thing is potentially
4 unraveling again. So you saw equities off
5 two-and-a-half percent; a meltdown underway at
6 the crack of dawn this morning in European
7 markets. So it is definitely a cautionary
8 time, time to watch our step, mind our step, if
9 you will, and not have overly ambitious
10 expectations for markets.

11 It's tough times, and as global
12 deleveraging continues, I would anticipate
13 slowing growth, demographic changes, changes in
14 long-term trends in commodity prices, et
15 cetera, will continue to be issues --

16 GOVERNOR SCOTT: Ash, what was our high?
17 What was our high for the year in the pension?
18 Was it 131 or 128?

19 MR. WILLIAMS: I believe it was 128 at
20 fiscal year end.

21 GOVERNOR SCOTT: So we're down -- so from
22 our high we're down about seven?

23 MR. WILLIAMS: Correct.

24 GOVERNOR SCOTT: And when they -- they
25 came out in -- at the 87.4 percent funded, that

1 was June 30, right?

2 MR. WILLIAMS: Yes. But as usual there
3 are a lot of moving parts on that number, so I
4 wouldn't try and speculate on that interperiod.

5 GOVERNOR SCOTT: All right. Thanks.

6 MR. WILLIAMS: Thank you. Item 1, request
7 approval of the minutes of our September 20
8 meeting.

9 GOVERNOR SCOTT: Is there a motion to
10 approve Item 1?

11 ATTORNEY GENERAL BONDI: Move to approve.

12 GOVERNOR SCOTT: Is there a second?

13 CFO ATWATER: Second.

14 GOVERNOR SCOTT: Moved and seconded.

15 Item 1 is approved without objection.

16 MR. WILLIAMS: Thank you. Item 2, request
17 approval of a fiscal determination in the
18 amount of \$20,500,000 for the Florida Housing
19 Finance Corporation Multifamily Mortgage
20 Revenue Bonds. This is the construction of a
21 multifamily rental facility, Captiva Cove
22 Apartments in Broward County, Florida.

23 GOVERNOR SCOTT: So, Ash, on this project,
24 it's not secured by the full faith and credit
25 of the state, right?

1 MR. WILLIAMS: Correct.

2 GOVERNOR SCOTT: And it's a project that
3 was approved by rules adopted under a prior
4 administration.

5 MR. WILLIAMS: Correct.

6 GOVERNOR SCOTT: Is there a motion to
7 approve Item 2?

8 ATTORNEY GENERAL BONDI: Move to approve.

9 GOVERNOR SCOTT: Is there a second?

10 CFO ATWATER: Second.

11 GOVERNOR SCOTT: Moved and seconded. Show
12 Item 2 approved without objection.

13 MR. WILLIAMS: Thank you. Item 3.
14 Request approval of a fiscal determination in
15 the amount of \$7 million, Florida Housing
16 Finance Corporation Multifamily Mortgage
17 Revenue Bonds. This is a multifamily rental
18 construction project, the Georgia Ayers
19 Apartments in Miami-Dade, Florida. And,
20 Governor, the same conditions you mentioned a
21 moment ago apply to this issue as well.

22 GOVERNOR SCOTT: Great. Is there a motion
23 to approve Item 3?

24 ATTORNEY GENERAL BONDI: Move to approve.

25 GOVERNOR SCOTT: Is there a second?

1 CFO ATWATER: Second.

2 GOVERNOR SCOTT: Moved and seconded. Show
3 Item 3 approved without objection.

4 MR. WILLIAMS: Thank you. Item 4.
5 Request approval of a fiscal determination in
6 the amount of \$5,600,000, Florida Housing
7 Finance Corporation Multifamily Mortgage
8 Revenue Bonds. This is the acquisition/rehab
9 of a multifamily rental facility, the
10 Foxwoods -- Foxwood Apartments in Bay County,
11 Florida.

12 GOVERNOR SCOTT: Same answers to the two
13 questions, right?

14 MR. WILLIAMS: Yes, sir.

15 GOVERNOR SCOTT: Okay. Show Item 4 -- is
16 there a motion to approve Item 4?

17 CFO ATWATER: So moved.

18 GOVERNOR SCOTT: Is there a second?

19 ATTORNEY GENERAL BONDI: Second.

20 GOVERNOR SCOTT: Moved and seconded.
21 Item 4 is approved without objection.

22 MR. WILLIAMS: Thank you. Item 5.
23 Request approval of a fiscal determination in
24 the amount of \$4,875,000, Florida Housing
25 Finance Corporation Multifamily Mortgage

1 Revenue Bonds. This is for the acquisition and
2 rehabilitation of a multifamily rental facility
3 in Alachua County, Florida, Pine Meadow
4 Apartments; and, yes, the conditions are met.

5 GOVERNOR SCOTT: Okay. Is there a motion
6 to approve Item 5?

7 ATTORNEY GENERAL BONDI: Move.

8 CFO ATWATER: So moved.

9 ATTORNEY GENERAL BONDI: Second.

10 GOVERNOR SCOTT: Okay. Moved and
11 seconded. Item 5 is approved without
12 objection.

13 MR. WILLIAMS: Thank you. Item 6.
14 Request approval of an interest rate exception
15 for the Florida -- the Housing Finance
16 Authority of Miami-Dade County, not the Florida
17 Housing Finance Authority, excuse me -- on a
18 proposed issue not exceeding \$2.4 million.
19 These are subordinate multifamily mortgage
20 revenue bonds for the acquisition and rehab of
21 a low-income facility for -- or a facility for
22 low-income and permanently disabled individuals
23 in Miami, Florida.

24 My understanding is that the securities to
25 which this interest rate waiver applies,

1 \$2.4 million, will be sold to a single
2 accredited investor, and any subsequent sales
3 would also be limited to accredited investors.
4 And we have a team here if there are any
5 questions about the issue.

6 GOVERNOR SCOTT: But the state's -- it's
7 not part of the state --

8 MR. WILLIAMS: No, sir.

9 GOVERNOR SCOTT: -- the state's not on the
10 hook.

11 MR. WILLIAMS: No, sir.

12 GOVERNOR SCOTT: Okay. Anybody have any
13 questions?

14 ATTORNEY GENERAL BONDI: Just what -- and
15 this is small because this is really a
16 \$30-million project overall, is that correct?

17 MR. WILLIAMS: Yes. It's one small piece
18 of the capital structure. It's 2.4 million out
19 of a larger capital structure. And I --
20 without having been involved in the detail of
21 the issue, obviously the circumstances that in
22 order to sell that particular piece of
23 subordinated debt, it's a slightly higher
24 interest rate. So that's why it's there.

25 GOVERNOR SCOTT: Any other questions?

1 Okay. Is there a motion on Item 6?

2 CFO ATWATER: So moved.

3 GOVERNOR SCOTT: Is there a second?

4 ATTORNEY GENERAL BONDI: Second.

5 GOVERNOR SCOTT: Moved and seconded.

6 Item 6 is approved without objection.

7 MR. WILLIAMS: Thank you. Item 7.

8 Request approval of the appointment of
9 Mr. Jeffrey D. Evans, an insurance agent
10 representative, to the Advisory Council of the
11 Florida Hurricane Catastrophe Fund.

12 GOVERNOR SCOTT: All right.

13 CFO ATWATER: So moved.

14 GOVERNOR SCOTT: All right. Is there a
15 second?

16 ATTORNEY GENERAL BONDI: Second.

17 GOVERNOR SCOTT: Moved and seconded.

18 Item 7 is approved without objection.

19 MR. WILLIAMS: Thank you. Item 8.

20 Request approval of the appointment of
21 Mr. Donald D. Brown as a representative of
22 reinsurers to the Advisory Council of the
23 Hurricane Catastrophe Fund.

24 GOVERNOR SCOTT: Is there a motion to
25 approve Item 8?

1 ATTORNEY GENERAL BONDI: Move to approve.

2 GOVERNOR SCOTT: Is there a second?

3 CFO ATWATER: Second.

4 GOVERNOR SCOTT: Item 8 is approved --
5 Item 8 is approved without objection, moved and
6 seconded.

7 MR. WILLIAMS: Thank you very much.

8 GOVERNOR SCOTT: So is Jeffrey Evans and
9 Don Brown here? Oh, hey, Don. So thank you
10 very much for serving. So we're very
11 appreciative and I know you're going to have a
12 big impact on improving Citizens, and so we
13 have high expectations. Okay.

14 MR. BROWN: I have no idea.

15 GOVERNOR SCOTT: Thanks, Ash.

16 MR. WILLIAMS: Thank you.

17 GOVERNOR SCOTT: Poor Don. You don't know
18 what you got into.

19 ATTORNEY GENERAL BONDI: -- start your
20 service.

21 GOVERNOR SCOTT: Yeah, today will be a
22 good day.

23

24

25

1 GOVERNOR SCOTT: The next agenda is the
2 Florida Financial Services Commission, Office
3 of Insurance Regulation presented by
4 Kevin McCarty. Good morning, Kevin.

5 MR. McCARTY: Good morning, Governor and
6 members of the Commission. *Florida Statutes*
7 requires the Financial Services Commission to
8 contract every other year for an independent
9 actuarial analysis to be done of any rating
10 organization licensed to make rate filings for
11 Florida.

12 The NCCI, National Council on Compensation
13 Insurance, is responsible for collecting
14 statistical information on behalf of Florida's
15 insurance companies, and by contract we're
16 supposed to provide a report to the Senate
17 President and Speaker of the House by
18 February.

19 In October the OIR, with the assistance of
20 the Department of Financial Services, issued
21 and submitted a statement of work and a request
22 for quotes for three vendors, and in order to
23 meet our statutory requirement it is
24 recommended that the office, on behalf of the
25 Commission, accept the technical proposal

1 received by Exam Resources.

2 GOVERNOR SCOTT: All right. Have any
3 questions? No.

4 All right. Is there a motion to approve
5 Item 1?

6 ATTORNEY GENERAL BONDI: Move to approve.

7 GOVERNOR SCOTT: Is there a second?

8 CFO ATWATER: Second.

9 GOVERNOR SCOTT: Moved and seconded.
10 Item 1 is approved without objection. Thank
11 you, Kevin.

12 MR. McCARTY: Thank you, Governor.

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1 GOVERNOR SCOTT: CFO Atwater, would you
2 please introduce the next item?

3 And thank you. I was hoping,
4 Commissioner McCarty, will you be able to stay
5 through the next couple of presentations? I
6 don't know if your schedule is going to permit
7 you to.

8 MR. McCARTY: That would be great. Thank
9 you.

10 GOVERNOR SCOTT: Thank you.

11 CFO ATWATER: Governor, I think all of us,
12 and I know that each member of the Cabinet has
13 spoken to this matter, as have many
14 legislators, that we have to address what we
15 know in Florida as personal injury protection
16 coverage this legislative session, that it
17 began in the early '70s as an extraordinarily
18 valuable instrument in ensuring one's ability
19 to have -- have quick access to health care
20 needs if they were involved in an accident no
21 matter who was involved, the idea, of course,
22 being a low litigation type of tool for us in
23 Florida. And for many, many years it has
24 proved to be just that effective.

25 And we're in a period of time now where we

1 know that many are challenged without any type
2 of health care. This is provided -- and not --
3 that wouldn't be the purpose of establishing a
4 PIP system, a personal injury protection, went
5 in law by itself, but we know that today it is
6 providing that comfort as well to a family
7 knowing that all else, if, in fact, an injury
8 occurs in this form, in an accident in an
9 automobile, they at least have that kind of
10 coverage.

11 And to our hospitals it has been extremely
12 valuable, again, to be able to provide that
13 service and to have -- and to be made whole
14 from that type of care that we're providing.

15 It is -- it is abundantly clear from all
16 the efforts that I believe have been made over
17 the last year to look closely at this that
18 this -- that our personal injury protection
19 laws need bold and significant change, that
20 fraud has found its way so deeply into the
21 system that the industry questions whether or
22 not it should participate here, and it has
23 removed capital from certain markets. Players
24 who honestly provide services find themselves
25 caught up in everything being questioned

1 because of the amount of fraud that exists.

2 But at the heart of it all, at the center
3 of it all, if our focus just stayed on
4 consumers, where it should always be, we know
5 that change must occur because the honest
6 citizen -- and you're going to see in this
7 report today -- the honest Floridian trying to
8 get by is the one that is suffering from this
9 system, it is required by law that they have it
10 if they're going to have access to a vehicle,
11 and they are getting taken to the cleaners in
12 the fraud that is now built into the premium.
13 We're going to see that today.

14 Now, specifically to the presentation
15 itself. I asked our Consumer Advocate,
16 Robin Westcott, who -- if you haven't had a
17 chance to get to know Robin, there is no more
18 enthusiastic, energetic, tireless worker in
19 this Capitol -- and she has gone after this --
20 I asked if she would do something rather
21 extraordinary: could she bring together all
22 the constituency groups that provide or are
23 associated with personal injury protection.
24 That would be, of course, the carriers
25 themselves, the insurance industry; that would

1 be the providers, whether it be chiropractic
2 care, whether that be health care clinic, that
3 would be MRIs, that would be the M.D.s
4 themselves, whether that be the hospitals
5 themselves; to bring together consumer
6 advocates as well; to bring together those who
7 are involved in litigation itself, those who
8 would represent injured Floridians.

9 They all participated over a number of
10 gatherings to work as quickly as they could to
11 inform us of some of the information that is
12 before us today. It would not surprise you for
13 me to add regrettably they could find no
14 consensus. They are -- they stand in their
15 spot, they're holding to the traditional place
16 that they have, they could not suggest a common
17 ground on where to go forward. That wouldn't
18 surprise us though.

19 However, I think when you look at the
20 evidence that you're going to see, there are
21 some clear places we must go, I'll leave that
22 to our Consumer Advocate to share with all of
23 us.

24 And in the end, in the end, if we can make
25 some of these -- we have to make these

1 changes. We make these changes in the end,
2 what will be incumbent upon the industry itself
3 would be to rapidly and aggressively reduce the
4 rates that they are charging to Floridians and
5 apply the appropriate cost to a legitimate
6 system so that the care can be provided as
7 quickly as possible without litigation, which
8 was the -- with minimal litigation, which was
9 the intent of the original -- of the original
10 product.

11 So, Governor, I would like to welcome up
12 our Consumer Advocate, Robin Westcott, to walk
13 us through a series of PowerPoint
14 presentations. She will be providing to you,
15 Governor, and to the Cabinet Members in the
16 next few days a written report that backs up
17 the PowerPoints you're going to see today.
18 Thank you, Governor.

19 GOVERNOR SCOTT: Good morning.

20 MS. WESTCOTT: Good morning. Thank you
21 for the opportunity to speak before you this
22 morning. I hope that this will add value to
23 the discussion about PIP.

24 In 1971 Florida enacted the no-fault law
25 here, the Florida Vehicle No-Fault Law. The

1 intent of the no-fault law was to provide a
2 minimum level of insurance benefits for minor
3 insurance injuries sustained in a motor vehicle
4 crash without regard to fault. And the benefit
5 of PIP, or personal injury protection coverage,
6 was to provide prompt payment for economic
7 losses without navigating the tort system. In
8 other words, pay claims quickly, pay people
9 quickly, and avoid litigation.

10 In 1979 the benefit was increased to
11 \$10,000, and throughout the life span of
12 personal injury protection in our state, we
13 have seen a battle to keep this coverage free
14 of fraud and abuse. As a result, anti-fraud
15 provisions were added throughout 2001 and
16 2003.

17 In 2007 PIP was allowed to sunset in
18 Florida law. When it was reenacted with some
19 of the emphasis being for the support of the
20 public hospitals and facilities of our state to
21 have a funding source that is immediate and
22 available, it was done so with a fee schedule.

23 Florida is now one of the only 10 states
24 that has a no-fault system. Most states
25 maintain a tort system of liability, and

1 at-fault drivers are liable for economic and
2 noneconomic damages they inflict on other
3 people. In most cases that coverage would be
4 the bodily injury protection coverage.

5 Bodily injury is sometimes required in
6 other states or mandated and that would be what
7 would cover you in the event -- or cover
8 injuries to other persons that are sustained in
9 an accident. If no other form of auto
10 insurance is mandated, then you would see that
11 the uninsured motorist coverage would become a
12 very paramount importance in the coverage that
13 you purchase as a consumer insured.

14 As revealed in the OIR data culled, the
15 number of claims filed under PIP has increased
16 since 2008. The total number of claims opened
17 in 2010 increased by 28 percent, and the total
18 number of closed claims rose by 40 percent.

19 As Commissioner McCarty stated in his
20 August presentation, there's been no associated
21 rise in drivers in our state. We still hold
22 steady at about 16 million licensed drivers in
23 our state. In addition, there's actually been
24 a decrease in the frequency of auto crashes
25 since 2005. So for every 100 licensed drivers,

1 there are about one and a half crashes.

2 The no-fault system in Florida has seen
3 periods of years -- throughout the years of
4 susceptibility to fraud and abuse with a
5 resulting rise in claims, but at no period of
6 time prior have we seen this system be so
7 pushed to the point with such dramatic
8 increases in losses paid for this coverage
9 which, in turn, result in nothing but rate
10 increases for our Florida consumers.

11 The five major carriers in our state over
12 the past several years have had up to as much
13 as 72 percent increases in their rate.

14 It's important at this point to look at
15 what are the losses or how the loss is effected
16 in the insurance company setting. And
17 according to 2010 financial statements
18 submitted by insurers to the National
19 Association of Insurance Commissioners which
20 are subject to audit and filed underneath a
21 sworn statement as to their accuracy and
22 veracity, Florida's results for PIP shows
23 direct losses have increased from approximately
24 1.5 billion in 2007-2008 to approximately
25 2.3 billion in 2010.

1 In addition, direct variable costs, which
2 would be the losses and costs associated with
3 administering the policy and any claims now
4 exceed \$2.7 billion. The insurers only
5 collected 2.3 billion in premium for this
6 coverage.

7 This rise in claims with no more drivers
8 and actually fewer accidents leads you to
9 assume that most, if not all, of the additional
10 900 million is a fraud and abuse tax that
11 consumers will pay in higher rates.

12 Simply put, for every dollar of premium
13 that is paid for PIP, insurers are paying out
14 more than a dollar 15, and this is not a
15 sustainable business model. All of this
16 translates into increases in premium for the
17 consumer.

18 There has been questions throughout the
19 meetings of the work group as to whether
20 there's actually any real threat, or any real
21 damage sustained by our consumers in our
22 state. And as the consumer advocate, I would
23 like to show you the next couple of slides that
24 really indicate what this means for an average
25 Florida family in certain sections of our

1 state.

2 And please -- oops, what did I do?

3 CFO ATWATER: Governor, could I just
4 ask -- I just want to be -- I think we're all
5 very clearly with you, but just so there's no
6 question here: What the Advocate just showed
7 us is there's fewer cars for accidents per
8 100 cars, but there's also -- it's a pure
9 decline in the number of accidents as well.
10 That's not a ratio that anything was being
11 hidden. There are fewer accidents -- pure
12 number -- fewer accidents occurring every year
13 in Florida.

14 And in showing the actual amount of claims
15 being paid, those are audited numbers, this is
16 not something that was just provided to this
17 work group to disguise anything. They had
18 to -- just as anybody would have had to provide
19 an unqualified audited opinion, this is audited
20 numbers that are provided. And what the follow
21 up is, is that no one's disputing that those
22 losses that are audited represent 100 percent
23 of the premium that comes in, the direct loss.

24 So I would assume -- and maybe
25 Commissioner McCarty might -- he spoke to it a

1 couple of months ago, regrettably, to keep
2 these companies here, you have to make their
3 business model work. And if we have a system
4 that provides this much fraud where every
5 dollar collected is a dollar lost, the
6 Commissioner has no choice but to keep
7 increasing the premiums so that they can stay
8 here in Florida.

9 So I just don't want -- all the evidence
10 you've seen today is audited numbers provided
11 independently to us from audited credentialed
12 players and not something that the company
13 could just give us to take their word for it.
14 Thank you.

15 MS. WESTCOTT: Thank you. I'd also point
16 out, as CFO Atwater had said, that there is a
17 pressure from the insurance company's
18 perspective of whether they can stay and
19 maintain this business model. Well, you know,
20 it might be one of those situations where you
21 say, well, that's okay, but this is a mandated
22 coverage.

23 So any consumer that's coming to them for
24 an insurance policy where they would want to
25 sell them another type of coverage like the DI,

1 or like uninsured motorist, or collision, or
2 any other that you would find in a standard
3 automobile policy, if they can't sell them that
4 basic PIP coverage, chances are you're going to
5 go somewhere else to find the mandated coverage
6 that you need.

7 So it is an all or one proposition for
8 some of the companies and it is a business
9 model. As a former solvency regulator, I -- I
10 was -- you know, that was always one of the
11 things: Can you cover your losses in the event
12 that you have them. And the natural response
13 is to raise rates.

14 GOVERNOR SCOTT: So why have these other
15 states gone away from PIP? Because you said
16 there's only 10 states left?

17 MS. WESTCOTT: There are. Looking at some
18 of the information that was provided --
19 especially the State of Colorado, which is the
20 most recent state to move away from a PIP
21 system -- they had many of the same types of
22 concerns that we have, the -- a rise in costs
23 associated with delivery of the product such
24 that they had pressures on the premiums, on
25 consumers, and an overall cost prospective of

1 losses that were exceeding what -- you know,
2 however, their benefit I think was greater than
3 our benefit which is \$10,000.

4 So for us to put that in perspective, I
5 think that's, okay, we have a \$10,000 benefit
6 that we are putting so much money and effort
7 and time into trying to cost contain compared
8 to other states whose limits are far greater
9 than ours.

10 I think that they probably came to the
11 conclusion at some point that this is not a
12 sustainable business model for anyone, it's
13 costing consumers too much and we're spending
14 too much time trying to police it. And
15 therefore they put that model and shifted into
16 a tort system to provide -- to try to avoid
17 some of those costs.

18 GOVERNOR SCOTT: Thank you.

19 MS. WESTCOTT: Certainly. I want to
20 continue with some of the -- just the direct
21 effect and how this really does harm our
22 Florida families. We're looking at slides from
23 two companies, State Farm Mutual and Direct
24 General, which are the largest standard and
25 nonstandard writers for our state,

1 respectively. And these are -- this
2 information was submitted as part of a rate
3 filing which is also submitted with an
4 affidavit as to veracity and reviewed by the
5 Office of Insurance Regulation.

6 But for Florida families starting in the
7 central Tampa area, the top line, two thou --
8 that's per car -- \$2,000 for the average family
9 where you have two adults and two driving-age
10 children. Well, \$2,000 in central Tampa for
11 these two companies. And then if you look over
12 at Hialeah on the third and fourth slides,
13 you're looking at over almost \$3,000 for a
14 family.

15 You're looking at increases for a retired
16 couple that are more than double. These are
17 people that are on fixed incomes. And view
18 these slides in the context that the average
19 median income in these areas is \$40,000 for a
20 household, and there's better than 10 percent
21 unemployment for these areas. So you're
22 looking at \$3,000 out of someone's budget for a
23 \$10,000 benefit.

24 GOVERNOR SCOTT: After tax. You're saying
25 it's after tax, right?

1 MS. WESTCOTT: Yes, sir.

2 GOVERNOR SCOTT: Yeah. So that's 40,000
3 pretax.

4 CFO ATWATER: Yeah. Right.

5 MS. WESTCOTT: Yes, sir. One of the first
6 directives after being appointed as the
7 Insurance Consumer Advocate was to look at the
8 PIP system --

9 GOVERNOR SCOTT: Would you go back a bit?
10 Let's look at something real quick.

11 MS. WESTCOTT: Yes, sir.

12 GOVERNOR SCOTT: Go back to your Hialeah
13 slide for Direct General.

14 MS. WESTCOTT: Yes, sir.

15 GOVERNOR SCOTT: Look at 2008. I mean,
16 look at these numbers. 2008, 490 to 2,998 in
17 one year.

18 MS. WESTCOTT: Yes, sir.

19 GOVERNOR SCOTT: What percentage of the
20 state is uninsured right now, 15?

21 MS. WESTCOTT: I'm sorry?

22 GOVERNOR SCOTT: Do you know, Kevin?

23 MS. WESTCOTT: Uninsured?

24 GOVERNOR SCOTT: Yeah.

25 MS. WESTCOTT: Twenty-one percent have no

1 health insurance.

2 GOVERNOR SCOTT: How about no auto
3 insurance?

4 MS. WESTCOTT: That's debatable. There's
5 information from the Department of Highway
6 Safety, Motor Vehicles that actually tracks the
7 people that are stopped or pulled over, and
8 insurance companies have to report as to who's
9 been canceled for insurance. Their number
10 suggests it's somewhere around one to two
11 percent of drivers.

12 However, information for -- from some
13 other sources, I believe that the Insurance
14 Information Institute or Insurance Research
15 Council have that number more at 24 percent.
16 That's kind of more of a bodily injury number.

17 Highway Safety and Motor Vehicles kind of
18 concedes that they don't believe that's
19 accurate, that they have some limitations with
20 their system. So -- and if you look, Governor,
21 there were -- and it's contained in my report
22 that will be coming out -- there are situations
23 where there have been traffic stops around the
24 state by police departments and by certain
25 organizations to ferret out things like false

1 driver's license and false insurance cards. In
2 some of those stops as much as 25 to 30 percent
3 of the people pulled over don't have proof of
4 insurance.

5 GOVERNOR SCOTT: How could you afford it?
6 I mean, look at these numbers.

7 CFO ATWATER: That's the whole point.
8 That's the whole point.

9 GOVERNOR SCOTT: Gosh, just think of
10 that. You're a family making \$40,000 in
11 Hialeah and in three years it goes from 490,
12 what, to -- what is it, 30 -- \$3800.

13 MS. WESTCOTT: Uh-huh.

14 GOVERNOR SCOTT: But look at these others
15 even, from 294 to 2,090.

16 MS. WESTCOTT: And that's most
17 concerning -- I mean, some of these --
18 especially retired couples, I mean, that's
19 definitely people on a fixed income that are
20 having to respond with premium that's
21 quadrupling.

22 GOVERNOR SCOTT: Okay. Thanks.

23 MS. WESTCOTT: The working group also
24 covered some areas to identify the cost
25 drivers, that some of the reasons behind why

1 you see these losses going up so dramatically,
2 and these rate increases going up so
3 dramatically.

4 And one of the things that was identified
5 very early on -- and there was a presentation
6 by the National Insurance Crime Bureau at one
7 of our working group meetings -- showed that
8 Florida is absolutely prone to auto fraud, auto
9 insurance fraud.

10 We had a staggering 34-percent increase
11 from 2008 to 2010 for staged accidents in our
12 state; and as many as -- in our cities of
13 Miami, Tampa, and Orlando rank among the top
14 cities in the country for staged accidents in
15 our nation.

16 As a response, our Division of Insurance
17 Fraud, which I'm sure you see some of the
18 arrests that are made each week on some of
19 these matters, spends approximately 49 percent
20 of their time and resources on PIP fraud. Out
21 of the 13,452 referrals that are made to them
22 for insurance fraud, and that includes
23 health -- other health care insurance fraud,
24 title fraud, any other type of fraud that you
25 can conceive of, we have a system where we're

1 spending resources, dramatic resources on
2 maintaining a \$10,000 benefit.

3 GOVERNOR SCOTT: And what's the penalty if
4 you're caught?

5 MS. WESTCOTT: If you're caught without --
6 oh, excuse me.

7 GOVERNOR SCOTT: If you're in a staged
8 accident, and so you're caught doing insurance
9 fraud, what's the penalty? Do you know?

10 MS. WESTCOTT: I'm sorry. I --

11 CFO ATWATER: Years in prison.

12 ATTORNEY GENERAL BONDI: Are you
13 talking --

14 MS. WESTCOTT: Years in prison.

15 GOVERNOR SCOTT: Is it six months, or is
16 it --

17 ATTORNEY GENERAL BONDI: I'm sorry, my
18 mike's not on. I know my statewide prosecutor
19 is on the task force with CFO Atwater and we're
20 all over it. I mean, it depends on the --

21 GOVERNOR SCOTT: Years.

22 ATTORNEY GENERAL BONDI: -- what they do.
23 But, yeah, it's fraud, it's organized fraud,
24 really.

25 GOVERNOR SCOTT: Is it hard to prove?

1 MS. WESTCOTT: Yes.

2 CFO ATWATER: It can be hard to prove.

3 MS. WESTCOTT: Yes. And the part --

4 ATTORNEY GENERAL BONDI: But it can be
5 proven.

6 MS. WESTCOTT: Yeah, it can. The hard
7 part is too is that, it might be easier to get
8 the penalties and get the arrests in the lower
9 levels of what's going on; in other words, the
10 person that jumped into the car, or the person
11 that, you know, went and signed all the forms
12 at the clinic so that, you know, that the bills
13 could be generated.

14 But the investigators want to go further
15 than that. They want to try to get into the --
16 some of the clinic settings, which I'll talk
17 about here later, and those are more difficult
18 investigations, and you'll see why in a moment
19 as well.

20 But many of the investigations that
21 surround the staged accidents have resulted in
22 arrests and results from looking at what we
23 call PIP clinics. And PIP clinics are
24 generally set up to just treat automobile
25 accident victims.

1 Oops --

2 GOVERNOR SCOTT: Can you go back --

3 MS. WESTCOTT: -- I need to go back. I'm
4 sorry.

5 GOVERNOR SCOTT: Yeah, can you go back to
6 the one that says health care clinic? Yeah,
7 there you go. How do you get -- what's the --

8 MS. WESTCOTT: Okay. Health care clinic.
9 That's -- okay. We want to talk about this a
10 little bit. Health care clinics, as we said,
11 they're really set up to respond to an auto
12 accident victim. Back in 2003 AHCA was given
13 the responsibility of licensing health care
14 clinics in our state.

15 In 2004 there were some exemptions that
16 were added to that statute that, you know,
17 probably seemed like a good idea to allow
18 people who were licensed by the Department of
19 Health as a practitioner, certain
20 practitioners, to have a clinic without having
21 to hold a license from AHCA, and they could be
22 exempt from licensure under the statute. And
23 above that, not only could they be exempt, but
24 they don't even have to come say I'm exempt.
25 It's just a self-executing exemption.

1 So what we have is a situation that
2 created the greatest vulnerability to people
3 setting up clinics for there to be very limited
4 or no oversight of the clinic itself, and again
5 people are receiving care -- if it's not set up
6 for a total fraudulent purpose, there are
7 situations where people are receiving care --
8 and as AHCA has identified, one of the greatest
9 vulnerabilities is from the fact that you can
10 have this clinic, but then you can offer
11 services in this clinic that are beyond the
12 scope of your license.

13 One of the examples that they used -- and
14 this slide really deals with the exemption, how
15 there's skyrocketing exemptions in Miami. But
16 I really offer it to say, there is no telling;
17 we don't know. We know we have about 2100
18 licensed clinics, we have about 8,000 who
19 sought an exemption, and we have absolutely no
20 idea who the rest of those people are or what
21 they're doing.

22 GOVERNOR SCOTT: Yeah. If it's physician
23 owned, you don't have to file at all, right,
24 you don't --

25 MS. WESTCOTT: Yes, sir.

1 GOVERNOR SCOTT: -- have to file for an
2 exemption or anything?

3 MS. WESTCOTT: Right. But the
4 exploitation comes -- and AHCA really provided
5 some of this data, and some of the data that
6 indicated, one of the licenses that we see a
7 great increase in people seeking, and we
8 believe that many of the clinics are owned is a
9 massage therapy clinic, and in that situation
10 you have a massage therapist who owns a clinic
11 who can at that point have any number of -- a
12 doctor, a chiropractor, a prescription pad,
13 they can -- you know, those prescriptions have
14 been written for whatever the service is that's
15 provided there, any sort of diagnostic --

16 GOVERNOR SCOTT: You open up a message
17 parlor, whatever it's called.

18 MS. WESTCOTT: Clinic, yes.

19 GOVERNOR SCOTT: Clinic. Okay.

20 MS. WESTCOTT: Therapist.

21 GOVERNOR SCOTT: Okay.

22 MS. WESTCOTT: Yes, sir.

23 ATTORNEY GENERAL BONDI: And I think these
24 are legitimate clinics.

25 MS. WESTCOTT: They are.

1 ATTORNEY GENERAL BONDI: They're truly --

2 MS. WESTCOTT: There are some legitimate
3 clinics.

4 ATTORNEY GENERAL BONDI: -- Japanese
5 massage parlor, you know, the ones -- no, you
6 know, what I mean, the ones on
7 Kennedy Boulevard in Tampa that are being shut
8 down.

9 GOVERNOR SCOTT: Let's all change the
10 subject. So it's a massage clinic.

11 MS. WESTCOTT: Right, right. The clinic's
12 under that license, yes, sir.

13 GOVERNOR SCOTT: So you get -- and it's an
14 AHCA license?

15 MS. WESTCOTT: Yes.

16 GOVERNOR SCOTT: It's an AHCA massage --

17 ATTORNEY GENERAL BONDI: Clinic.

18 GOVERNOR SCOTT: -- therapy clinic
19 license. And then you can do anything you
20 want.

21 MS. WESTCOTT: Right. The technical --
22 it's a health care clinic, you're licensed and
23 exempt by the fact that you are a massage
24 therapist licensed by the Department of Health,
25 you then can employ whoever you want to in this

1 facility, and as long as the claim that goes
2 into the insurance company has a prescription
3 that was written for the service -- and just
4 think how hard that is to police when you have
5 no idea who these people are or what they're
6 doing -- that just perpetuates a huge hole for
7 people to exploit the clinic setting.

8 GOVERNOR SCOTT: And all they have to do
9 is comply with the rules regarding being a
10 massage clinic.

11 MS. WESTCOTT: Well, and that's -- truly
12 all they have to do is be licensed by the
13 Department of Health.

14 GOVERNOR SCOTT: Do they --

15 MS. WESTCOTT: Once you're exempt --

16 GOVERNOR SCOTT: -- annual review or
17 anything? Oh, they don't do reviews?

18 CFO ATWATER: Just audits.

19 MS. WESTCOTT: The licensed clinics
20 receive a review.

21 GOVERNOR SCOTT: Right.

22 MS. WESTCOTT: Exempt clinics that AHCA
23 has said you're therefore exempt, it's little
24 more than a registration. If you are an exempt
25 clinic, self-exempting, there's no oversight at

1 all.

2 ATTORNEY GENERAL BONDI: And to clarify,
3 on Kennedy Boulevard in Tampa there's been an
4 issue with these bathhouses, they called them
5 Japanese bathhouses, and that's not what this
6 is.

7 MS. WESTCOTT: No.

8 ATTORNEY GENERAL BONDI: These are true
9 massage therapists. It's nothing nefarious in
10 that way.

11 CFO ATWATER: Well, let me be -- the
12 majority of -- there are licensed massage
13 therapists --

14 MS. WESTCOTT: Yes.

15 CFO ATWATER: -- that have businesses.
16 The bulk of the ones it is -- that is just my
17 conclusion from being out there, when you have
18 less accidents, less drivers, and 40 percent
19 increase in claims, and this is where the
20 claims are coming from, these are not health
21 care clinics, these are fraud clinics. There
22 are legitimate people out there doing massage
23 therapy work.

24 MS. WESTCOTT: Right.

25 CFO ATWATER: What we're getting billed

1 for is -- is fraud, fraud, fraud, fraud.

2 MS. WESTCOTT: And I would add, a
3 substantial I think too amount of abuse.
4 Because there is no -- I mean, perhaps you do
5 render that service and it's not a situation
6 where you're just a guy with a fax machine and
7 a desk submitting claims. There's still --
8 there's nothing that stops that. They're
9 the -- you can bill for as many procedures as
10 you can get on the form at some point.

11 GOVERNOR SCOTT: That doesn't make sense.
12 I mean, so you can -- you can -- and you're
13 bill -- you're not billing AHCA. I mean, it's
14 never -- they're not doing any Medicaid.

15 CFO ATWATER: Correct.

16 MS. WESTCOTT: Right.

17 GOVERNOR SCOTT: So you're just billing
18 the insurance companies.

19 CFO ATWATER: Right.

20 MS. WESTCOTT: Yes.

21 GOVERNOR SCOTT: So the insurance
22 companies just have to police it.

23 CFO ATWATER: Right. And have to pay
24 costs first.

25 MS. WESTCOTT: And I would add, you're

1 billing mostly PIP because, you know, if you
2 were billing -- and I don't feel bad about
3 using Blue Cross saying they were actually on
4 the working group, look at their -- their
5 analysis on when they break down how -- you
6 know, their coordination of benefits with auto
7 insurers, it's very different. People are not
8 billing for these type of procedures as a
9 practice for their health care and for any
10 other type of managed care setting or setting
11 where those bills are subject to that kind of
12 review.

13 GOVERNOR SCOTT: Okay. Thank you.

14 MS. WESTCOTT: Okay. Many -- after
15 discussions, debate also within the worker
16 group seemed to shift back many times to
17 utilization. And while, you know, fraud has
18 been a great discussion topic, we also get to
19 this point where litigation has become a huge
20 issue in the PIP system.

21 And, you know, whether or not you say that
22 litigation has been driven by the fact that you
23 have legitimate claims that are being denied by
24 the insurance company, or you say that you have
25 people who are billing illegitimate claims or

1 inflated claims, the pure science is, is that
2 if you look at what the claims -- or the
3 lawsuits that have been filed through -- '09
4 through '11 -- through 2011, we have an
5 inordinate amount of lawsuits even this last
6 year.

7 In 2010 we had about 36,000 lawsuits. And
8 this is tracked through the Department of
9 Financial Services service of process.
10 Insurance companies basically have to be served
11 through that office. So they have tracked --
12 and most of these are county court cases, so
13 95 percent of what they see for county court
14 cases are going to be PIP -- right now we have
15 through August more than 47,000 lawsuits filed
16 for PIP claims.

17 GOVERNOR SCOTT: Can we go back? Okay.
18 So the way it works is that you're the massage
19 clinic, and you start making filings, right?
20 So if the insurance company says, gosh, I think
21 you're doing the wrong thing, what happens,
22 what's the process? What's their obliga --
23 what's the -- where does -- what's the
24 insurance company's obligation, what's their
25 opportunity to say, I'm not going to pay it?

1 CFO ATWATER: Frankly, that brings -- that
2 puts us right on the slide you're now looking
3 at.

4 MS. WESTCOTT: Uh-huh.

5 CFO ATWATER: When they begin to dispute
6 those claims, the lawsuits start to file. And
7 so their ability to try to gain the evidence
8 that they are being -- they're being
9 fraudulently abused in a particular filing,
10 they start an investigation, and some of
11 that -- which we'll get to some of the issues
12 at the end of this presentation as, even over
13 the years we've tied the hands of anybody being
14 able to get solid evidence and testimony to be
15 able to continue on onto the path of not paying
16 the claim, so they start paying the claims,
17 which is what drives up the costs.

18 GOVERNOR SCOTT: Okay. So are you -- are
19 you obligated for all the legal fees on top
20 of -- like let's say you lose.

21 CFO ATWATER: Yes, you are.

22 MS. WESTCOTT: Yes.

23 GOVERNOR SCOTT: So it's not just the
24 10,000, you're obligated for whatever costs and
25 legal fees.

1 CFO ATWATER: That's correct. And there
2 is a whole other question called the multiplier
3 which we may get to later, but, yes, you are.

4 GOVERNOR SCOTT: Okay.

5 MS. WESTCOTT: Yeah, it's a big issue.

6 CFO ATWATER: It's a big issue. Okay.

7 MS. WESTCOTT: And that leads me to the
8 comment that I think is the most important
9 about litigation, is that utilization of these
10 services is governed by the litigation in this
11 benefit. There is no cost control; there is no
12 review; whether or not that provider provided
13 the service legitimately or inflated a claim;
14 or whether that insurance company, for whatever
15 reason denied that claim, wrong or right, it's
16 going to end up in litigation.

17 You see the -- many of the charts show
18 that, whereas, you thought when we had a fee
19 schedule come in, okay, now we know everybody
20 is going to get paid a certain amount, that
21 generated more litigation than anything.

22 GOVERNOR SCOTT: Why?

23 MS. WESTCOTT: There became debates over
24 whether or not the companies had properly
25 adopted that in their form filing. There were

1 debates over which utilization -- or excuse
2 me -- which fee schedule gets used at what time
3 because Medicare changes that throughout the
4 year. So all of those issues where you thought
5 you were making this clearer ended up in
6 litigation.

7 GOVERNOR SCOTT: Thank you. Okay. So the
8 bottom line is, is it's difficult when you've
9 got the problem that you don't -- you don't
10 have to be licensed and so you could have
11 somebody just have a massage clinic, that's
12 step one.

13 Step two is, is you don't have -- the
14 insurance company is -- has a very difficult
15 time stopping payment because -- and I decide
16 not to pay -- because if they lose, they're
17 going to pay big attorneys' fees.

18 MS. WESTCOTT: Yes, sir.

19 GOVERNOR SCOTT: Okay. Those are -- so
20 those are the big issues so far.

21 MS. WESTCOTT: They are two very big
22 issues.

23 According to the OIR data call, Florida is
24 above the national average in many instances,
25 including provider charges per claim, average

1 number of procedures per claim, and the average
2 procedures per bill. And I keep doing that.

3 GOVERNOR SCOTT: So -- so what's the
4 spread here? The -- so the national is the
5 blue?

6 MS. WESTCOTT: Yes.

7 GOVERNOR SCOTT: So that's 80 --

8 MS. WESTCOTT: National average --

9 GOVERNOR SCOTT: -- what, 8300?

10 MS. WESTCOTT: -- is big.

11 CFO ATWATER: Right.

12 GOVERNOR SCOTT: That's 8300 and we're at
13 12-one, is that right?

14 CFO ATWATER: Yeah.

15 GOVERNOR SCOTT: So that's three-31 plus
16 seven-38 -- a hundred dollars more? Okay.

17 MS. WESTCOTT: And my apologies, it's
18 harder to see on this screen.

19 And also I would call your attention too
20 to the next average procedures per claim. You
21 know, the 2000 -- that 2007 mark where you've
22 got more procedures coming in, that's when the
23 fee schedule, in the two seven -- '07 to '08
24 and '09 is when fee schedule was going -- was
25 being implemented. So you automatically see

1 that there is a correlation between the
2 implementation of fee schedule and how many
3 procedures get billed per claim.

4 GOVERNOR SCOTT: But even before that we
5 were -- we had -- the average was 43 or
6 something, the national average, and we're at
7 60, right?

8 MS. WESTCOTT: Yeah.

9 CFO ATWATER: You're right.

10 GOVERNOR SCOTT: We're still -- we're --

11 MS. WESTCOTT: Yeah, we're still above.

12 CFO ATWATER: Which is why we implemented
13 the fee schedule, and then along with -- as
14 soon as that was implemented, then they just
15 ran up the number of times they performed the
16 procedure.

17 GOVERNOR SCOTT: This is a pretty big tax
18 on Floridians.

19 MS. WESTCOTT: And that -- that's the
20 irony at the end of the day is that -- you
21 know, and I said this to the working group:
22 you know, at some point it's lawyers,
23 providers, and insurance companies fighting
24 over a pot of money that the consumer paid in
25 and keeps paying in at an extraordinary level.

1 Each day seems to be worse.

2 I'm just going to briefly go over these.
3 I think we've kind of covered the surface here
4 on what we think we need to do. I will briefly
5 talk on the bullets of -- okay. What are we
6 providing and who is providing it I think -- or
7 become huge important issues for us to address
8 legislatively.

9 One of the things that we did have
10 somewhat a consensus on was an electronic
11 filing system. That was probably a very
12 lukewarm reception from the industry. But the
13 thought behind that is that this is a very
14 manual process. And those who have learned to
15 exploit the manual process do it very well.

16 However, general practitioners in their
17 office don't want to fool with filing these
18 claims. So generally they don't provide
19 services under PIP.

20 An electronic claims filing system would
21 give us a better ability to track data, would
22 be able to give us the opportunity to see some
23 of those trends quicker more -- and be more
24 responsive, and perhaps open up the provider
25 base of people who would actually, you know,

1 give service under a PIP benefit.

2 Regrettably -- some of the procedures that
3 we see anecdotally as part of the PIP delivery
4 system are -- and this was from one company's
5 reporting data -- that were hot packs and cold
6 packs and massages, and just a whole host of
7 types of procedures that you find generally in
8 a clinic type setting, some are somewhat
9 associated with a chiropractic care. The 2007
10 OIRC report showed that most of the bills in
11 the PIP system came from or originated from
12 chiro -- from chiropractic care.

13 So they're -- however, we don't have a
14 universal database that shows us what exactly
15 the services are that are being rendered.
16 Anecdotally we have that. We've asked for that
17 from the insurance companies as well as
18 information regarding how much attorneys' fees
19 are in this setting. We have not received that
20 information after several attempts, open calls
21 in the working group, and requests through the
22 OIR data call. We don't have a wealth of
23 information to say, this is what it is. We're
24 going to try to make one more attempt to ask
25 the companies to be responsive to that.

1 But we would like to see, before we --
2 before the legislature has the responsibility
3 of looking at the system -- to see what the
4 major procedures are under -- and who the --
5 who exactly some of the providers are in this
6 system. And we will make an attempt to do that
7 here in the next 30 to 45 days.

8 But at the end of the day there still is
9 this overwhelming question about the type of
10 services and who provides them in this system.
11 We need to answer that. Is what PIP has become
12 what the legislature intended PIP to be when we
13 were trying to structure a system that paid for
14 people to be taken care of after an auto
15 accident without having to litigate that
16 issue.

17 I would suggest that many people will say
18 that limiting services, or limited availability
19 is not a very consumer friendly thing to do.
20 However, if you look at it, 99 percent of the
21 cases, this is not about the insured making a
22 claim; this is about providers and the other
23 people in the system litigating and insurance
24 companies litigating over this pot of money
25 that is what the consumer is paying in.

1 And once we do get to a point where we
2 have addressed these issues and we have some
3 clarity on reducing costs in the system, if
4 that is where we go, then insurance companies
5 must be made to lower those rates. And we
6 would expect rate filings that would show and
7 reflect on a use and file basis perhaps that
8 companies are lowering those rates overall.

9 But we have to narrow the system, we have
10 to consider who is providing services and what
11 services are provided, we have to look at the
12 litigation costs, and the insurance companies
13 have to be held to lowering that cost for
14 Floridians. Thank you.

15 GOVERNOR SCOTT: Thank you -- the -- thank
16 you very much.

17 MS. WESTCOTT: You're welcome.

18 GOVERNOR SCOTT: Do policyholders -- are
19 the insurance companies educating policyholders
20 about what this is costing them?

21 MS. WESTCOTT: Well, you certainly get the
22 education once you get that bill, but I do
23 think that there are some attempts being made.
24 I've seen some fliers go out through the
25 insurance companies.

1 But traditionally, you know, when an
2 insurance company -- and I think this really
3 goes back to the fact that nobody gets up in
4 the morning and goes, all right, we're going to
5 buy insurance today, I'm excited.

6 It's a product that you have to have, and
7 you must buy if you're prudent in your decision
8 making. And I think that leaves insurance
9 companies sometimes to not be as aggressive or
10 innovative in the way that they respond to when
11 they see costs rising on a product.

12 GOVERNOR SCOTT: What do you think
13 insurance rates are going to go up in the next
14 12 months if we don't do anything?

15 MS. WESTCOTT: Well, based upon the
16 litigation figures, if we see another
17 exponential rise in the litigation -- and my
18 actuary actually did the projection on -- based
19 upon what's filed so far this year is to come
20 to that number. In the chart I didn't
21 adequately express -- I think that back on the
22 litigation chart, if you look at that, that's
23 basically for every 10 car crashes in our
24 state, there will be four lawsuits.

25 I would expect another half million -- or

1 a half billion perhaps, a quarter of a billion
2 to half billion in costs. I mean, it can't be
3 anything other if you have litigation exploding
4 like that. That means that your costs are --

5 GOVERNOR SCOTT: Do you know what
6 percentage that is?

7 MS. WESTCOTT: I don't have a percentage.
8 I can get you a percentage, but I would think
9 that if we're at, what, two, two-and-a-half
10 billion at this point, if we went up to
11 three billion.

12 CFO ATWATER: It would probably be another
13 35 to 40 percent on an --

14 GOVERNOR SCOTT: So 35 to 40 percent --

15 CFO ATWATER: -- on an annual basis, on
16 this kind of a run rate.

17 GOVERNOR SCOTT: So let's put that in
18 perspective. What's the -- the average
19 Floridian --

20 MS. WESTCOTT: Uh-huh.

21 GOVERNOR SCOTT: -- makes, what, 39,000;
22 and the average household is, what, 46,
23 something like that, right?

24 CFO ATWATER: Yeah.

25 GOVERNOR SCOTT: So you increase -- if we

1 increase this -- so what's the average bill?

2 CFO ATWATER: Oh, yeah, the average --
3 well, we saw for -- if you took a -- these are
4 two significantly hard-hit communities where
5 they have rooted themselves into the fabric of
6 these -- so you could take a Hialeah family at
7 \$3200 on a State Farm policy.

8 GOVERNOR SCOTT: So at 40 -- if you have a
9 30-percent increase, that's a thousand
10 dollars.

11 MS. WESTCOTT: So soon we'll have people
12 paying four, almost perhaps \$5,000 for again a
13 \$10,000 benefit.

14 GOVERNOR SCOTT: That's a -- (inaudible).

15 MS. WESTCOTT: Yes, sir.

16 GOVERNOR SCOTT: Tell you what, incomes
17 are not going up that fast.

18 MS. WESTCOTT: Mine's not.

19 CFO ATWATER: And car accidents are down.

20 I mean --

21 MS. WESTCOTT: Yeah.

22 CFO ATWATER: -- this is -- this is the
23 very clear picture that if -- and that's what
24 the Consumer Advocate wanted to just paint for
25 us today -- you have no new drivers, overall

1 population; you have fewer accidents; and you
2 have a 40-percent increase in claims. And you
3 have all this utilization going up.

4 Thirty years ago when someone had an
5 accident, they went to the hospital or they
6 went and saw an M.D. The litigation is not
7 coming from hospitals and M.D.s., it's coming
8 over the disputes of how many times can you
9 give a cold pack or a hot pack or a massage to
10 someone, after a questionable event has even
11 taken place. And I think that's where we're
12 all looking at this.

13 There was great value to this at the time
14 it was established for Floridians. Now when
15 every Tom, Dick, and Harry can provide a
16 procedure that you can't even have an
17 examination under oath to determine whether or
18 not they really have evidence of any of the
19 file that's being billed to you is real. You
20 trap the -- all of us in a position where: pay
21 the claim, or have a lawsuit, and pass the
22 costs on to the honest Floridian just trying to
23 get by, but we demand they have the coverage.

24 GOVERNOR SCOTT: Well, and think about the
25 families that make \$25,000 a year and they have

1 another thousand-dollar increase after tax.

2 CFO ATWATER: Yeah, right.

3 MS. WESTCOTT: Many are going to choose --

4 CFO ATWATER: That uninsured motorist --

5 MS. WESTCOTT: -- to go without insurance.

6 CFO ATWATER: -- number.

7 GOVERNOR SCOTT: Commissioner, did you
8 have something you wanted to add?

9 COMMISSIONER PUTNAM: So what is it that
10 makes Florida so bad? How is our law written
11 differently than the other states?

12 MS. WESTCOTT: Well, I'm -- Commissioner,
13 I'm not so sure that we differ all that much.
14 Some of the other tort -- excuse me -- some of
15 the other states that have PIP like New Jersey
16 and Michigan, New York are struggling with the
17 same type of issues.

18 New Jersey actually has an extremely
19 complicated utilization overlay for this
20 system, but that's at minimum \$250,000 benefit
21 as well. So our benefit is much lower and I
22 think that's why it kind of -- it
23 disproportionately looks worse.

24 But I don't really think we stand too far
25 apart from many of the other states with large

1 metropolitan areas. I think there's some
2 commonality, and I think that they are
3 struggling as well with the retention of a PIP
4 system, of a no-fault system.

5 COMMISSIONER PUTNAM: So are all 10 PIP
6 states above the national average?

7 CFO ATWATER: No.

8 MS. WESTCOTT: I don't think so, no.

9 CFO ATWATER: No. We are clearly a fraud
10 leader. To answer your question, the
11 litigation is more significant here, the number
12 of provider players seem to be more generous
13 here in who we allow to participate in the
14 system. And -- so that national average is
15 meant to be of the PIP players.

16 So you can see of the 10 that are still
17 hanging on to this concept, we are far
18 exceeding that, and it has been in many -- and
19 regrettably the -- we don't give the insurance
20 company much opportunity -- once a claim is set
21 in motion, there are time limits to hit, and
22 there is -- recent court cases have tossed out
23 the ability for an insurance company to go put
24 somebody under oath and say, I wanted to just
25 be sure I can -- you're here at a health care

1 clinic, you're looking for the MRI machine, can
2 I just have somebody under oath say that this
3 took place. And --

4 GOVERNOR SCOTT: Why would --

5 CFO ATWATER: -- the court cases --

6 GOVERNOR SCOTT: Why would that be? Why
7 would we not -- why would you not have to do
8 that?

9 CFO ATWATER: That's -- I -- I -- I -- I
10 would hope that one of the things we can
11 accomplish again is to provide that, tools that
12 we could allow the provider -- the payer in
13 this case, the insurance company, the
14 insurer -- insurer to go in and be able to
15 create evidence necessary to determine, I need
16 to get these people a check right away, or this
17 one we're not paying. But that's how this has
18 fallen out. Our past statutes after the courts
19 looked at them knocked out some of these
20 tools.

21 GOVERNOR SCOTT: Okay. So what's --
22 what's the process to fix this? What do we
23 have to do? What's a logical process to try to
24 get this fixed?

25 MS. WESTCOTT: Well, I would say a first

1 step would certainly be to try to get a little
2 more data about exactly the types of claims
3 from more than just one company's example. I
4 would like to see the insurance industry come
5 forward with information that would show us
6 exactly -- exactly who we're paying and what
7 for. I don't think that has been determined,
8 as totally discussed, as brought out with data
9 as we would want it to be.

10 Second, I do think once you get that data,
11 then we have to do kind of a comprehensive
12 analysis of, does the cost and the things that
13 have to be done to this make sense. I
14 mentioned the utilization as in New Jersey,
15 that is a very expensive process. And again
16 things like work comp have it, but they also
17 have a total system that deals with workers'
18 comp claims.

19 If we do that for a \$10,000 benefit here,
20 have we really gone beyond that cost-benefit
21 analysis that we need to do as to whether this
22 is really a viable system for Floridians. And
23 if we get to that point where we say, okay,
24 there is value, and there is value to paying a
25 claim -- or paying for medical treatment for

1 people, especially information submitted from
2 the hospital association showed that for
3 36 percent of the people they saw in that
4 emergency room, PIP was the only health care
5 benefit that -- or policy that they had.

6 So for some people, this is a very
7 valuable thing, and it's valuable for the rest
8 of us because if they don't have that, we all
9 pay for that in higher taxes, we all pay for
10 that in higher health care coverage, we all pay
11 for that in higher auto insurance premiums.

12 So, you know, there is a personal
13 responsibility under this statute, and it's a
14 valuable thing to have that privilege to drive
15 an automobile in our state attached to -- and
16 then you need to take care of the fact that if
17 you're injured, you can cover that cost.
18 There's value to that. But we need to also see
19 what is the cost of it to us.

20 GOVERNOR SCOTT: But the bottom line is
21 this is a \$900-million tax on Floridians.

22 MS. WESTCOTT: Yes, sir.

23 GOVERNOR SCOTT: And you're -- and it's
24 another -- and if we don't do anything, it's
25 going to be another \$500-million tax.

1 CFO ATWATER: Soon.

2 MS. WESTCOTT: I think it could be, yes.

3 GOVERNOR SCOTT: I mean, that's what
4 actually it is.

5 CFO ATWATER: One or two years from now.

6 MS. WESTCOTT: Yeah.

7 GOVERNOR SCOTT: It's a tax.

8 CFO ATWATER: Yeah.

9 GOVERNOR SCOTT: For the right to live in
10 Florida, we're going to tax you \$900 million
11 and we're going to give you -- give it to other
12 people.

13 MS. WESTCOTT: Right. Because ultimately
14 you're going to pay for that in the premiums.
15 I mean, that is the goal and -- it's to -- it's
16 to -- for an insurance company, it's to have
17 enough money to pay those losses when they come
18 into the company. And so that means the
19 response is, raise premium.

20 CFO ATWATER: Governor, I might add to
21 your question. I think the PIP system has been
22 extremely valuable in its earliest years for
23 the consumers of Florida; and if we can't
24 return it to that, we need to look at the
25 alternative. The alternative will be less

1 expensive for Floridians right away, fewer are
2 actually legitimately using it, but it is a
3 value.

4 And I think that the outline that's
5 presented by the Consumer Advocate is clear.
6 We have to have a limit -- limit -- limit who
7 is -- who are the providers that provide real
8 necessary care that occurs from accidents
9 involving automobile. Not every type of
10 possible service provider that gets a free run
11 at running up the claims.

12 Secondly, where will those take place?
13 What is the utilization going to be? Put this
14 on electronic filing so it's faster, quicker,
15 and easier for all of us to monitor. Address
16 the litigation that's involved with this system
17 and drive down and immediately call -- and
18 that's one of the things I would hope that the
19 Commissioner could address at some point -- a
20 rate filing as quickly as possible that could
21 go with what the bold changes the legislature
22 has to make.

23 But I do want to answer one question. You
24 asked about what has the insurance industry
25 done in our efforts to try to address this

1 situation. Frankly, I would say it's a failing
2 grade.

3 As upset as I am about watching how all of
4 the -- what I believe significant, overwhelming
5 fraud and abuse that's going on that is being
6 passed on to the consumer; as much as I defend
7 the need for the rate -- which I talked about
8 right off the bat, these are audited
9 statements, these are real losses -- for them
10 to be communicating this to the customers;
11 being on the lookout for the suspicious
12 activity; being encouraged to participate in a
13 staged accident; to provide the Consumer
14 Advocate with the data necessary to know who
15 we're actually paying, they have this data; to
16 provide us with what are litigation costs, they
17 have this data; how significant is the
18 multiplier effect on those lawsuits, they have
19 that data; they could be tremendously more
20 helpful.

21 And I would hope within the next 45 days
22 before the legislature meets, they'll sit down
23 and they'll provide the information. Just
24 simply believing that this is solely a
25 litigation issue is going to -- is not going to

1 allow for what are the right providers, what
2 are the right services, all of those things are
3 complete in a wholesome PIP coverage, and it's
4 my hope that they'll participate with us in
5 getting all the information necessary to make
6 the bold changes we have to make. Or if we
7 can't do that, the people of Florida just can't
8 keep paying these rates for this system.

9 GOVERNOR SCOTT: Why are people going to
10 continue to move to our state if we -- we can
11 talk about how we don't have a personal income
12 tax, we've got a big tax here. We have
13 almost --

14 CFO ATWATER: Right.

15 GOVERNOR SCOTT: -- a billion-dollar
16 tax --

17 CFO ATWATER: Right.

18 GOVERNOR SCOTT: -- just for the
19 opportunity to live here.

20 CFO ATWATER: Right.

21 GOVERNOR SCOTT: All right. Anything
22 else? All right. Thank you, Robin.

23 MS. WESTCOTT: Thank you.

24 GOVERNOR SCOTT: Okay. The next presenter
25 will be Scott Wallace providing an update on

1 Citizens Property Insurance. Good morning.

2 MR. WALLACE: Good morning. How are you
3 today, Governor?

4 GOVERNOR SCOTT: Great.

5 MR. WALLACE: Good morning, Commission
6 members. And, Governor Scott, with your
7 permission, I'll proceed.

8 GOVERNOR SCOTT: Absolutely.

9 MR. WALLACE: Thank you. First of all I
10 would like to thank -- thank you for allowing
11 me to address the Financial Services Commission
12 today. There are four general areas that I
13 would like to discuss today: Those are policy
14 growth and demographics, claims paying ability
15 and assessments, statutory and operational
16 issues that affect the size of Citizens, and
17 the status of implementing the provisions of
18 Senate Bill 408.

19 This slide represents some of our policy
20 growth over the years. Citizens currently has
21 approximately 1.4 --

22 GOVERNOR SCOTT: Scott, could you stop for
23 just -- excuse me for a second. Can you just
24 give an overview of 408, the main three or four
25 points?

1 MR. WALLACE: Pardon me?

2 GOVERNOR SCOTT: Can you just go over the
3 intention of 408 and what the main points
4 are --

5 MR. WALLACE: Sure.

6 GOVERNOR SCOTT: -- so that everybody
7 understands it?

8 MR. WALLACE: It will take a while to get
9 to it.

10 GOVERNOR SCOTT: Are you going to go
11 through 408 later on?

12 MR. WALLACE: Yeah.

13 GOVERNOR SCOTT: Just -- then wait. Then
14 wait. I'm sorry. You can go back.

15 MR. WALLACE: Okay. As stated earlier,
16 Citizens currently has approximately 1,476,000
17 policies in force today. This line shows the
18 policy counts over time for Citizens in all
19 three accounts, that includes the personal
20 lines account, the coastal account, and the
21 commercial lines account.

22 As the slide illustrates, in January 2010,
23 our in-force policy count was 1,030,000; as of
24 January of 2011, that had grown to 1,283,000;
25 and as of October 30th, 2011, our in-force

1 policy count is as I just stated, 1,476,000
2 policies. This represents a 43-percent
3 increase in just 21 months. Our projected
4 year-end in-force policy count is estimated to
5 come in at approximately 1,490,000 policies.

6 As this slide indicates, the personal
7 lines account has been our most volatile of all
8 three accounts. Between January '10 and --
9 January 2010 and September 30th, 2011, we have
10 grown the PLA account by approximately 309,000
11 policies, representing a 63-percent increase.

12 GOVERNOR SCOTT: Scott, can you explain
13 the difference between the three types of
14 accounts?

15 MR. WALLACE: The coastal account is all
16 of the businesses written in what was formerly
17 designated as the high-risk territories. Those
18 high-risk territories generally have a boundary
19 of approximately one -- or 1500 feet inland
20 from the sea water. There are exceptions to
21 that such as the Miami area in which the HRA or
22 the coastal account stretches into and all the
23 way to interstate 95.

24 The PLA account is for personal
25 residential business that is written, so to

1 speak, inland or outside of the coastal
2 account.

3 And the CLA business is the commercial
4 residential business that is written throughout
5 the state which includes condominiums,
6 homeowners associations, apartments, and so
7 on.

8 GOVERNOR SCOTT: And the original purpose
9 for Citizens was to cover who?

10 MR. WALLACE: The original purpose of
11 Citizens?

12 GOVERNOR SCOTT: Right.

13 MR. WALLACE: Well, to provide insurance
14 to those who are unable to obtain insurance in
15 the voluntary market.

16 GOVERNOR SCOTT: Throughout the state?

17 MR. WALLACE: Yes. All right.

18 By contrast, over the 15 years, the
19 coastal account, or formerly known as the high-
20 risk account, had remained relatively flat with
21 the lowest in-force policy count being in 2002
22 with 397,000 policies, and the highest in 1996
23 with 465,000 policies. Today we stand at
24 450,000 policies in force in the coastal
25 account.

1 The commercial lines account is
2 currently -- consists of 8,128 policies, which
3 is down from the high of 9,126 policies in
4 2009. While this does represent a small policy
5 count, I should note that the total exposure
6 still remains at just a hair over \$40 billion,
7 which is significant.

8 With regard to our policy growth, I think
9 it is important to also look at the
10 demographics of our book of business. A couple
11 of key points to keep in mind, the insured
12 values of our homes, 97 percent of the homes in
13 the personal lines account are insured for less
14 than \$400,000, and 82 percent of the homes in
15 the coastal account are insured for less than
16 \$400,000.

17 When we look at the age of homes, we find
18 that 78 percent of the homes written in
19 Citizens in both the personal lines account as
20 well as the coastal account are more than
21 20 years old. That same trend tracks right
22 through our mobile home business in which
23 75 percent of our mobile home business are on
24 structures that are more than 20 years old.

25 One key important thing I would like to

1 also point out is our geographic
2 concentration. New business written since
3 January of 2010, we see that 71 percent of new
4 personal residential policies are being written
5 in southeast Florida and the greater Tampa Bay
6 area.

7 Going to the next slide --

8 CFO ATWATER: Scott, is that new business
9 in southeast Florida, is it CLA, or is it PLA,
10 or -- it doesn't look to be coastal.

11 MR. WALLACE: PLA primarily.

12 CFO ATWATER: Okay.

13 MR. WALLACE: Yes, it is.

14 Okay. The next slide is a summary of our
15 assessment structure. This is a refresher for
16 you. I believe this was provided to you in
17 June, but it does provide a graphical depiction
18 of the order in which Citizens levies
19 assessments which is illustrated in some of the
20 following slides.

21 Excuse me. Any questions?

22 GOVERNOR SCOTT: Sure. Let's go through
23 that for a second. Okay. So how does this
24 work?

25 MR. WALLACE: Okay. If there is -- excuse

1 me -- a deficit in any one account --

2 CFO ATWATER: You know, Governor, I might
3 suggest that if he leaves that on the screen
4 and you pull two slides further, you'll see the
5 actual impact on the consumer as he talks about
6 how the hierarchy works.

7 GOVERNOR SCOTT: Okay.

8 MR. WALLACE: Okay.

9 GOVERNOR SCOTT: That's great.

10 MR. WALLACE: But I will go through this
11 pyramid. With the Citizens policyholders
12 surcharge, the first line of defense is
13 Citizens policyholders. If there is a deficit
14 in any one account, Citizens has the ability to
15 provide or assess a Citizens policyholders
16 surcharge, up to 15 percent per account to
17 satisfy the deficit. In other words, a
18 45-percent increase of all three accounts were
19 impacted.

20 GOVERNOR SCOTT: I mean, what's the
21 average -- so a \$400,000 home, what's the
22 average premium?

23 MR. WALLACE: I think our average premium
24 runs about \$2300 on our book of business.

25 GOVERNOR SCOTT: Okay. So they're going

1 to have -- well, I guess it depends on the --

2 MR. WALLACE: Yeah. But we will show that
3 in future slides for you.

4 GOVERNOR SCOTT: Okay. Great.

5 MR. WALLACE: All right? If a deficit
6 still remains, then a regular assessment would
7 come into play in which case all policyholders,
8 except Citizens policyholders, would be
9 assessed up to six percent per account, so a
10 maximum of 18 percent.

11 And, thirdly, if there continues to be a
12 deficit, then we would go to the emergency
13 assessment, which is an assessment that could
14 be up to 10 percent per account per year until
15 the deficit is satisfied. So if we can go
16 through some examples, I think that would be
17 helpful for you.

18 All right. This is -- we'll start out
19 with some of the worst-case scenarios. On the
20 left side of the slide, this shows a one in
21 100-year event, which would require the
22 exhaustion of Citizens surplus and levy as a
23 45-percent Citizens policyholder surcharge; the
24 levy of regular assessments in each of the
25 three accounts; in addition to a 19-percent

1 emergency assessment on the coastal account
2 only. The emergency assessment would apply to
3 all policies for just -- well, for
4 approximately two years.

5 Now, if we look at the right side of the
6 slide, this second pie on this slide represents
7 the largest hurricane recorded in Florida
8 history, that would be the Great Miami
9 Hurricane of 1926, and it was greater than a
10 one in 100-year event. And this shows the
11 potential impact on Citizens if the storm
12 struck today with the same path as it did in
13 1926.

14 As you can see from this storm -- or as
15 you can see, this storm is very similar to the
16 one in 100-year event. The significant
17 difference between the two is the significant
18 impact in the emergency assessment in the
19 coastal account.

20 In the one in 100-year event, which is a
21 more generic event, we see that the total
22 assessment in the emergency account is
23 19 percent. In the Great Miami Hurricane, it
24 would be 25 percent.

25 On the next slide we provide examples of

1 how that effect -- how the effect of
2 assessments on both Citizens and private
3 insurer policyholders.

4 So looking at the one in 100-year
5 hurricane event, you can see that the Citizens
6 policyholder would have a surcharge in the
7 first year of \$1100 in addition -- that would
8 go on top of his \$2,000 premium. I mean, we're
9 using an average -- a typical premium based on
10 a thousand -- or \$2,000 --

11 GOVERNOR SCOTT: So -- and the typical
12 premium is 2300?

13 MR. WALLACE: Yeah.

14 GOVERNOR SCOTT: And the average premium
15 is 20 -- yeah.

16 MR. WALLACE: Yeah. I mean, looking at
17 it -- we tried to use some round numbers, so if
18 you want to know --

19 GOVERNOR SCOTT: Yeah.

20 MR. WALLACE: -- what it was for 3,000 or
21 4,000 --

22 GOVERNOR SCOTT: You could do that.

23 MR. WALLACE: -- you could easily --

24 GOVERNOR SCOTT: But the average person --
25 the average premium is \$2300.

1 MR. WALLACE: Right.

2 GOVERNOR SCOTT: What do you think the
3 average person has in the bank?

4 MR. WALLACE: In the bank?

5 GOVERNOR SCOTT: Yeah. How much money do
6 they have, I mean, the average household have
7 in the bank?

8 MR. WALLACE: In these economic times,
9 very little.

10 GOVERNOR SCOTT: So how are they going to
11 write an \$1100 check?

12 MR. WALLACE: That's going to be a real
13 challenge.

14 GOVERNOR SCOTT: And let's say they can't
15 write the \$1100 check, what happens?

16 MR. WALLACE: I would imagine they no
17 longer receive insurance.

18 GOVERNOR SCOTT: So our plan is relying on
19 something that can't happen, is relying on the
20 fact that these people can't write a check,
21 right?

22 MR. WALLACE: Well, assuming that they
23 can't write a check, not everybody is in that
24 situation where they can't write a check, but
25 this is something that was created by the state

1 legislature, we are carrying out that role and
2 responsibility.

3 GOVERNOR SCOTT: So does the -- what sort
4 of -- when you -- you sell a policy, does the
5 person know that this is going to happen, they
6 have -- this risk?

7 MR. WALLACE: Well, there's been a great
8 deal of talk in the media and stuff, many
9 people have become aware of assessment
10 capabilities. But in addition to that, under
11 Senate Bill 408, one of the requirements is to
12 provide a -- require a signed statement from
13 the applicant acknowledging that he knows his
14 policy will be assessed or it can be assessed.

15 GOVERNOR SCOTT: And that went -- when did
16 that go into effect?

17 MR. WALLACE: That has -- the form was
18 approved in October, that will go into effect
19 January of 2012.

20 GOVERNOR SCOTT: So what -- have you done
21 any surveys to see what percentage of
22 Floridians realize that they have this risk of
23 assessment?

24 MR. WALLACE: No, we haven't.

25 GOVERNOR SCOTT: Okay. So -- all right.

1 So we have potential -- it's really higher than
2 this because it's -- the average premium is
3 \$2300, so it's more than 1100, but you say it's
4 \$1200. The average Floridian you believe
5 doesn't have the money.

6 So say they don't write the check; so if
7 they don't write the check, then what happens?
8 So I'm a home -- I'm a home -- homeowner, I had
9 \$10,000 worth of damage, I can't write the
10 check. And so Citizens just cancels my
11 policy. Is that what happens?

12 MR. WALLACE: Well, I believe under the
13 rules that's -- it would be for nonpayment of
14 premium.

15 GOVERNOR SCOTT: Yeah, but -- yeah.
16 Okay. So let's go through -- so step one, they
17 can't write the check -- and you've got to have
18 the money right away, because you have --
19 you're expected -- Citizens is expected to pay
20 everybody else, right? No, I guess there is a
21 penalty --

22 MR. WALLACE: It is assessed at the policy
23 renewal. The policyholder's surcharge is
24 assessed at policy renewal.

25 GOVERNOR SCOTT: So how does Citizens pay

1 out the claim then?

2 MR. WALLACE: We have liquidity built up
3 so that we can pay the claim.

4 GOVERNOR SCOTT: Okay. Let's go back a
5 slide. You have a surplus now of fif -- of how
6 much, 5.7 billion?

7 MR. WALLACE: Yes.

8 GOVERNOR SCOTT: So if the consumer --
9 where's the consumer paying in this one?

10 MR. WALLACE: That would be -- it would
11 be -- Citizens policyholder surcharge, that is
12 levied at policy renewal.

13 GOVERNOR SCOTT: That's the one billion
14 one seventy-two? Okay. And then what's --

15 MR. WALLACE: Yes.

16 GOVERNOR SCOTT: Okay.

17 MR. WALLACE: And then you have regular
18 assessments, and that would be three billion
19 606. And that is levied within 30 days after
20 the event.

21 GOVERNOR SCOTT: So in this case --

22 MR. WALLACE: And that is levied against
23 the insurance companies.

24 GOVERNOR SCOTT: Okay. In this case, half
25 the money is relying on somebody being able to

1 write a check, right? Half -- if you look at
2 this -- there's \$23 billion probable maximum
3 loss, half of this -- approximately half of
4 this money, somebody after the fact has to be
5 able to write a check.

6 MR. WALLACE: Correct. And that would
7 be -- that would hold true ultimately with all
8 of the policyholders regardless of the
9 assessment.

10 GOVERNOR SCOTT: And why would we ever
11 believe people could write a check?

12 MR. WALLACE: I think the --

13 GOVERNOR SCOTT: I mean, we know no one
14 has any money in the bank; it's very difficult.

15 MR. WALLACE: Well, I think that's a
16 question for the legislature to answer.

17 GOVERNOR SCOTT: I guess step one without
18 the legislature: are we -- so -- so that
19 you -- you think -- what percentage of people
20 today that have a policy do you think realize
21 they have this risk?

22 MR. WALLACE: I would guess maybe
23 40 percent. But that's an estimate on my --
24 that's my guess.

25 GOVERNOR SCOTT: And they realize that if

1 they can't write a check, they lose -- so if
2 they have a \$10,000 claim, they can't write
3 their check for \$1100, they lose their
4 \$10,000. Is that -- I mean, is that the way it
5 works?

6 MR. WALLACE: Well, the claim would not be
7 denied because the claim is already filed.

8 GOVERNOR SCOTT: So they'd have a right to
9 the claim, we don't have the right -- we
10 don't -- Citizens would not have the money to
11 pay the claim, right?

12 MR. WALLACE: But forward-going coverage
13 would be denied.

14 GOVERNOR SCOTT: Right, right. And then I
15 guess you're right, Commissioner, they would
16 lose -- because they don't have insurance, then
17 they would lose their mortgage. That's a
18 pretty good system.

19 ATTORNEY GENERAL BONDI: Hold on then -- I
20 was just told, you don't even have to own a
21 home to be assessed, correct?

22 MR. WALLACE: Correct. I mean, this would
23 be on all policies --

24 ATTORNEY GENERAL BONDI: All policies.

25 MR. WALLACE: -- it would be second and

1 third, the emergency assessment and the regular
2 assessment go through the base similar to the
3 Florida Cat Fund, which is --

4 GOVERNOR SCOTT: And I guess the
5 additional point, Attorney General, is that
6 this -- on this example of the 2,000, this is
7 just their homeowners policy.

8 ATTORNEY GENERAL BONDI: Right.

9 GOVERNOR SCOTT: So that doesn't include
10 what would be under their auto insurance
11 policy, or their life insurance policy --

12 ATTORNEY GENERAL BONDI: Yeah.

13 GOVERNOR SCOTT: -- or their disability
14 policy, or whatever policy they had --

15 MR. WALLACE: Well, if we can go to the
16 next slide, I can clarify that a little bit
17 better.

18 All right. Here you have -- in the first
19 column you have a Citizens policyholder,
20 they're going to be assessed \$1100 in the first
21 year while a property -- non-Citizens property
22 owner would be assessed \$433. And because the
23 emergency assessment is not pure -- goes into
24 the second year, all policyholders in the State
25 of Florida would be assessed an additional

1 \$200 -- \$180 in the third year.

2 GOVERNOR SCOTT: I still think -- I still
3 think the way we're looking at this is that:
4 (1) we know there's a significant number of
5 Floridians that don't have a dime in the bank,
6 live paycheck to paycheck. They're going to
7 get assessed, they don't have the money. They
8 don't even know that they have this assessment,
9 right?

10 CFO ATWATER: Most don't know, most don't
11 know.

12 GOVERNOR SCOTT: And then you're going to
13 cancel their policy, and then they don't --
14 you're right, Commissioner, they're going to
15 lose their mortgage. Okay.

16 CFO ATWATER: Now, Scott, you mentioned at
17 renewal. Do you want to just offer up what
18 payment plan they would have at renewal?

19 MR. WALLACE: A Citizens policyholder?

20 CFO ATWATER: Right.

21 MR. WALLACE: Well, in this situation of a
22 one in 100-year event, they would receive a
23 paid bill for \$3100 under this one in 100-year
24 scenario, they could go to a quarterly payment
25 plan if they so choose, or pay the premium up

1 front, or I believe we also have a six-month
2 payment plan.

3 CFO ATWATER: In the 31 -- in this
4 example, the 3100, the 2,000 will be their
5 normal coverage for the coming year --

6 MR. WALLACE: Correct.

7 CFO ATWATER: -- and 1100 now embedded to
8 make it a \$3100 bill --

9 MR. WALLACE: Correct.

10 CFO ATWATER: -- and they could go to a
11 quarterly payment.

12 MR. WALLACE: Correct.

13 GOVERNOR SCOTT: Yeah. But the fallacy of
14 that is that Citizens is obligated to pay these
15 claims out. They don't have the money. So you
16 have a \$10,000 claim, you're not getting paid.

17 CFO ATWATER: I -- I couldn't agree more
18 with that. There's probably -- what's our --
19 what's our number now, about -- what's our
20 reserves now?

21 MR. WALLACE: We currently have in surplus
22 about \$5.7 billion.

23 CFO ATWATER: 5.7 billion. So that will
24 take us a bit of time --

25 MR. WALLACE: Right. And --

1 CFO ATWATER: -- to pay out.

2 MR. WALLACE: -- if it's a severe
3 hurricane such as this, then we would also
4 have -- the next step would be --

5 CFO ATWATER: The Cat.

6 MR. WALLACE: -- the Cat Fund; and then
7 after that in the coastal account we have
8 private reinsurance that kicks in; and then
9 future assessments, emergency assessments, and
10 so on.

11 GOVERNOR SCOTT: Right.

12 COMMISSIONER PUTNAM: Well, the
13 assessments -- the assessments, are they
14 designed to pay for the event, or are they your
15 bonding mechanism to secure the reinsurance and
16 the deals that we do with Warren Buffett?

17 MR. WALLACE: No. The assessments are
18 designed to cover the deficits created by the
19 storm.

20 COMMISSIONER PUTNAM: So their future --
21 they're -- like to the Governor's point,
22 they're the promise of future payments for
23 something -- for a check that's got to be cut
24 to immediately get a roof back on a house.
25 So --

1 MR. WALLACE: Correct.

2 COMMISSIONER PUTNAM: -- what -- so it's
3 up to the state to close that -- to cash flow
4 that.

5 MR. WALLACE: Correct, correct.

6 GOVERNOR SCOTT: So how does the state do
7 it? Where is the money if the state does it?

8 MR. WALLACE: Through the assessment
9 process. I mean, we would just keep on
10 assessing those who are paying until -- until
11 such time as the deficit was cured.

12 GOVERNOR SCOTT: I mean, the state's
13 not -- the state has no financial obligations.

14 MR. WALLACE: Correct.

15 CFO ATWATER: Correct.

16 GOVERNOR SCOTT: None. Okay. So --

17 COMMISSIONER PUTNAM: Theoretically.

18 GOVERNOR SCOTT: Yeah. So by contract the
19 state has no financial obligation. So --
20 okay. All right. So it's still -- let's go
21 back through. The way this is going to happen
22 is: we have the hurricane, we -- it's past
23 what they can pay, we do these assessments, the
24 homeowner can't pay, we don't have the money to
25 give to the homeowner to fix their house,

1 Citizens cancels their policy, doesn't fix
2 their house, and they lose their mortgage.

3 MR. WALLACE: No. We would still be
4 obligated to fix their house.

5 GOVERNOR SCOTT: You don't have the
6 money.

7 ATTORNEY GENERAL BONDI: How?

8 GOVERNOR SCOTT: You don't have the
9 money. How would you have the money --

10 MR. WALLACE: We do have claims-paying
11 ability. I mean, we do have \$16 billion in
12 liquid funds in order to pay claims.

13 GOVERNOR SCOTT: Okay. Sixteen, but the
14 claims are for 20 -- I thought the claims were
15 for 23 billion.

16 MR. WALLACE: Well, we would have to do
17 some post-event bonding.

18 ATTORNEY GENERAL BONDI: Wait, I'm sorry.
19 Where does that money come from? You've lost
20 me. I don't see how we can afford to pay
21 these.

22 MR. WALLACE: We have \$16.7 billion in
23 claims-paying ability right now.

24 ATTORNEY GENERAL BONDI: Sixty?

25 MR. WALLACE: Sixteen --

1 ATTORNEY GENERAL BONDI: Sixteen.

2 MR. WALLACE: -- billion. If the claim
3 came in -- or the total dollar amount came in
4 at 23 billion, we would have to do further
5 assessments and do some external bonding --

6 ATTORNEY GENERAL BONDI: And so where --

7 MR. WALLACE: -- post-event bonding.

8 ATTORNEY GENERAL BONDI: -- explain to me
9 where that money would come from, the
10 difference.

11 MR. WALLACE: We would go out, raise the
12 capital in the bond markets, issue the debt,
13 take the cash to pay the claims, and then have
14 to put that on future assessments to
15 policyholders.

16 ATTORNEY GENERAL BONDI: And you have the
17 ability to do that in the event of a
18 catastrophic event?

19 MR. WALLACE: Yes.

20 GOVERNOR SCOTT: So -- are you talking
21 about that -- Scott, do you talk about that
22 later, how you do that? Or is there a slide on
23 that?

24 MR. WALLACE: We don't have a slide on
25 that today.

1 GOVERNOR SCOTT: So it's a how -- so how
2 do you -- so how do you do that? So you go --
3 all right. So you right now -- just make sure,
4 let's look at this. When you've got -- you've
5 got -- let's go back to your slide 5 again.

6 You've got \$5.7 billion worth of surplus.
7 Okay. The next line -- so the reimbursements
8 are from who?

9 COMMISSIONER PUTNAM: That's the Cat Fund.

10 GOVERNOR SCOTT: FHCF reimbursements,
11 that's the Cat Fund?

12 COMMISSIONER PUTNAM: Yes.

13 GOVERNOR SCOTT: Okay. And I thought
14 we -- the Cat Fund was significantly under
15 water.

16 CFO ATWATER: Governor, I think -- I think
17 you're right on target. And I don't --
18 everything that you're asking is right on
19 target. I might suggest to you that it's not
20 this slide that is my greatest concern.

21 GOVERNOR SCOTT: Okay.

22 CFO ATWATER: It's this slide happening
23 twice is my concern.

24 GOVERNOR SCOTT: We can't even do it
25 once.

1 CFO ATWATER: Well, but I do want you to
2 know that if it happens one time, the cash flow
3 of us paying claims out to the tune of
4 \$24 billion, by the time we can get to
5 appropriately working as fast as we can and
6 should for the consumers of Florida, by the
7 time you work through the reserves; the
8 Cat Fund dollars; and you start getting into
9 those, who are paying quarterly, your cash flow
10 is probably going to work the first time. But
11 you're asking a right question.

12 This is -- you can't pull this off. You
13 can't pull the rabbit out of the hat too many
14 times.

15 GOVERNOR SCOTT: You would never organize
16 your life like this.

17 CFO ATWATER: Never, no. Well --

18 GOVERNOR SCOTT: Never. I mean --

19 CFO ATWATER: So that's -- let's say --
20 you're absolutely right. I just -- we're
21 laboring over whether the cash flow would work
22 once.

23 MR. WALLACE: Right.

24 CFO ATWATER: It's going to probably work
25 once. It's not going to be good, and it's

1 not -- it's not --

2 GOVERNOR SCOTT: So we paid twice.

3 CFO ATWATER: Then you're gone. Yeah,
4 then you're --

5 GOVERNOR SCOTT: So it happens twice,
6 what's your plan?

7 CFO ATWATER: That's a good -- that's a
8 very good question, and I don't think people
9 have thought that far ahead of it. And quite
10 frankly, even in the private -- even in the
11 private industry, if you receive two one in
12 100-year events year after year, I think the
13 entire state would have some deep, serious
14 trouble.

15 COMMISSIONER PUTNAM: And they both don't
16 have to be one in a hundred -- you get the
17 first one that's the one in a hundred, and
18 then -- and then just have the normal event the
19 next year after you're already broke. You
20 don't have to paint this sci-fi picture. You
21 just --

22 CFO ATWATER: Well, I have --

23 COMMISSIONER PUTNAM: And history shows
24 that we have busy seasons. It's not episodic.
25 It's back to back in the '20s that got us the

1 Hoover Dike. It's back to back in '04-'05. So
2 just one of those seven in '04-'05 had been the
3 one in a hundred we would have been out of
4 business when the next six came through.

5 MR. WALLACE: Correct. And I dare say
6 that the private industry would have very, very
7 similar problems.

8 CFO ATWATER: And to -- if I could say to
9 the Commissioner's point, in '04-'05 we had
10 820,000, 850,000 policies. Today it's
11 1.4 million.

12 MR. WALLACE: Correct.

13 CFO ATWATER: So this is getting to where
14 you would -- you'd have the stress much quicker
15 than your ability to absorb some of the earlier
16 with those kinds of reserves --

17 MR. WALLACE: Correct.

18 CFO ATWATER: -- which we've burned
19 through before.

20 MR. WALLACE: Right.

21 CFO ATWATER: So that's why it is --
22 you're absolutely correct, one of these we can
23 handle, but this is not how to do it.

24 GOVERNOR SCOTT: Okay. So let's make sure
25 I understand something. So when you go back --

1 so the regular assessment, that's to
2 policyholders, right?

3 MR. WALLACE: Pardon me?

4 GOVERNOR SCOTT: The regular assessment is
5 to policyholders.

6 MR. WALLACE: Yes. To Citizens -- to
7 policyholders outside of Citizens.

8 GOVERNOR SCOTT: Okay. The emergency
9 assessment is to the companies, right?

10 MR. WALLACE: No. The emergency
11 assessment is to all policyholders in the
12 state.

13 GOVERNOR SCOTT: Okay. So when do you --
14 okay. So I thought we had to eventually go
15 after the -- we were able to go after the
16 insurance companies.

17 MR. WALLACE: That is in the regular
18 assessment --

19 GOVERNOR SCOTT: Oh, that's in --

20 MR. WALLACE: The first assessment --

21 GOVERNOR SCOTT: -- the regular
22 assessment?

23 MR. WALLACE: Yeah. That's in the regular
24 assessment. And that would be to policyholders
25 other than Citizens.

1 GOVERNOR SCOTT: Okay. And if a company
2 is not able to pay, what happens?

3 MR. WALLACE: We -- we keep assessing the
4 other companies until we reach the dollar
5 threshold. We keep pushing the assessment
6 layers down further and further.

7 GOVERNOR SCOTT: So if -- so does that
8 create -- so it creates an economic incentive
9 as an insurance company not to have a lot of
10 money, because that way you don't -- you never
11 have to pay the regular assessment because
12 you'll go to the next person, right?

13 MR. WALLACE: Well, and -- forgive me, but
14 I don't know the penalties if they don't pay
15 that. I don't know if there is a regulatory
16 rule that says, you know, they're kicked out of
17 the state or what have you.

18 GOVERNOR SCOTT: But I want to be out of
19 the state.

20 MR. WALLACE: Maybe so.

21 GOVERNOR SCOTT: So you have -- you have
22 an ec -- (inaudible) this is right. So you
23 would have an economic incentive never to have
24 that big of an insurance company, right?
25 Because if they just keep going to the next

1 insurance company, why would you want to do
2 business here?

3 CFO ATWATER: I think if I were to maybe
4 speak to the mindset, I don't think they would
5 intentionally maneuver to create that
6 condition. I think they though, as a brand
7 name trying to do business in the State of
8 Florida, would look at -- as you know, the
9 preciousness of a brand name -- they're going
10 to be taking this assessment and sending it
11 directly through to their customer while
12 they've advanced the dollars. Okay. And --

13 GOVERNOR SCOTT: If they have them.

14 CFO ATWATER: If they have them, if they
15 have them. And again I don't think they would
16 manipulate the process just to accomplish that
17 objective. But I think they all see this as --
18 they would see this as: So what I've worked
19 hard for to develop my brand and take risks in
20 the marketplace, I'm now having to pass through
21 a burden to my customer on an assessment that
22 they think is coming from my brand name.
23 They're not going to figure all of this out,
24 I've just sent them a \$433 bill, I think by
25 this example, whatever the dollar is.

1 MR. WALLACE: Uh-huh.

2 CFO ATWATER: And they're going to go,
3 what's the story. You know, I thought I was
4 with you, I thought I was well covered; then
5 they have to explain all of that.

6 I don't think they're going to manipulate
7 reserves to not participate. I think they see
8 this as you're assessing my client and I'm
9 taking all the risk with my client, and it's my
10 brand that's at stake here, and if I'm here,
11 let's have rate adequacy and I'll take the
12 client myself, and we'll all work this out
13 without you. I think that would be their
14 perspective.

15 MR. WALLACE: If I can just say a couple
16 of comments as well. I mean, as we know with
17 the history of Citizens and the insurance
18 industry in general, it's gone through some
19 difficult times, periods of frozen rates,
20 periods of glide path, while at the same time
21 during that period people have argued that the
22 rates are woefully inadequate each year we file
23 for a rate increase and other companies do as
24 well.

25 The fact is, this is one of those

1 situations, do you pay me now or pay me later?
2 What -- with Governor Scott's question is: Can
3 somebody afford an \$1100 a year payment if the
4 actuarially sound rate was put in place, you'd
5 have far less likelihood -- or probably less
6 likelihood and less dollars in the event of a
7 true catastrophic event hitting had we been
8 charging year over year and building surplus,
9 as we should, using actuarially sound rates and
10 even on top of that or better yet that are
11 noncompetitive.

12 COMMISSIONER PUTNAM: Is the actuarially
13 sound rate greater or less than the one-time
14 assessment that they would face?

15 MR. WALLACE: I would have to calculate
16 that. We could figure that out pretty quick.

17 GOVERNOR SCOTT: Okay. We've got you off
18 your presentation, so why don't you go through
19 what you want to show us and -- because I know
20 you have more stuff you want to show us.

21 MR. WALLACE: Okay. What slide are we on
22 now?

23 GOVERNOR SCOTT: I think we're here.

24 MR. WALLACE: Yeah. Okay. We have
25 provided a number of additional examples for

1 you to demonstrate the potential impact of
2 assessments for single -- large single events
3 and multiple storm scenarios as represented in
4 2004-2005 if they occurred today.

5 I think it is important to note that in
6 all of the scenarios which follow except for
7 Hurricane Andrew, including a repeat of 2004
8 and 2005 storm seasons, there are no deficits
9 triggered in the PLA or CLA account.
10 Notwithstanding the continued growth of those
11 accounts, which does represent our best
12 opportunity for depopulation to the voluntary
13 market, our greatest assessment exposure and
14 rate need continues to be in the high-risk
15 coastal account.

16 GOVERNOR SCOTT: I guess -- I guess,
17 Scott, the risk is that if you have -- even if
18 you just have a 2004, then your surplus is
19 going to be down to what, a billion five or
20 so? The risk is you have a 2004, and then you
21 have a 2005, and then you have a 2 -- every
22 year, right?

23 MR. WALLACE: Yeah. If you had all the
24 storms take place -- if you had 2004 repeat
25 itself, yes, our surplus would be depleted

1 largely.

2 GOVERNOR SCOTT: Yeah.

3 MR. WALLACE: And if you had a 2005 same
4 set of circumstances repeat itself, we'd be --
5 we'd have a much lower surplus.

6 GOVERNOR SCOTT: At today's rates, what do
7 you generate in surplus a year?

8 MR. WALLACE: We generate close to 800 to
9 a billion dollars assuming no hurricane.

10 GOVERNOR SCOTT: Yeah, okay. So this
11 assumes, like if you had a 2004, if -- well, if
12 you're at 5.7 now, you generated 6.7, and you
13 spend out four, you couldn't do it two years in
14 a row.

15 MR. WALLACE: Correct, correct. Now, if
16 we -- up to the next slide. This just
17 reinforces what I said.

18 GOVERNOR SCOTT: Scott, you don't know
19 what -- you don't know -- off -- right --
20 standing here right now, you don't -- you could
21 come back to us, but you don't know what today
22 would -- exactly what the actuarially sound
23 rate is, do you?

24 MR. WALLACE: Well, it varies by
25 territory.

1 GOVERNOR SCOTT: But overall you don't
2 know.

3 MR. WALLACE: I believe we're still
4 seeking an overall territory rate increase --
5 overall statewide increase of approximately
6 35 percent.

7 GOVERNOR SCOTT: So -- okay. So I see
8 what you're saying. So a \$2300 policy would be
9 35 percent more.

10 MR. WALLACE: Yes. And let me reassure
11 you that that's very deceiving because some
12 territories are calling for --

13 GOVERNOR SCOTT: Yeah.

14 MR. WALLACE: -- 400 percent while other
15 territories don't need any rate --

16 GOVERNOR SCOTT: Right.

17 MR. WALLACE: -- increase.

18 GOVERNOR SCOTT: Yeah. If you're in
19 Sebring, you probably don't have a lot of risk;
20 but if you're in Naples, you do.

21 MR. WALLACE: Yes.

22 GOVERNOR SCOTT: Okay. Did that answer
23 your -- Commissioner, did that answer your
24 question?

25 COMMISSIONER PUTNAM: Somewhat.

1 GOVERNOR SCOTT: Okay. Okay.

2 MR. WALLACE: All right. This just is a
3 backup slide to the --

4 GOVERNOR SCOTT: Yeah, we know --

5 MR. WALLACE: -- circle so we can move on
6 from there.

7 In this situation in slide 9, if we looked
8 at the losses created in 2004 and 2005
9 collectively, so we had all eight storms hit,
10 there would be both a Citizens policyholders
11 and a regular assessment in the coastal account
12 but still no use of the Cat Fund recoveries, no
13 assessments in the PLA or CLA account, and no
14 emergency assessments would be applied.

15 GOVERNOR SCOTT: Let me make sure I -- so
16 if you had the 2004-2005 hurricanes all in one
17 year --

18 MR. WALLACE: Yep.

19 GOVERNOR SCOTT: -- that's what this one
20 is. So you do -- so you're part of a -- is
21 that policy surcharge issue, that's on the next
22 page, 300 bucks?

23 MR. WALLACE: Right.

24 GOVERNOR SCOTT: And then regular
25 assessment is the -- everybody?

1 MR. WALLACE: Yes.

2 GOVERNOR SCOTT: That's 85 bucks.

3 MR. WALLACE: All right.

4 GOVERNOR SCOTT: Okay.

5 MR. WALLACE: By contrast -- you know,
6 going back to the slide with the circles here,
7 or the pies. By contrast if Hurricane Andrew
8 occurred today, we would rely on Cat Fund
9 reimbursements, and private reinsurance,
10 policyholder surcharges, and regular
11 assessments.

12 GOVERNOR SCOTT: And, Scott, I guess it's
13 a different discussion to understand what the
14 chance that the Cat Fund can pay, it is,
15 right? Do they -- do they actually have the
16 ability to pay.

17 MR. WALLACE: Well, according to the -- to
18 the latest reports that I've heard and read
19 about, they don't have it in hand at this point
20 in time. Whether they could collect those
21 upper layers of dollars in today's
22 marketplace --

23 GOVERNOR SCOTT: Yeah.

24 MR. WALLACE: -- might be a difficult
25 challenge.

1 GOVERNOR SCOTT: And so you're -- what
2 percentage of the Cat Fund are you? How much
3 of your -- if I'm saying that right. So if
4 there's -- if there's an Andrew and you have a
5 claim, do you know what percentage of the money
6 that the Cat Fund has to fund -- because they
7 have to fund all insurance --

8 MR. WALLACE: Right.

9 GOVERNOR SCOTT: -- companies, right?

10 MR. WALLACE: I believe we represent 30 to
11 40 percent.

12 GOVERNOR SCOTT: Thirty -- how much?

13 MR. WALLACE: Thirty to 40 percent of the
14 Cat Fund.

15 GOVERNOR SCOTT: Okay. Thirty to 40. All
16 right, thanks.

17 MR. WALLACE: So if we move on to the next
18 slide?

19 GOVERNOR SCOTT: Yeah.

20 MR. WALLACE: Okay. Again this just shows
21 the combined 2004-2005 storm seasons basically
22 as a single event. You can see what the
23 assessments would look like. And again in both
24 the 2004 and 2005 combined event situation, and
25 in Hurricane Andrew, there would be no

1 emergency assessments applied. All right.

2 If we can move on to the next slide, I
3 would like to talk about current statutory
4 language that may encourage growth to
5 Citizens. You have seen the slides
6 demonstrated the recent growth that Citizens
7 has experienced which needs to be reduced.
8 There may be a variety of factors that have
9 influenced this growth, and I would like to now
10 discuss the statutory and nonstatutory
11 opportunities to reduce Citizens.

12 GOVERNOR SCOTT: Hey, Scott, can I ask you
13 a question?

14 MR. WALLACE: Uh-huh.

15 GOVERNOR SCOTT: On the first one, on the
16 10-percent cap on rates, that's like if you
17 were Sebring, you might not need that increase
18 of rates at all, right?

19 MR. WALLACE: Right.

20 GOVERNOR SCOTT: So but if you're in
21 Naples you might need to raise it a
22 hundred percent. I don't know what -- got the
23 right numbers.

24 MR. WALLACE: Right.

25 GOVERNOR SCOTT: So what this says is that

1 you can't raise it in Naples but more than
2 10 percent.

3 MR. WALLACE: Correct.

4 GOVERNOR SCOTT: So there's no glide path
5 here. Because the risk is Naples, Miami. So
6 this is a joke as a glide path --

7 MR. WALLACE: That's --

8 GOVERNOR SCOTT: -- 10 percent a year.

9 MR. WALLACE: -- a very good point.

10 GOVERNOR SCOTT: Okay. All right.

11 MR. WALLACE: As you know, there's a
12 10-percent cap on rate increases for Citizens
13 policyholders. Every time a private insurer is
14 granted a rate increase greater than
15 10 percent, the rate gap between Citizens and
16 those in the private market is making us even
17 more competitive. We're being outpaced by a
18 lot of the approvals. All right.

19 Moving on. Rates are not required to be
20 noncompetitive. In this regard, supplementing
21 current statutory language requiring rates to
22 be actuarially sound with a provision that
23 rates also be noncompetitive would certainly
24 work to address this issue.

25 In terms of the 15 percent eligibility

1 rule, under the current law -- or under current
2 law, an offer of coverage with a private
3 insurer does not necessarily disqualify an
4 applicant for Citizens coverage if the private
5 insurer's offer is more than 15 percent.

6 Another item that is driving more business
7 to us is the perpetual statutory eligibility.
8 Florida now requires that only an applicant
9 demonstrate his initial eligibility into
10 Citizens, and once covered by Citizens, is no
11 longer obligated to re-establish statutory
12 eligibility within Citizens.

13 There are also barriers to depopulation.
14 Private insurers frequently express frustration
15 with the fact that either the policyholder or
16 the agents present barriers to policy removal.
17 This pertains to the law that provides for
18 consumer opt out and consumer choice. Where if
19 a depopulation offer is made, the consumer can
20 choose to opt out and stay with Citizens, or
21 the agent may for some reason decide, I don't
22 want to leave Citizens and keep it in Citizens
23 as well.

24 Takeout's not available for surplus --
25 GOVERNOR SCOTT: Excuse me.

1 MR. WALLACE: -- lines companies.

2 GOVERNOR SCOTT: Excuse me, Scott. Does
3 the agent have an economic incentive to stay in
4 Citizens? Do you pay higher premiums?

5 MR. WALLACE: Higher commissions?

6 GOVERNOR SCOTT: I'm sorry, commissions.

7 MR. WALLACE: I don't believe we pay
8 higher commissions, no.

9 GOVERNOR SCOTT: But you don't pay lower,
10 you pay the market.

11 MR. WALLACE: Fairly close to the market.

12 GOVERNOR SCOTT: Yeah.

13 MR. WALLACE: Okay. Surplus lines
14 companies. In 2010 surplus lines companies
15 wrote \$274 million of personal and general and
16 commercial residential premium in the State of
17 Florida. It may be time to now consider
18 allowing financially strong surplus lines
19 companies to participate in depopulation
20 programs.

21 This is -- this next item is quite
22 important: Equivalent coverage to the private
23 market. Current law now requires that Citizens
24 offer coverage equivalent to that which is
25 offered in the voluntary market. While

1 Citizens' policies certainly -- policies
2 certainly need to be sufficient to meet
3 mortgage requirements and adequately protect
4 the principal structure, there may be
5 opportunities to make Citizens less attractive
6 through the types of coverage it provides to
7 consumers who do have another offer.

8 The next item is the statutory limit on
9 depopulation bonus. The current law limits
10 takeout bonuses to \$100 per policy, which is
11 paid only if the insurer agrees to keep the
12 policy for at least five years, and proof of
13 keeping that policy is required in order to
14 receive the \$100 bonus.

15 In this regard there may be other
16 opportunities to incentivize depopulation
17 through an enhanced depopulation program. One
18 possibility that we're currently looking at is
19 actually designing or developing good blocks of
20 business within the Citizens book that we can
21 talk with the private or voluntary market about
22 depopulation.

23 GOVERNOR SCOTT: So where is the
24 requirement that you have to do equivalent to
25 the private?

1 MR. WALLACE: I don't have the language
2 with me, but I know we could get it for you.

3 GOVERNOR SCOTT: Okay. If you can get it
4 to me.

5 MR. WALLACE: Yes.

6 GOVERNOR SCOTT: So you can't -- you can't
7 provide something that's more restrictive.

8 MR. WALLACE: Excuse me. We can provide
9 coverage that is less restrictive, but we
10 always have to offer that which is readily
11 available in the voluntary market. So, yes, we
12 can provide a DP-1 policy, but we also have to
13 offer an HO-3 policy.

14 GOVERNOR SCOTT: Okay. Yeah, if you'll
15 get me that information.

16 MR. WALLACE: Be glad to do so.

17 Slide number 12, operational changes.
18 From an operating standpoint, operational
19 changes that may reduce growth. Implementation
20 of more restrictive coverage. As indicated on
21 the previous slide, Citizens is required to
22 provide coverage equivalent to what is
23 available in the private market. However, we
24 have already taken steps to remove ancillary
25 coverages that in some cases are no longer

1 readily available in the private market.

2 For example, we have eliminated coverage
3 for screen enclosures, carports, certain
4 detached structures, and now provide a maximum
5 \$10,000 sublimit to provide coverage for damage
6 to floors. In addition we --

7 GOVERNOR SCOTT: Excuse me just a second.
8 So on the -- it said effective 1/1/2012 and
9 2 -- okay. So these are effective in January
10 and February next year.

11 MR. WALLACE: Correct.

12 GOVERNOR SCOTT: Okay. And does -- does
13 the typical policy cover floors?

14 MR. WALLACE: Pardon me?

15 GOVERNOR SCOTT: A typical policy covers
16 floors or it doesn't?

17 MR. WALLACE: Yes.

18 ATTORNEY GENERAL BONDI: Yes.

19 GOVERNOR SCOTT: It does?

20 MR. WALLACE: Yes. And often --

21 GOVERNOR SCOTT: -- been your experience?

22 ATTORNEY GENERAL BONDI: It's just they
23 do. And I mean that's a tremendous expense if
24 someone has damage are your floors. And now --

25 MR. WALLACE: Right.

1 ATTORNEY GENERAL BONDI: -- they're going
2 to be exempt in 2012?

3 MR. WALLACE: Well, it will have a
4 \$10,000 --

5 ATTORNEY GENERAL BONDI: 10,000 --

6 MR. WALLACE: -- sublimit. Yes.

7 GOVERNOR SCOTT: Okay.

8 MR. WALLACE: Okay. In addition we have
9 an operational team put together that is
10 reviewing potential changes, some of which
11 include elimination of liability coverage,
12 endorsements that may further restrict standard
13 policy language, different deductible
14 requirements, and other ideas that would ensure
15 that we are not providing above average or
16 Cadillac type coverage. In addition, we are
17 also reviewing our ability to phase out our
18 builder's risk program.

19 GOVERNOR SCOTT: What's your timing on
20 these things that you're considering?

21 MR. WALLACE: I would say early 2012. At
22 the February board meeting we will probably be
23 presenting options for phasing out the
24 builder's risk program. But once again this is
25 something that has been talked to with only

1 several board members, and it has to go through
2 the board of governors.

3 Also the adoption of new programs to
4 motivate insurers to remove policies. Examples
5 of incentives we currently are working on,
6 again, packaging blocks of business for removal
7 of Citizens to streamline and encourage
8 depopulation. We are also looking into the --
9 revising the seating commission structures
10 surrounding depopulation.

11 And the final -- the final point is on
12 increasing -- increase market awareness and the
13 use of FMAP. We are exploring ways to
14 encourage the use of the Florida Market
15 Assistance Plan to insure business that can be
16 placed in the private sector does not end up in
17 Citizens.

18 Initial thoughts on this were public
19 service announcement, agent trade shows, and
20 greater awareness wherever possible to the
21 public to let them know that they do have
22 options, they can contact FMAP. And what FMAP
23 will do is shop the market or post the
24 information on a readily available Web site.
25 If an agent or insurance company is interested

1 in taking that risk outside of Citizens, it
2 goes to that carrier and the agent and not to
3 Citizens. That is the principal behind FMAP.

4 Okay. If we can go to slide 13 --

5 GOVERNOR SCOTT: Scott, can I ask you a
6 question?

7 MR. WALLACE: Sure.

8 GOVERNOR SCOTT: What's the 16-percent
9 ceding commission? What is it and what's the
10 purpose of it?

11 MR. WALLACE: The 16-percent commission is
12 basically money paid by the takeout company to
13 pay up front agent commissions, and for
14 Citizens to continue servicing the policy until
15 its expiration. We would -- you know, when a
16 policy is removed, we will continue servicing
17 that policy until it comes up for renewal.

18 GOVERNOR SCOTT: And -- okay.

19 MR. WALLACE: So we --

20 GOVERNOR SCOTT: Is it mandatory?

21 MR. WALLACE: Well, it is now. But we are
22 looking at different options within that. I
23 mean, those are the two biggest drivers behind
24 the ceding commission.

25 GOVERNOR SCOTT: Okay. So does it give an

1 incentive for people to move or not move?

2 MR. WALLACE: Well, I think, it would --
3 it would certainly give the companies greater
4 incentive to take the business if they had a
5 lower ceding commission to pay.

6 GOVERNOR SCOTT: And why wouldn't you have
7 a lower one?

8 MR. WALLACE: Well, if we could justify
9 being able to do our business and making sure
10 that the agent gets paid, and -- at a reduced
11 amount, that's the thing that we're exploring.
12 And we still have expenses ourselves of
13 servicing the account.

14 GOVERNOR SCOTT: But the bigger risk is
15 having the policy.

16 MR. WALLACE: Yes. And depopulating our
17 policy.

18 I think the important thing before we get
19 to the last slide --

20 GOVERNOR SCOTT: Uh-huh.

21 MR. WALLACE: -- we are taking an
22 approach -- and I know that Chairman
23 Carlos Lacosta is way -- shouldn't use that
24 language -- is very much behind our efforts and
25 encouraging us to look at all opportunities in

1 which to refine Citizens and move it to a
2 company of last resort.

3 There are some things that we can do and
4 we will be doing, and we will be taking it up
5 to the board on a periodic basis. What would
6 be most helpful in this whole process, and I
7 don't know the legislative will, but if we
8 could get some other headway from the
9 legislative standpoint to clear the way and set
10 maybe a longer term direction designed to stand
11 the test of time to provide a more stable long-
12 term marketplace in the State of Florida.

13 GOVERNOR SCOTT: So, Scott, has anybody in
14 the last few years come by and just said, I'll
15 buy the whole company?

16 MR. WALLACE: No.

17 GOVERNOR SCOTT: Okay. So if -- would you
18 recommend anybody to buy it?

19 MR. WALLACE: That's a very good question,
20 because when I look at these numbers and the
21 PLA, and especially the PLA, it seems to be
22 able to stand pretty well given the -- I mean,
23 we don't have to dive into many of the
24 assessments on some pretty severe losses. I
25 mean, you don't have emergency assessments on

1 some very large losses.

2 It really depends. Because what you
3 really have is some very, very difficult
4 economic times. I venture to guess in -- if it
5 were five years ago, there may have been a
6 couple of companies willing to take a big chunk
7 of say the PLA business, which quite frankly
8 did happen in 2008, we had 385,000 policies
9 depopulated in that year.

10 GOVERNOR SCOTT: So if we just put
11 Citizens out on the market for sale, do you
12 have any idea if anybody would buy it right
13 now, or how much it would -- let's say we were
14 willing to write a check to get it off our
15 books, do you think -- you know, where we
16 didn't take any risk any more.

17 MR. WALLACE: I think in today's
18 situation, it would require a check from us or
19 the state to be the incentive to move that
20 business at this point in time.

21 GOVERNOR SCOTT: How much do you think it
22 would be?

23 MR. WALLACE: I don't have the figure on
24 that but we could work on one.

25 GOVERNOR SCOTT: How would you come up

1 with it? What would be the analysis?

2 MR. WALLACE: Well, I think what has to
3 happen, I would look at it similar to a private
4 insurance company where how much surplus do you
5 have, how much ability do you have to purchase
6 reinsurance that would take you up to a one in
7 100-year event, and then have reoccurring
8 events covered by going sideways on a couple of
9 events, and still be able to weather the daily
10 storms of non-Cat claims.

11 GOVERNOR SCOTT: Right.

12 MR. WALLACE: Citizens right now, we
13 project in 2012 receiving 70,000 non-Cat
14 claims. So it's...

15 GOVERNOR SCOTT: I would like to see that
16 analysis.

17 MR. WALLACE: Okay. All right. If we
18 can, we'll move to the final slide on --

19 GOVERNOR SCOTT: Yeah.

20 MR. WALLACE: -- status of key
21 implementation provisions for Senate Bill 408.

22 Since Senate Bill 408 was signed in May,
23 implementing the provisions of 408 has been a
24 high priority for Citizens. As such, we have
25 made necessary form and rate filings with the

1 Office of Insurance Regulation which will be
2 implemented beginning in January 2012.

3 This also includes -- this also includes
4 an assessment form that will also be attached
5 and implemented to policies beginning in
6 January with the new form.

7 I would also like to note that the
8 sinkhole inspection program has been
9 implemented. This program requires sinkhole
10 inspections prior to binding coverage in the
11 sinkhole prone territories.

12 And finally, within Senate Bill 408 we --
13 Citizens was required to do an outside analysis
14 to determine and evaluate outsourcing
15 opportunities. And that is well underway and
16 will probably be sent out after board approval
17 this coming November at the board meeting.

18 GOVERNOR SCOTT: Scott, do you -- I guess
19 you guys went through your rate filing and you
20 got a rate. Do you -- what's your belief as
21 far as whether it's actuarially sound or not,
22 for sinkhole?

23 MR. WALLACE: Well, let's do it this way:
24 we had outside people from Milliman, from an
25 economic view; we had people from outside

1 actuaries; we had internal actuarially staff --
2 actuarial staff; we also had another outside
3 actuary, John Rollins, they all went through
4 our information, and they understood the
5 methodology behind it, they agreed with
6 everything, they agreed with the results.

7 And quite frankly, my understanding is we
8 have made a request from the OIR as to why
9 there is such a large difference in what was
10 filed versus what was actually approved, and to
11 this point we have not received anything. And
12 I think that -- once we do receive that
13 information, that may be helpful.

14 GOVERNOR SCOTT: So when will you find
15 out?

16 MR. WALLACE: Well, when the OIR gives it
17 to us. I mean, we have not been given a date.

18 GOVERNOR SCOTT: But the law is the rates
19 are supposed to be actuarially sound, right?

20 MR. WALLACE: Yes.

21 GOVERNOR SCOTT: Okay. All right.

22 MR. WALLACE: And we believe our filing
23 was.

24 GOVERNOR SCOTT: All right. Any other --
25 I've got a comment, but does anybody else have

1 anything?

2 ATTORNEY GENERAL BONDI: No.

3 GOVERNOR SCOTT: Okay.

4 UNIDENTIFIED SPEAKER: (Inaudible.)

5 GOVERNOR SCOTT: Yeah. All right. First
6 off, Scott, thanks for doing this. So the --
7 so the CFO, Speaker of the House, Senate
8 President, and I have two appointments each to
9 the Citizens board. We've each filled these
10 appointments with qualified, experienced
11 individuals.

12 For example, I appointed John Rollins, an
13 actuary with over eight decades experience in
14 the insurance industry, including a period of
15 time at Citizens.

16 I also appointed John Workman who has over
17 20 years in the industry and has run several
18 insurance companies.

19 The CFO appointed Carlos Lacosta, the
20 chair of the Citizens board who was a member of
21 the legislature when Citizens was created and
22 who has extensive experience with property
23 insurance issues in our state.

24 We made those appointments to find a
25 solution to this problem. We know Citizens is

1 vulnerable, we saw that today as we go through
2 the numbers. We know we have a serious problem
3 if a major storm hits our state. We have to
4 have real solutions, and I, along with
5 everybody else up here, we expect the Citizens
6 board to find them.

7 To that end, I would ask you and your
8 staff to present the information discussed
9 today to the Citizens board at their
10 November 16 meeting. I would also like to ask
11 you to poll the board members prior to the
12 board meeting for their suggested solutions,
13 and discuss each suggestion at the meeting.

14 I would also like the board to adopt a
15 specific goal to reduce the size and exposure
16 of Citizens. This is not sustainable.

17 And after examining the issues and
18 concerning the consequences, I would expect the
19 board to decide upon a plan of action to
20 accomplish that goal. And I expect the board
21 to present real solutions to me and the Cabinet
22 at our December 6th meeting.

23 Finally, this is something we cannot
24 continue to do. I expect the solution you and
25 the board bring to me will solve the problem by

1 June of next year before the next hurricane
2 season.

3 Thank you very much for your presentation
4 today. Bye-bye.

5 MR. WALLACE: Thank you.

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1 GOVERNOR SCOTT: All right. The next
2 agenda is the Board of Trustees presented by
3 Herschel Vinyard.

4 SECRETARY VINYARD: Good morning,
5 Governor, Members of the Cabinet. The first
6 item is to submit to you for approval the
7 August 16th minutes from your last -- from your
8 cabinet meeting.

9 GOVERNOR SCOTT: Sure. Is there a motion
10 to approve Item 1?

11 CFO ATWATER: So move.

12 GOVERNOR SCOTT: Is there a second?

13 ATTORNEY GENERAL BONDI: Second.

14 GOVERNOR SCOTT: Moved and seconded.
15 Item 1 is approved without objection.

16 SECRETARY VINYARD: Item 2, the department
17 requests that we withdraw Item 2.

18 GOVERNOR SCOTT: Okay.

19 ATTORNEY GENERAL BONDI: So moved.

20 GOVERNOR SCOTT: All right. Is there a
21 second?

22 CFO ATWATER: Second.

23 GOVERNOR SCOTT: Item 2 is approved
24 without objection.

25 SECRETARY VINYARD: Item 3 is known as the

1 Coleman exchange. This is an exchange -- a
2 land exchange agreement proposed by the Florida
3 Forest Service which the Board of Trustees will
4 convey an 81-acre parcel of state-owned land
5 for two parcels totaling about 81 acres owned
6 by James Coleman. This exchange results in a
7 net positive conservation benefit to the
8 state.

9 The state-owned parcel which is managed by
10 the Florida Forest Service is located between
11 lands owned by Mr. Coleman. It is not
12 contiguous with the remainder of the forest,
13 while the two parcels owned by Mr. Coleman are
14 contiguous with the forest and will help square
15 off the boundaries.

16 Why this is a win for the state: This
17 will reduce management costs to the state,
18 creates a more efficient and manageable
19 boundary, it aids in wildlife management,
20 creates greater opportunities for prescribed
21 fires, reduces land fragmentation within the
22 forest, and provides improved access for public
23 recreation.

24 We have John Brown from the Forest Service
25 here if you have any questions. We also have

1 Eric Draper with Audubon of Florida to speak on
2 the issue.

3 GOVERNOR SCOTT: Are there any questions?
4 Okay. Is there a motion to approve Item 3?

5 CFO ATWATER: Move to approve.

6 GOVERNOR SCOTT: I'm sorry, Herschel.

7 SECRETARY VINYARD: Well, Mr. Draper is
8 here with Audubon to speak on it, if you all --

9 GOVERNOR SCOTT: Oh, I'm sorry. He wanted
10 to speak on it. I apologize. Always like the
11 Audubon to come speak.

12 MR. DRAPER: Thank you,
13 Secretary Vinyard. And thank you, Governor.
14 Eric Draper, I'm the Executive Director of
15 Audubon of Florida. And I want to communicate
16 two thoughts here today. First of all, I want
17 to commend the Division of Forestry for -- I'm
18 sorry, Forester Service now -- for how this was
19 handled.

20 We know that there are going to be
21 projects that are going to need to be
22 surplused and disposed of. And setting this
23 up in such a way that you're trading it for
24 equal amount of land for equal amount of value
25 is exactly the way that we would like to see

1 this issue of excess lands handled. I think it
2 is a very smart way of doing things and it
3 reduced transaction costs to the government.
4 We've reviewed it, it's very good.

5 We do want to note that with the issue of
6 surplussing and disposal of lands, that you do
7 have -- as Trustees you have an obligation, of
8 course, to look at the question of whether or
9 not it has -- it continues to have a
10 conservational purpose. We completely agree
11 with the Secretary and with Forestry that in
12 this case there is not a conservation purpose.

13 At the same time, we want to just make a
14 note on this is that we would like to make sure
15 that evaluation is carefully reviewed by the
16 Trustees and by the Department and the land
17 management agencies every time that you have
18 one of these issues come up because we're sure
19 that we're going to see more of these come
20 before the Cabinet, and we want to make sure
21 that we're in the position of saying, good job,
22 way to go, please vote yes. Thank you.

23 GOVERNOR SCOTT: Thank you. Anything
24 else?

25 SECRETARY VINYARD: We recommend approval,

1 sir.

2 GOVERNOR SCOTT: Okay. Is there a motion
3 to approve Item 3?

4 CFO ATWATER: So moved.

5 ATTORNEY GENERAL BONDI: So moved.

6 GOVERNOR SCOTT: Is there a second?

7 ATTORNEY GENERAL BONDI: Second.

8 GOVERNOR SCOTT: Moved and seconded,
9 Item 3 is approved without objection.

10 SECRETARY VINYARD: And the next item, the
11 Department recommends this item be withdrawn.

12 GOVERNOR SCOTT: Okay. Is there a motion
13 to withdraw Item 4?

14 CFO ATWATER: So moved.

15 GOVERNOR SCOTT: Is there a second?

16 ATTORNEY GENERAL BONDI: Second.

17 GOVERNOR SCOTT: Moved and seconded.

18 Item 4 is withdrawn without objection.

19 This concludes our Cabinet meeting. We
20 are adjourned.

21 (Governor and Cabinet meeting concluded at
22 11:34 a.m.)

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CERTIFICATE OF REPORTER

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STATE OF FLORIDA:
COUNTY OF LEON:

I, CAROLYN L. RANKINE, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages numbered 1 through 127 are a true and correct record of the aforesaid proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor relative or employee of such attorney or counsel, or financially interested in the foregoing action.

DATED THIS _____ day of November, 2011.

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