

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:

DEPARTMENT OF REVENUE
FLORIDA DEPARTMENT OF LAW ENFORCEMENT
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
STATE BOARD OF ADMINISTRATION
FLORIDA HURRICANE CATASTROPHE FUND FINANCE CORPORATION

The above agencies came to be heard before
THE FLORIDA CABINET, Honorable Governor Crist presiding,
in the Cabinet Meeting Room, LL-03, The Capitol,
Tallahassee, Florida, on Wednesday, February 24, 2010,
commencing at approximately 9:11 a.m.

Reported by:

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APPEARANCES:

Representing the Florida Cabinet:

CHARLIE CRIST
Governor

CHARLES H. BRONSON
Commissioner of Agriculture

BILL McCOLLUM
Attorney General

ALEX SINK
Chief Financial Officer

* * *

I N D E X

DEPARTMENT OF REVENUE
(Presented by LISA ECCHEVERI)

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P R O C E E D I N G S

(The agenda items commenced at 9:21 a.m.)

GOVERNOR CRIST: Our next State Board of Administration meeting will be Thursday, March the 4th. The next Cabinet meeting will be Tuesday, March the 9th.

Department of Revenue, Lisa Echeverri. Do I say that right?

MS. ECHEVERRI: Yes, sir.

GOVERNOR CRIST: Good. Good to know.

MS. ECHEVERRI: Good morning.

GOVERNOR CRIST: Good morning.

MS. ECHEVERRI: We have three items on our agenda. The first item is to request approval of the minutes from the December 8th meeting.

ATTORNEY GENERAL McCOLLUM: So moved.

GOVERNOR CRIST: Is there a second on the minutes?

CFO SINK: Second.

COMMISSIONER BRONSON: Second.

GOVERNOR CRIST: Moved and seconded. Show the minutes approved without objection.

MS. ECHEVERRI: Thank you. The second item is to request authority to publish notice of proposed rulemaking for rules to establish procedures for

1 persons who can file written challenges to the
2 Department's notice concerning a failure to
3 register. These are amendments to Rule 12A-1.060.

4 GOVERNOR CRIST: Is there a motion on Item 2?

5 CFO SINK: Move it.

6 COMMISSIONER BRONSON: Second.

7 GOVERNOR CRIST: Moved and seconded. Show it
8 approved without objection.

9 MS. ECHEVERRI: The third item is requesting
10 adoption and approval to file and certify with the
11 Secretary of State under Chapter 120 rule
12 provisions concerning the statutory requirements in
13 the Value Adjustment Board process. These rule
14 amendments include the creation of a new Chapter
15 12D-9, partial repeal of rules in Rule Chapter
16 12D-10, and amendments to forms that are provided
17 for under 12D-16.002.

18 This has been a pretty lengthy process. When
19 we originally started out on the journey to create
20 uniform rules and procedures for Value Adjustment
21 Board processes, the Department of Revenue did what
22 we ordinarily do and created a rule chapter and
23 went out and started to have workshops. And it
24 became apparent pretty quickly that the wheels were
25 coming off the cart, that we had produced a rule

1 that really wasn't meeting the needs of citizens,
2 that we didn't understand all of the issues that
3 were going on in the Value Adjustment Board
4 process.

5 So we backed up, and we started to have
6 workshops. And we basically went through all of
7 the issues that we knew of that were controversial
8 that we weren't able to reach consensus on, and we
9 very slowly built back a rule development process
10 that would include the concerns of the many
11 interested parties in this process. We probably
12 had eight workshops and another six rule hearings
13 just to get to the point where we had a proposed
14 rule that we all felt pretty good about.

15 It has been a long process. There have been a
16 lot of parties that have participated. People have
17 spent a lot of time, both in terms of citizens and
18 tax reps and property appraisers, clerks,
19 Department of Revenue staff -- all participated
20 pretty actively in this rule development.

21 There are certainly issues that we were not
22 able to reach consensus on, and we tried to pull
23 those out and work on those issues in other ways,
24 but I think we've come up with a pretty good
25 product which should provide some real uniformity

1 to this process.

2 We have received some written objections that
3 I want to make you aware of from the Florida
4 Association of Property Appraisers. There are two
5 issues that they provided to us in their written
6 objections.

7 One relates to the exclusion of certain
8 information in the administrative process. Their
9 reliance is on a case called Higgs v. Good that was
10 decided in 2002 that held that information that a
11 taxpayer did not provide in the assessment phase or
12 the appraisal phase of an appraisal development
13 could not later be presented by the taxpayer in a
14 judicial hearing.

15 The case does talk about administrative and
16 judicial hearings, but very close in time after
17 that case was decided, the Florida Legislature
18 amended the statutory provisions regarding Value
19 Adjustment Board hearings and evidence exchange.

20 Our rules focus just on the information that's
21 provided in that evidence exchange. We really
22 haven't addressed information that might not have
23 been provided earlier in the appraisal process,
24 because that is a controversial issue, and there's
25 some debate about how that case applies. We

1 believe it doesn't apply to the administrative
2 process.

3 The second issue that they've raised is with
4 respect to the new statute or the statutory changes
5 to section 194.301 on the presumption of
6 correctness. We have tried to implement rules that
7 we think very closely follow that statutory
8 language and the intent of the Legislature in terms
9 of the new requirement on property appraisers, if
10 they want to have a presumption of correctness in
11 the VAB process or a judicial process, to first
12 establish the correctness of their assessment.

13 That's a controversial issue. There's some
14 disagreement there. We believe that that will
15 probably be challenged, and those issues can be
16 decided by a judge. But we believe that our rule
17 very closely follows the intent of the Legislature
18 in that new statutory language.

19 We have a couple of speakers that would like
20 to speak to you today. We have first Sheila
21 Anderson. She's a citizen and a taxpayer. She
22 also has her own business, Commercial Property
23 Services, where she represents taxpayers in the
24 property tax process. And also Todd Jones
25 representing the Florida Association of Property

1 Tax Professionals.

2 I know that Ms. Anderson has concerns about
3 some of the rule with respect to the Sunshine Law
4 and the application of the Sunshine Law to
5 interactions of special magistrates.

6 We actually asked for an Attorney General's
7 opinion, and in hindsight, I think that we probably
8 framed our question too narrowly. We were focused
9 on, you know, what is that ministerial thing that a
10 special magistrate might do in an orientation
11 meeting where they're finding out about parking
12 passes and security in the courthouse that would
13 not be subject to the Sunshine Law, and that's how
14 we framed the question.

15 In reality, I think what citizens are
16 concerned about is that there are interactions and
17 conversations that take place with special
18 magistrates when they're receiving information or
19 influence on how decisions will be made, and that
20 those interactions should be subject to the
21 Sunshine Law so that they're open and the public
22 can be aware and see in a transparent form how that
23 influence is taking place and what special
24 magistrates are being instructed on.

25 So we're going to ask the question again and

1 try and do it more broadly and cover really what I
2 think citizens are concerned about in this process
3 in terms of making sure that the way that special
4 magistrates are trained, the interactions that they
5 have with the legal counsel or at the hearings is
6 open to the public.

7 But I would like to introduce Ms. Anderson,
8 who would like to speak.

9 MS. ANDERSON: Thank you. I would like to
10 start out very briefly this morning by
11 congratulating Pat Gleason, Robert Tornillo, Cathy
12 Giordano, and Erin Sumpster, who have been involved
13 and educated more than they probably would want to
14 have been on all of the communications back and
15 forth on the rule itself and certain subject matter
16 within the rule. They are your secret weapon in
17 this government. They really do an amazing job.
18 And Pat particularly is the best thing I can point
19 to, or the best person I can point to in terms of
20 confidence in the process and communication with
21 our elected officials. So thank you.

22 Secondly --

23 GOVERNOR CRIST: Could I interrupt for a
24 second?

25 MS. ANDERSON: Certainly.

1 GOVERNOR CRIST: They're our weapon, but it's
2 no secret.

3 (Laughter.)

4 MS. ANDERSON: Well, you should keep them, and
5 they should be rewarded.

6 GOVERNOR CRIST: We intend to, and they are.

7 CFO SINK: Slip them a piece of paper that
8 says "thank you."

9 MS. ANDERSON: Well, if we could send flowers
10 to them and they would accept it, I would be
11 tempted to do that on a regular basis. That's
12 unfortunately prohibited by the ethics. But they
13 are incredibly helpful and particularly interested
14 and have been instrumental in creating a working
15 relationship with Lisa and other members of the
16 agency to reach the point we're at today, which is
17 that the rule itself I believe covers a substantial
18 amount of concerns and clarifies a great deal of
19 what has been necessary throughout the state.

20 I am a taxpayer. In fact, the agency owes me
21 a few hundred dollars. I overpaid corporate income
22 tax this year, and I hope I'm going to get it back.
23 If we were in California, I wouldn't leave it, but
24 in this case, I trust that it will be applied to
25 the 2010 income tax.

1 But having said that, the Value Adjustment
2 Boards have been like organized crime around the
3 state. Constitutional officers are against private
4 citizens. County commissioners often don't know
5 what has been going on.

6 The fact that the Legislature added private
7 citizens to the composition of the Value Adjustment
8 Board we think is going to be helpful. We don't
9 have clear evidence of that yet. But slowly but
10 surely, this constitutional right to be able to
11 challenge any tax to make sure that it's lawful
12 before somebody's property is put at risk is really
13 very critical and is the fabric of our country that
14 surrounds most of what goes into the principles
15 surrounding the Value Adjustment Boards.

16 I'm very comfortable that what's in the rule,
17 line by line, page by page, really addresses most
18 of the concerns. There are several things that had
19 been pulled out and need more attention. Sunshine
20 is critical.

21 The magistrates need to be aware of the
22 requirements, that they actually have a
23 responsibility, that being appointed is not a
24 reward, but they're there to serve in the place of
25 the Value Adjustment Board members. They need to

1 know the laws, and they need to understand when
2 they're being told something the context of what
3 they're being told and apply the law, not what they
4 may think in the private sector, not what someone
5 else may tell them off the record.

6 And the instances of having off-the-record
7 communications is a litany and things that would
8 embarrass anyone. Hillsborough County, for
9 example, where off-the-record rules -- nobody knows
10 who adopted them -- were given to magistrates in a
11 closed-door meeting where several of us wanted to
12 attend and were told we could not be in the room.
13 Palm Beach County, where there have been meetings
14 on the record, but then the magistrates are told,
15 "Well, come and we'll tell you how to use the
16 computers," and those are off-the-record meetings,
17 and you never know what they're being told, but you
18 know at the hearings whatever they've been told
19 really doesn't comply with what we believe the
20 state standards are.

21 So there are circumstances -- I can go through
22 every county and give you an example of why we
23 think Sunshine would be appropriate, and in fact
24 essential to have a lawful, ethical process where
25 everybody would have confidence in local government

1 and in state oversight. So that's one of the items
2 that's really important here.

3 The second item that also needs to be
4 discussed -- and Lisa has been kind enough to help
5 me understand where the agency is going and what
6 they're going to do -- is the role of the attorneys
7 to the Value Adjustment Board. The attorneys to
8 the Value Adjustment Board now have to be outside
9 counsel. They cannot be county attorneys. There
10 was a conflict of interest. Some of us felt the
11 Legislature decided to create a requirement that
12 the counties employ someone who is not related to
13 county government or a taxing authority to advise
14 the Value Adjustment Boards.

15 Whether or not they are officers and what the
16 implications are, their status is something that
17 we're beginning to think about anyway and requires
18 some additional input and insight, and I believe
19 will be a part of the request for revision to
20 2008-63, which has created the problem that brings
21 us to the point of asking for a new opinion.

22 2008-66, I would also like to congratulate
23 Mr. McCollum for that opinion, because I read it,
24 and I'm not a lawyer. I think the explanation as
25 to who is governed by Sunshine and the

1 circumstances that they would find themselves in is
2 comprehensive and should be understandable by
3 anybody and is consistent with all the prior
4 opinions that Mr. Crist and Mr. Butterworth and
5 other former Attorney Generals have put into
6 opinions for decades. And the only departure from
7 that was the one that was the result of the
8 original request, and I think we'll take care of
9 that when we get the request for a revision.

10 So congratulations on 66. That educated me,
11 and I felt very comfortable when I read it.
12 Hopefully that will be incorporated as part of your
13 response when you get the request from DOR.

14 I have 10,000 years worth of experience in
15 this process, much more than I ever wanted to know.
16 And I'm hoping that at some point the Department of
17 Revenue will come back to you and talk about the
18 need for legislation to create enforcement
19 mechanisms so that when somebody violates the law
20 -- special magistrates particularly are in a
21 position where if they violate the law, people are
22 really harmed -- that there will be a way to
23 address those instances so that taxpayers are not
24 affected negatively, and that's a constant problem.

25 So I think we have more work to do, but I

1 think if you will adopt the rule today, we will be
2 light years ahead of where we have been in the
3 past. I think Lisa and her staff have done a
4 really good job of creating a document now that
5 will help us all. So thanks to her and to them and
6 to you.

7 GOVERNOR CRIST: Thank you. General, do you
8 want to --

9 ATTORNEY GENERAL McCOLLUM: Ms. Anderson, I
10 just wanted to comment. I want to thank you for
11 your diligence in this. And I have re-examined the
12 opinion, and we are going to probably get a
13 request, as Lisa said, to give us some factual
14 basis that would be different.

15 Sunshine is very important. That's what my
16 office does, is protect that openness, and it's
17 really important whenever there is any governmental
18 activity. As you know, training, if there's
19 training -- and apparently there is perhaps here
20 now other than orientation going on -- we need to
21 allow that sunshine to be there.

22 And I remember ten years ago way back in
23 history looking it up, that this office, long
24 before you were Governor, and even I guess before
25 you were Attorney General, there was a request by

1 the Attorney General of the Legislature suggesting
2 that they address this more thoroughly.

3 So it's thanks to diligence like you're doing
4 and efforts that are being made now that we're
5 making this progress on the Value Adjustment Board
6 so everybody gets their fair shot. So I just want
7 to thank you for being a diligent person and in the
8 public interest speaking out. Thank you.

9 MS. ANDERSON: You're very welcome. Thank
10 you. I hope we're not back here in ten years on
11 this same subject.

12 ATTORNEY GENERAL McCOLLUM: I hope not too.
13 Let's hope not too.

14 GOVERNOR CRIST: Ms. Anderson, if I might, I
15 want to pose a question to you that I hope is fair,
16 but it's along the same lines of what the General
17 just spoke about. What would the possible
18 arguments be that Sunshine should not exist in the
19 training of these magistrates or whatever forum
20 that might exist, in your opinion?

21 MS. ANDERSON: I have absolutely no idea what
22 would justify that.

23 GOVERNOR CRIST: Nor do I. I don't either.
24 And I guess we have another speaker that may speak
25 to that or may not. But I, like General McCollum,

1 believe very strongly that it's the people's
2 government. They should have the right to view all
3 of it, and any opinion that would be contrary to
4 that would be stunning to me.

5 MS. ANDERSON: Thank you, Governor. I am well
6 aware of all of the history of your interest in the
7 Sunshine and the rights of Floridians, and in fact
8 the leadership of Floridians on that subject.

9 There are so many ways the magistrates have
10 communication among themselves and with parties and
11 have opportunity for misinformation to be given to
12 them. The only way that anybody would ever be able
13 to have accountability in the process would be,
14 one, Sunshine, but then, two, what happens if they
15 violate the law once we all know they've been given
16 proper instruction.

17 And that's an open question that still has to
18 be addressed, which I think we have started to talk
19 about that with the Department of Revenue. I
20 believe members of the Legislature are beginning to
21 hear that there is a need for accountability up and
22 down the process, I believe not only the
23 magistrates, but all of the staff members, to the
24 clerks, to the Value Adjustment Board process.

25 We have instances again in Hillsborough

1 County, and also I'm aware in Palm Beach, where
2 finance directors of local taxing authorities are
3 somehow or other involved in directing the actual
4 VAB clerks. There needs to be -- even though the
5 clerks of the courts generally are wearing several
6 hats and absolutely are involved in staffing the
7 Value Adjustment Boards and the finance directors
8 typically work under their financial hat, there
9 appears to be a systemic conflict of interest.

10 And we have had some informal discussions as
11 to how to create a mechanism -- maybe it's the
12 CFO's office, maybe it's some other state agency
13 that will actually have oversight of the clerks to
14 remove that improper influence of the finance
15 directors governing what takes place.

16 I don't want to take the time away from you
17 today, but the instances where that improper
18 oversight has influenced the hearings is amazing.
19 When we're talking about -- we're not talking about
20 my petitions or anyone else's individual petitions.
21 We're talking about thousands and tens of thousands
22 of taxpayers who are exercising their
23 constitutional right to a remedy if they feel that
24 there is something wrong with the assessment.
25 Otherwise, taxation becomes a taking, which I think

1 we all understand would be improper.

2 And we need to have a remedy that really is
3 straightforward, ethical, and complies with state
4 law, and to do that without the interference off
5 the record or under the radar of anyone who has an
6 obvious interest in the process would be helpful.

7 I haven't thought it through enough yet to be
8 able to say this is what I absolutely think would
9 be a clear path to improve that situation, but I
10 think it's something that you should be aware of.
11 And I think the Department of Revenue might want
12 to, in Lisa's spare time -- she's done a great deal
13 more than I think she thought she would have to in
14 this process, but I think the agency needs to think
15 about different solutions to the problem.

16 To keep the taxing authority separate and get
17 the constitutional officers to employ the
18 constitution would be a terrific thing as well. I
19 don't think that they necessarily understand their
20 role to protect taxpayers from any bureaucratic
21 abuses.

22 That takes us back to the British Stamp Act.
23 I'm pretty old, but not that old. I have to rely
24 on the history of what was taking place when the
25 original colonists picked up their pitchforks and

1 went out to fight for their rights and their
2 property, which basically is very similar to what
3 we are talking about with the Value Adjustment
4 Board process. So just to review that, there's one
5 more subject that we don't have a presentation
6 about or a solution to at the moment, but it's
7 something to think about.

8 We need to keep this process clean to make
9 sure that people want to come to this state and
10 invest here. We want businesses around the country
11 to know that the Value Adjustment Board process is
12 legitimate and that they will get a fair hearing.
13 We want investment in jobs. And in order to bring
14 people to Florida -- and who would not want to live
15 here? -- we need to assure them that government
16 really is on the right page.

17 So I think that what's going on here today
18 with the adoption of this rule sends a clear
19 message that the State of Florida is interested and
20 that it will step up when there is a need shown.
21 And there has been a need shown, and the Auditor
22 General's report is pretty compelling evidence of
23 the need for this that came out a few years ago.

24 And so again, thank you to Pat and all of the
25 Cabinet aides who have spent so much time on this.

1 Thank you for your attention to this. I look
2 forward to reading an opinion on Sunshine that will
3 be very similar to 2008-66 so we can move past
4 those immediate problems and get down to some of
5 the other things.

6 GOVERNOR CRIST: Thank you very much.

7 MS. ECHEVERRI: The next speaker I would like
8 to introduce is Todd Jones. He represents the
9 Florida Association of Property Tax Professionals.

10 GOVERNOR CRIST: Good morning.

11 MR. JONES: Thank you, Lisa. Good morning.
12 I'll be brief.

13 I would like to start by reiterating the
14 gratitude expressed by Ms. Anderson. The
15 legislative aides have been wonderful in this
16 regard. Your offices have performed in an
17 exemplary fashion.

18 That said, this lady sitting right behind me
19 deserves major accolades. She took charge of this
20 program a year ago when I raised the issue on
21 behalf of our association and has really made sure
22 that all parties' interests have been laid on the
23 table, thoroughly discussed, vetted, if you will,
24 to make sure that the rules that you're going to
25 hopefully ratify this morning are in fact the best

1 possible product given the circumstances and the
2 time and the commitment made by many, many
3 individuals around the state over the last two
4 years.

5 I think we're all cognizant that no set of
6 rules is ever going to please all parties
7 100 percent. There are certainly several issues
8 pending that need to be worked on, but I want to
9 let you know that Ms. Echeverri has my supreme
10 confidence in her honest and sincere efforts to
11 make this process the best that we can do.

12 My company represents property owners all over
13 the country. Florida has one of the least favored
14 administrative remedies for property tax in the
15 country. And from an economic development
16 standpoint, I think it behooves all of us to
17 continue working on this process.

18 Anyway, that's it. Thank you very, very much.

19 GOVERNOR CRIST: Thank you. CFO.

20 CFO SINK: Governor, could I ask Lisa a
21 question?

22 Thanks, Mr. Jones.

23 I was with a group of commercial property
24 owners last week, and they were really complaining
25 about the process, so I just want to clarify. What

1 they've been going through in this year is still
2 operating under the old rules; is that correct?
3 Because I was speaking to them about this process
4 that we have been working on for over a year now,
5 and I just wasn't -- I had it in my head that we
6 were already in the new process.

7 MS. ECHEVERRI: We encouraged the VABs to use
8 the draft rules as guidance, but because they have
9 not been adopted, we couldn't require reliance on
10 these rules since they're not law until you adopt
11 them.

12 I think some Value Adjustment Boards started
13 to move to try and put in place some of the
14 improvements that are under these rules. Others
15 didn't. So they probably still are experiencing
16 some frustration in that process.

17 And I think as you heard the speakers say,
18 there are a number of things that we still need to
19 work on and continue to address. We're going to
20 provide a list to the Legislature of issues that we
21 discovered as we went through this process that we
22 couldn't address by rule because the statute
23 doesn't allow for it, doesn't give us the
24 authority. So we're going to continue to work on
25 this and try and make it better.

1 You know, it's easy for people to sort of see
2 me as the face of the Department, and the work that
3 we do give me credit for. But you have a lot of
4 great Department of Revenue employees working for
5 you to make these kinds of things happen. You
6 know, they put in a lot of time and effort to get
7 me the information that I need, you know, to make
8 the decisions and to try to keep moving these
9 processes forward, so you should be very proud of
10 them.

11 CFO SINK: So these rules will become
12 effective immediately with our action today, or is
13 there still --

14 MS. ECHEVERRI: I think there's like a short
15 time frame with the filing of them before they
16 become effective, but it's a pretty short
17 turnaround.

18 CFO SINK: Thank you. Thank you for your
19 work.

20 MS. ECHEVERRI: You're very welcome.

21 GOVERNOR CRIST: General.

22 ATTORNEY GENERAL McCOLLUM: I move the
23 adoption of the rule, Item 3.

24 COMMISSIONER BRONSON: Second.

25 CFO SINK: Second.

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GOVERNOR CRIST: Moved and seconded. Show it
approved without objection.

MS. ECHEVERRI: Thank you.

GOVERNOR CRIST: Thank you.

1 GOVERNOR CRIST: Florida Department of Law
2 Enforcement, Commissioner Bailey. Good morning,
3 Commissioner.

4 MR. BAILEY: Good morning, Governor and
5 Cabinet. FDLE has four items on your agenda this
6 morning. The first is the minutes of our
7 December 8, 2009 Cabinet meeting.

8 COMMISSIONER BRONSON: Motion on Item 1.

9 ATTORNEY GENERAL McCOLLUM: Second.

10 GOVERNOR CRIST: Moved and seconded. Show the
11 minutes approved without objection.

12 MR. BAILEY: Second is our performance report
13 and purchases over \$100,000 for that second
14 quarter. I'm sure you've noted that our numbers
15 remain high, but I do want to mention a couple of
16 significant items behind those October, November,
17 December statistics.

18 We were reaccredited by the Commission on
19 Accreditation for Law Enforcement Agencies. This
20 marks the sixteenth time in just less than 20 years
21 and placed us in the elite category of accredited
22 law enforcement agencies.

23 We conducted two high-profile missing child
24 cases. The first involved the kidnapping and
25 murder of Somer Thompson in Orange Park. And I'm

1 pleased to report that we just recently have
2 arrested a suspect in that case in Meridian,
3 Mississippi. The second, with a somewhat happier
4 ending, involved the disappearance of
5 seven-month-old Shannon Dedrick in Chipley. After
6 a five-day search, our agents found this child, and
7 we have subsequently arrested her mother.

8 Along with our law enforcement partners, we
9 shut down two major fraud operations. The first
10 involved an organization that had submitted over
11 \$55 million in false Medicare claims through Miami
12 and Orlando clinics. The second involves
13 \$400 million in fraudulent mortgage loans and over
14 100 defendants.

15 And I'll be happy to answer any questions on
16 Item 2.

17 GOVERNOR CRIST: Any questions?

18 ATTORNEY GENERAL McCOLLUM: Move Item 2. Move
19 Item 2.

20 COMMISSIONER BRONSON: Second.

21 GOVERNOR CRIST: Moved and seconded. Show it
22 approved without objection.

23 Great work, Commissioner. Thank you, sir.

24 MR. BAILEY: Item 3 represents our --

25 GOVERNOR CRIST: I have one question, though,

1 before we go to 3, if you don't mind. You
2 mentioned the arrest in Meridian, Mississippi. How
3 is the extradition process going with that
4 individual? Do you know? I had requested that to
5 Governor Barbour.

6 MR. BAILEY: Correct. He is, of course,
7 fighting extradition. All the paperwork has been
8 signed and been processed, and it's moving at the
9 -- we don't have it yet, but it is moving at the
10 process -- at the speed that process usually moves
11 at.

12 GOVERNOR CRIST: Yes, sir. Thank you.

13 MR. BAILEY: The third item represents our
14 supplemental legislative budget request. We have
15 four critical issues that we're bringing forth.

16 First -- and I should mention this first one
17 is the only one that involves new money. The
18 follow-up three are just requesting authorization
19 to spend money that we have or will be getting.

20 This first one is \$2 million and six positions
21 for the enhancements to the DNA database to bring
22 us in compliance with the new law that allows the
23 DNA profiling of all felony arrestees. This would
24 be the first step in a series of steps to bring
25 that program online.

1 Secondly, we are requesting \$175,000 in trust
2 fund authority and three positions to handle an
3 increase in background checks for the mortgage
4 industry. When this goes into effect this coming
5 year, we expect 50,000 additional checks of
6 backgrounds, and then 4,500 per year thereafter.

7 The third is \$102,000 in trust fund authority
8 and one position to improve the automation of our
9 criminal history program to bring us in compliance
10 with federal law.

11 And finally, we're requesting \$372,000 in
12 trust fund authority to pay service charges to the
13 credit card companies that our customers use to buy
14 background investigation information from FDLE.
15 That represent civil backgrounds.

16 GOVERNOR CRIST: General.

17 ATTORNEY GENERAL McCOLLUM: Governor,
18 Commissioner Bailey, first of all, I think you
19 should be commended for coming forward with all of
20 these.

21 I particularly would like you to comment a
22 little further on the DNA database, because I know
23 -- and we share this working with you all the time
24 -- how important this really is. It's a new law.

25 If we're able -- if you're able to implement

1 this and get the requested moneys to begin this
2 with phase 1, at some point before very long, we're
3 going to solve a lot more unsolved crimes. We're
4 going to have the ability to have easy access to
5 these thousands of matches and potential matches
6 that are out there.

7 And it occurs to me that -- you know, I wrote
8 a letter on behalf of this request specifically to
9 the leadership that I know you're aware of, because
10 it is somewhat expensive. It is a new item for
11 you.

12 But it requires, in order for this to get
13 started, as I understand it, equipment. You've got
14 to have infrastructure before you can have the data
15 input and before you can have it accessed by other
16 law enforcement.

17 So could you explain that to us? Because I
18 just think it's too important to let this go sort
19 of sitting here as dry paper.

20 MR. BAILEY: Yes, General. Today we are
21 profiling, taking the DNA profiles of those people
22 that are convicted and they go into the state
23 prison system. This will expand that, as some
24 other states have done, where if you are arrested
25 for a felony, just like we take fingerprints for

1 that arrest and we keep those on file, we will take
2 the DNA sample.

3 Now, our sheriffs and our chiefs are ready,
4 willing, and able to start this process. Some of
5 them have been in touch with me wanting to start
6 swabbing people today. We don't have the
7 infrastructure in place to do that.

8 What this does, it sets up workstations, if
9 you will, in our jails, in our courts, with
10 Probation and Parole, things like that, where when
11 there is a felony arrestee, they take the swab at
12 that time if the system tells them to. By these
13 rapid ID machines being there, it will tell them if
14 that person already has a profile in our database,
15 and that's a great timesaver. We won't have the
16 double work that goes with that.

17 Additionally, it will bring the equipment and
18 the supplies that are so expensive to go with this
19 process. The reason that the FTEs, the positions
20 are asked for now is because of the long training
21 program that we need to bring it up to speed. And
22 when we do start accepting these, we need to have
23 the trained DNA analysts there to do the work and
24 check those profiles.

25 ATTORNEY GENERAL McCOLLUM: Thank you for

1 explaining that.

2 Governor, I just wanted that explanation,
3 because I know it's an item of new money, but I
4 think we should all support that. I hope my fellow
5 Cabinet members will join us and you in whatever
6 comments we need to make to the Legislature to get
7 this approved. Thank you.

8 MR. BAILEY: Thank you.

9 GOVERNOR CRIST: Commissioner.

10 COMMISSIONER BRONSON: Governor, I would also
11 like to support in DNA process. There are a number
12 of things that DNA can do for us.

13 You know, when you think about the cases, no
14 matter what the crime is, where convictions are
15 made purely on circumstantial evidence -- and with
16 no aspersion on anyone, but when you go to court
17 with a case as best as you know it based on all the
18 circumstantial evidence, and especially those who
19 may be on death row, DNA can also help us determine
20 who should and who should not be in that position
21 based on -- especially when the courts can go back
22 and look at the evidence of the trial and put the
23 DNA together to say this person's statements may
24 have been correct at the time, even though
25 circumstantial evidence convicted them.

1 While I believe that anyone who commits a
2 heinous crime that deserves the death penalty
3 should receive that sentence, I certainly think we
4 need to be extra careful to make sure that those
5 who were convicted on circumstantial evidence, if
6 we have DNA available for us that can help clear
7 those crimes, and hopefully catch the people who
8 committed the original crime.

9 So I think DNA is a very important issue for
10 both sides of the table here on the use of DNA to
11 properly make those determinations and eventually
12 conviction or release based on that evidence.

13 GOVERNOR CRIST: Very good.

14 MR. BAILEY: I will just leave you with this
15 thought on that. With the system that's in place
16 now that only profiles people that have been
17 convicted, we're generating an average of over 300
18 hits per month out of that DNA system, and that's
19 identifying the worst of the worst out there, those
20 that already have that history behind them.

21 GOVERNOR CRIST: Thank you. Is there a
22 motion?

23 ATTORNEY GENERAL McCOLLUM: I move to approve
24 Item 3.

25 COMMISSIONER BRONSON: Second.

1 GOVERNOR CRIST: Moved and seconded. Is there
2 any objection?

3 Florida law requires that the Governor
4 independently submit budget proposals, and
5 accordingly, I am abstaining from the vote on this
6 item. Therefore, the record should reflect that
7 this item is approved with one abstention. Thank
8 you.

9 MR. BAILEY: Thank you.

10 GOVERNOR CRIST: Item 4.

11 MR. BAILEY: Our final item is a notice of
12 proposed rule changes. There are nine of those
13 rules. They're primarily housekeeping with the
14 Criminal Justice Standards and Training Commission,
15 and one does involve the technical changes in the
16 DNA database.

17 This is the first step in that. They'll be
18 published the middle of next month, and assuming
19 that process goes correctly, I will bring those
20 back to you on April 27th. Since the process is
21 just beginning, unless you have specific questions,
22 I won't go into detail on any of those at this
23 time.

24 GOVERNOR CRIST: Is there a motion on Item 4?

25 CFO SINK: Move it.

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COMMISSIONER BRONSON: Second.

GOVERNOR CRIST: Moved and seconded. Show it approved without objection. Thanks, Commish.

MR. BAILEY: Thank you.

1 GOVERNOR CRIST: Board of Trustees, Secretary
2 Sole.

3 MR. SOLE: Governor and Cabinet Members, good
4 morning.

5 GOVERNOR CRIST: Good morning.

6 MR. SOLE: If you can indulge me, I learned
7 something today I want to share with the Board.

8 GOVERNOR CRIST: Please.

9 MR. SOLE: Governor, recently you initiated
10 Share a Little Sunshine to help encourage folks to
11 come to Florida. Just today I learned that Campers
12 World had listed their top ten state parks in the
13 nation, and the number one is St. Joe Peninsula
14 State Park, and the number five is John Pennekamp
15 State Park. Florida is the only state in the Union
16 that had two in the top ten. So it was very
17 exciting.

18 GOVERNOR CRIST: Congratulations. Well done.

19 (Applause.)

20 MR. SOLE: All right. Item Number 1,
21 submittal of the minutes from the December 8, 2009
22 Cabinet meeting.

23 GOVERNOR CRIST: Is there a motion on the
24 minutes?

25 COMMISSIONER BRONSON: Motion for approval of

1 Item 1.

2 CFO SINK: Second.

3 ATTORNEY GENERAL McCOLLUM: Second.

4 GOVERNOR CRIST: Moved and seconded. Show the
5 minutes approved without objection.

6 MR. SOLE: Thank you. Item Number 2, this is
7 a request regarding acquisition of property from
8 Harbor Branch Oceanographic Institute Foundation.
9 This acquisition is familiar to you because it was
10 approved in May of 2009.

11 This is -- just to give you a little tee-up,
12 this is a parcel in St. Lucie County. It's part of
13 the Indian River Lagoon Blueway Florida Forever
14 project. It's an A list project in the top 21. It
15 was for 403 acres at an acquisition price of
16 roughly \$24 million. The appraised value at the
17 time was a little over 37 million, so this was a
18 good deal.

19 The good news also on this project is that we
20 had several partners. We had the Florida
21 Communities Trust involved in the acquisition. We
22 also had St. Lucie County as a partner in some of
23 the acquisition as well.

24 The reason why I need to bring this back to
25 the Cabinet is, as we were going through our due

1 diligence on this project, one of the commitments
2 and warrants that were presented by Harbor Branch
3 was that they would be able to provide us legal
4 access to the property. In this case, what we have
5 is Florida East Coast Railroad running along Old
6 Dixie Highway, and there's only one road, public
7 road that crosses basically the FEC rail line.

8 Unfortunately, the seller could not provide
9 that permanent easement, which is what was
10 committed to in the contract. What they were able
11 to provide is a license agreement, and this license
12 agreement grants authorization for access into our
13 property.

14 Now, as we went through the due diligence and
15 did some research, what we found is that FEC pretty
16 much only provides license agreements to any road
17 owners. In fact, if you talk to St. Lucie County,
18 I think most of their roads only have a license
19 agreement and don't have an easement.

20 We also reached out to the Department of
21 Transportation just to get some verification, and
22 they concluded that, yes, primarily FEC provides
23 only license -- basically license agreements as a
24 form of access.

25 It's not as permanent as an easement is, so

1 there is some change, and we wanted to bring this
2 to your attention. But I will tell you that it
3 really is unlikely that we will lose access to the
4 property. There's a fairly robust process that
5 includes involvement by the Department of
6 Transportation if Florida East Coast Railroad
7 wanted to limit our access. And in light of the
8 fact that that road has been in place for several
9 decades, it's unlikely that they would prevail.
10 But because of this risk, we wanted to bring it up.

11 And we also felt compelled that because this
12 was not part of the original contract and was a
13 change, we look to Harbor Branch to provide some
14 indemnity to the State of Florida. So they've
15 agreed to provide an indemnification to the State
16 that indicates if the unlikely event occurs that
17 this access would be lost. So they've agreed to do
18 that indemnification.

19 With that, the Department has concluded that
20 this alternate form of access is acceptable, with
21 the indemnification, and is seeking guidance and
22 agreement and concurrence from the Board of
23 Trustees to move forward with closing on this
24 project.

25 GOVERNOR CRIST: I have a question, Secretary.

1 MR. SOLE: Yes, sir.

2 GOVERNOR CRIST: So it sounds to me like it's
3 just a different legal form of access.

4 MR. SOLE: It is. It --

5 GOVERNOR CRIST: Is it the same access place?

6 MR. SOLE: It's the same access place, and
7 instead of an easement, it's just in a different
8 form.

9 GOVERNOR CRIST: How long is the license for,
10 or would it be for?

11 MR. SOLE: The license agreement is a
12 year-to-year renewal, and it's basically automatic.
13 And it has been that way since 1966.

14 GOVERNOR CRIST: Thank you. General, and then
15 Commissioner. No, I'm sorry. Commissioner.
16 Forgive me.

17 COMMISSIONER BRONSON: Well, I guess my
18 question then, Mr. Secretary, is, if some unusual
19 occurrence were to happen that would basically
20 close off that license agreement, since the land
21 itself -- and I know state law provides that access
22 to property has to be granted at some point in that
23 process, and I can't remember how the terminology
24 is. But if that's the only access route, could the
25 State then go into condemnation for the easement

1 rights onto that property if we needed to?

2 MR. SOLE: Without question. If the grant of
3 access were eliminated, we would be able to pursue
4 in court the maintaining of that access. And
5 again, what we added to that and while we feel that
6 legally we would have sound possession, I also
7 wanted to cover all the bases. And if for some
8 reason out of the blue we were unable to prevail,
9 Harbor Branch has provided that indemnification to
10 the State, and they would have to provide that
11 access. And in that case, it would probably be an
12 overpass that basically provided access over the
13 Florida East Coast Railroad.

14 GOVERNOR CRIST: Is there a motion?

15 ATTORNEY GENERAL McCOLLUM: I move the item.

16 COMMISSIONER BRONSON: Second.

17 GOVERNOR CRIST: Moved and seconded. Show it
18 approved without objection.

19 General.

20 ATTORNEY GENERAL McCOLLUM: Before you leave,
21 Mike, I just want to comment on something rather
22 pleasant. My understanding is that Weeki Wachee,
23 which is now a state park, as we both know, has
24 recently received the opportunity for the mermaids
25 down there to go to London to perform, and I think

1 that's a great PR thing. I don't believe they've
2 ever left the underwater theater until this year
3 since you've taken over or we've taken over the
4 park. So can you tell us about that?

5 MR. SOLE: Yes, sir. Again, we're trying to
6 encourage people to come to the state. We've had
7 great cooperation with some of the other
8 facilities, not only in the nation here -- in fact,
9 I think we're going to Colorado as well, and North
10 Carolina.

11 But we've also had the opportunity to work
12 with the folks in London, in which they go to
13 London and encourage people to come to Florida and
14 see Weeki Wachee themselves. And this is a
15 tremendous opportunity. They're going to get so
16 much exposure in London and basically promote not
17 only Weeki Wachee, but promote Florida as a whole.

18 ATTORNEY GENERAL McCOLLUM: Well, that's
19 great. I just thought it ought to be brought to
20 our attention. I heard about it. Thank you for
21 promoting Florida and our state parks.

22 MR. SOLE: And more importantly, their travel
23 is paid by the host of London. I just wanted to be
24 clear.

25 GOVERNOR CRIST: Thank you.

1 GOVERNOR CRIST: State Board of
2 Administration, Ash Williams.

3 See you, Commish. Take care.

4 Good morning, Ash.

5 MR. WILLIAMS: Good morning, Governor.

6 GOVERNOR CRIST: How are you? I hear you guys
7 are a top performer.

8 MR. WILLIAMS: Yes, yes.

9 GOVERNOR CRIST: According to the Pew Center.

10 MR. WILLIAMS: Well, a couple of things.
11 There are two different pieces of news there. One,
12 the Pew Center for the States recently released a
13 study of all state pension funds in the United
14 States and noted a number of issues. They also
15 noted that among all the states, four were the
16 strongest, and Florida was among the four and was
17 identified as following policies appropriately on a
18 number of levels, notably from a strength of
19 funding standpoint.

20 The other bit of information we received at
21 the tail end of last week that was constructive is
22 that Wilshire Associates, which is a major
23 international financial consulting firm, produces
24 annually what's called the Trust Universe
25 Comparison Service data, which a large database of

1 peer information about various pension funds,
2 institutional investors, et cetera. And among the
3 largest U.S. pension funds in the country, which is
4 a peer group of ten funds, of which the Florida
5 State Board is one, the Florida State Board was the
6 top performing fund in the country for the calendar
7 year ended 12/31/09.

8 Just to put that in perspective, as of last
9 night's close, we had in the Florida Retirement
10 System Trust Fund \$111.9 billion. Fiscal year to
11 date, we're up 14.8 percent, which is a little over
12 100 basis points ahead of target.

13 So unless there are questions, we'll move on
14 to the agenda.

15 GOVERNOR CRIST: Please.

16 MR. WILLIAMS: Item 1, request approval of the
17 minutes of our January 12 meeting.

18 GOVERNOR CRIST: Is there a motion?

19 ATTORNEY GENERAL McCOLLUM: Move it.

20 GOVERNOR CRIST: Moved. Is there a second?

21 CFO SINK: Second.

22 GOVERNOR CRIST: Moved and seconded. Show the
23 minutes approved without objection.

24 MR. WILLIAMS: Item 2, request approval of the
25 State Board of Administration's resolution

1 regarding the issuance of bonds by the Florida
2 Hurricane Catastrophe Fund Finance Corporation.
3 The background on this is, this is to raise
4 additional cash to pay claims that are still coming
5 in from the '05 storm experience. These are
6 obviously obligations that have been paid out by
7 insurance companies that we now need to honor our
8 obligation to pay.

9 At the same time, we think we have a
10 responsibility to understand why that claim
11 experience is surprising us on the upside, what the
12 underlying variables are that may be contributing
13 to that claim experience, and identify actions,
14 working with the Office of Insurance Regulation,
15 your offices, and Citizens and others to identify
16 potential solutions and get those into the
17 legislative process, the regulatory process,
18 et cetera, as appropriate. So that's --

19 GOVERNOR CRIST: If I might, a couple of
20 questions. The issuance will be about
21 710 million --

22 MR. WILLIAMS: Yes, sir.

23 GOVERNOR CRIST: -- in bonds? And these are
24 for claims predominantly from Hurricane Wilma, as I
25 understand it?

1 MR. WILLIAMS: Yes.

2 GOVERNOR CRIST: And that was in what year?

3 MR. WILLIAMS: 2005.

4 GOVERNOR CRIST: What's going on, do you
5 think?

6 MR. WILLIAMS: I think there are really three
7 fundamental things here.

8 GOVERNOR CRIST: Please.

9 MR. WILLIAMS: I think any rational person
10 would ask exactly that question.

11 GOVERNOR CRIST: It's good to be rational.

12 MR. WILLIAMS: It is, it is.

13 GOVERNOR CRIST: It helps.

14 MR. WILLIAMS: I think there are three basic
15 factors that we've identified. The first is --

16 GOVERNOR CRIST: Beats the alternative, I
17 would say.

18 MR. WILLIAMS: Yes. We're in very challenging
19 economic times.

20 GOVERNOR CRIST: Sure.

21 MR. WILLIAMS: Period. And there are a lot of
22 people that are in financial stress who will look
23 to sources of liquidity wherever they can. And if
24 one of those sources might be an insurance claim,
25 then it's one that would be more likely to be

1 considered if one has their back to the wall
2 economically than if you're in prosperous times and
3 you have ample sources of liquidity elsewhere to
4 draw on.

5 The second I think is the cumulative effect of
6 a number of consumer-friendly statutes, and there
7 are a whole range of things here. I'm not
8 suggesting, certainly, that these things are
9 systematically being abused, but any time you
10 create a structural way for people to be very
11 liberal in the way their insurance claims are
12 treated, reimbursed, evaluated, et cetera, there's
13 a potential that there will be some subset of
14 claimants who will indulge themselves, shall we
15 say, and be overly aggressive in the way they
16 pursue claims.

17 I think the third factor is something that was
18 highlighted in a recent OPPAGA report, and that is,
19 there has been an explosion in the public adjuster
20 industry. Public adjusters are individuals who
21 pursue insurance claims. They are compensated as a
22 percentage of the claim they recover. And the
23 number of these individuals --

24 GOVERNOR CRIST: Could you say that last
25 sentence again?

1 MR. WILLIAMS: I'm sorry?

2 GOVERNOR CRIST: Could you repeat the last
3 sentence you just said? I think it related to
4 their compensation.

5 MR. WILLIAMS: Yes, yes. Public adjusters
6 pursue insurance claims on behalf of insureds, and
7 they are compensated by being paid a portion of the
8 claim amount that's ultimately recovered for that
9 insured.

10 Now, again, there's a balance here. The
11 numbers of these people have exploded, closing in
12 on 3,000 currently, up from under 700 a few years
13 ago. And I want to be very careful. There's a
14 balance here. There's a legitimate role for
15 consumer advocacy here, but there can also be
16 abuses.

17 Going back to the concept of rational
18 behavior, one of the things that we came across
19 when we started working on this is that when a
20 public adjuster is employed on an initial
21 catastrophe claim, I believe there's a limit on the
22 compensation that they're able to capture. I think
23 it's 10 percent of the amount recovered. However,
24 on a reopened claim, there is no such limit. So
25 rational behavior would suggest there's an

1 incentive to reopen claims because it might be more
2 rewarding.

3 I think it's reasonable to suggest that a
4 number of the claim experiences we're seeing
5 arising out of a storm that took place some years
6 ago would logically potentially be reopened claims.
7 So I think that's a factor, and it's worthy of
8 digging into.

9 GOVERNOR CRIST: Is there a way -- I'm sorry.
10 Is there a way to sort of cross-check and reach a
11 conclusion on that point, in other words, what
12 percentage of these that you're receiving now are
13 claims that already have been dealt with, and so
14 they're sort of the second bite at the apple, if
15 you will?

16 MR. WILLIAMS: I'm sure there is, yes.
17 Dr. Nicholson is here, and I'm sure, yes, there's a
18 way of knowing what --

19 GOVERNOR CRIST: That might be illuminating to
20 us.

21 MR. WILLIAMS: -- portions are reopened versus
22 not.

23 GOVERNOR CRIST: I think the General may have
24 concerns too, and I imagine the CFO does as well.
25 But my concern is -- well, every legitimate claim

1 should be paid, no question.

2 MR. WILLIAMS: Yes.

3 GOVERNOR CRIST: However, if there is the
4 suspicion that there may be illegitimate claims now
5 being made -- and we do have a tough economy, and
6 so, you know, who knows what's going on precisely.
7 If in fact we are able to do a little more
8 investigating or research or data accumulation to
9 find out that a lot of these claims perhaps may not
10 be legitimate and attempts to perpetrate fraud upon
11 the system, then I have concerns about having the
12 legitimate citizens of our state potentially being
13 assessed for illegitimate behavior. That would be
14 wrong. And I don't want to speak for my
15 colleagues, but I'm sure they would -- I think they
16 would share that sentiment.

17 So my concern is, I don't want to -- I'm not
18 going to go forward today and say we ought to put
19 all insurance holders or individuals who have
20 insurance policies on the hook for what may be some
21 illegitimate behavior by some. I just can't do
22 that in good conscience, and I wanted to express
23 that.

24 General, I'll defer to you at this time and
25 appreciate your comments.

1 ATTORNEY GENERAL McCOLLUM: Well, thank you,
2 Governor. I just want to make a point. There is a
3 piece of legislation pending that I think looks
4 like it a good bill. I don't know if you've
5 examined it, Ash. It's by Representative Long and
6 Senator Bennett, H Bill 1181.

7 It's my understanding it would regulate how
8 public adjusters operate. It would put a cap on
9 reopened claims, and it would limit the statute of
10 limitations, reduce it to three years from five
11 years.

12 It strikes me that the potential for abuse
13 that the Governor is referring to is pretty great
14 that we're now seeing from Wilma. I don't have any
15 specifics, but it just makes common sense. This
16 thing has ballooned from 300 million to 710 million
17 here. And what I've been informed, and I tend to
18 believe what the Governor suggested, that much of
19 these are, as you've sort of indicated too, second
20 bites at the apple. They may be legitimate, and we
21 don't want to deny them. But there's just a lot of
22 reason to suspect that there are many of them that
23 may not be.

24 Have you looked at this legislation? Do you
25 support this legislation? Or are you going to look

1 at it?

2 MR. WILLIAMS: I have not, General. I can't
3 claim expertise on public adjusters.

4 And I want to clarify a point. I think
5 legitimacy is exactly the right question, and I
6 think what we're looking for is sort of a moral and
7 intellectual legitimacy. And not to split hairs,
8 but there could be claims that are lawful that
9 still perhaps raise a legitimacy question.

10 Let me give you an example. I think we have
11 some things in statute currently that relate to
12 items like tile floors. There are lots of
13 residences --

14 GOVERNOR CRIST: Items like what? I didn't
15 hear you.

16 MR. WILLIAMS: Related to tile floors. There
17 are a number of residences, particularly in South
18 Florida, that have tile floors throughout. I
19 gather in some of the early work we did on this
20 that if you have fairly minor damage to a tile
21 floor, the standard is the entire floor has to be
22 replaced, which could be tens of thousands of
23 dollars in claim, and further, that in many cases,
24 the insured is paid the full claim in cash by the
25 insurance company without proof of actually doing

1 the work or having it under contract.

2 Obviously, in times of economic duress, if a
3 consumer were in a difficult situation and they had
4 some minor damage, it could be a source of
5 liquidity if you can get a substantial claim, not
6 actually have to use the proceeds of that claim to
7 replace whatever it is the claim was related to,
8 but to pay some other obligation. That would be
9 something that might be completely lawful, but I
10 think would be challenged to your question of
11 legitimacy.

12 So there are things like that. There are
13 things relating to roofs and how those claims are
14 paid.

15 And again, this is an accumulation, I think,
16 of a number of years of changes in statute,
17 et cetera, that grew out of the '04-'05 storm
18 season. We had a completely historic level of
19 storms in that period, as we all know, particularly
20 in '04. There were difficulties with consumers
21 being paid timely. In certain situations, that led
22 to some fairly aggressive changes in law to guide
23 insurance companies in the direction of promptly
24 taking care of obligations to their insureds, and
25 it's possible that we've gone too far in that area.

1 I guess it's worthy of looking at.

2 I think as several of you have said, nobody
3 has any interest in denying legitimate claims. And
4 I think from the Cat Fund's standpoint, we've got
5 to meet our obligations, preserve our credibility
6 in the marketplace, and move forward, but at the
7 same time, look at these underlying causes, work
8 with the Legislature, the regulators, et cetera,
9 and responsibly address whatever problems we can
10 identify.

11 GOVERNOR CRIST: Well put. CFO.

12 CFO SINK: Yes. Thank you, Governor.

13 GOVERNOR CRIST: Of course.

14 CFO SINK: This is a huge problem, and it's
15 going to be a terrible burden on, as you call it,
16 the legitimate insurance holders because of what's
17 going to be coming when we have to issue these
18 bonds.

19 It's clearly important that we reduce the
20 deadline. Five years is entirely too long. And
21 the reason this is coming up is because as public
22 adjusters and other claimants know that the
23 five-year deadline is coming, there has just been
24 be an enormous effort, marketing effort, actually
25 -- you can see ads in the papers: "Do you have a

1 leak in your roof? Call us. We may be able to
2 prove that it's a leak related to Wilma five years
3 ago." And sometimes, as I understand, it's hard to
4 prove one way or the other. So certainly, in my
5 opinion, three years is plenty enough time to know
6 whether or not you had damage from a hurricane
7 claim.

8 And additionally, as Ash mentioned, the whole
9 commission structure around public adjusters is
10 just leading to bad behavior. And Sean Shaw is in
11 the back of the room. The insurance consumer
12 advocate has been working with the insurance
13 companies and the public adjusters, the
14 professional association, on some of this
15 legislation which needs to really get passed as
16 soon as possible.

17 The other issue is that the insurance
18 companies themselves need to be -- have more of an
19 incentive or a reason to actually investigate these
20 claims, Governor, because right now, when these
21 claims come in, they know that they're just going
22 to pass them right over to the Cat Fund. It's not
23 coming out of their pocket. It's just passed right
24 over to the Cat Fund.

25 And they do have their SIU units, and we have

1 to put the insurance companies on notice to be more
2 aggressive about trying to identify these claims
3 that they suspect might be fraudulent and then pass
4 them over to the Division of Insurance Fraud so
5 that the Insurance Fraud Division can aggressively
6 look at the facts and determine whether or not
7 there is in fact fraud involved. And there are
8 pretty severe penalties for prosecution for
9 insurance fraud on the books.

10 But it's a complicated issue, and
11 unfortunately, as you say, we innocent insurance
12 payers, premium payers are having to make up the
13 difference. But there are some fixes out there,
14 and I hope they get them fixed in the Legislature
15 this year.

16 GOVERNOR CRIST: Well, that would be great.
17 And I think to summarize it, I think now we have a
18 pretty good complement of a consensus here that we
19 don't want to have the good citizens have to pay
20 for bad behavior.

21 And so my motion would be to defer this until
22 such time as we're able to accumulate some data to
23 give us a better picture of the legitimacy of this
24 explosion of claims in the current environment. I
25 hope there's a second.

1 ATTORNEY GENERAL McCOLLUM: I will second
2 that. I think it's prudent to look at this,
3 \$710 million that we're putting out, of which at
4 least 400 million or so sounds like it's in the
5 second -- may be in the second bite. It is a very
6 large sum of money.

7 And it may be that we want to revisit this,
8 Ash, in fairly short order, because there may be
9 legitimate claims here, but we need to know more
10 about it. I'm just uncomfortable with putting this
11 kind of money out right now, approving the bonding
12 to put this money out there, with all this going
13 on.

14 It's kind of like the "show me." I'm
15 skeptical of it, Governor, so I will second it.

16 GOVERNOR CRIST: Thank you. And I understand
17 that by law, the claims automatically go to the Cat
18 Fund after the insurer has it. But I would also
19 presume that there must be a check and balance at
20 that juncture where an individual would have the
21 opportunity to review that claim submitted to the
22 Fund before the Fund goes ahead and reimburses the
23 insurance company. Is that a safe presumption?

24 MR. WILLIAMS: There's an audit process. I'm
25 not sure that it's a pre-audit process.

1 Where did Dr. Nicholson -- there he is.

2 GOVERNOR CRIST: Now would be the time to
3 know, because maybe we can make it part of this
4 legislation that would come to us next week.

5 DR. NICHOLSON: The way the process works is,
6 the Cat Fund examines losses by insurance
7 companies, but the point that we do that is after a
8 certain number of claims have been paid by the
9 insurance company. So when they have gotten into
10 about 90, 95 percent of their payments, then we go
11 in and we examine, but we sample. And what we look
12 for is, have we paid a legitimate claim or not,
13 based on the terms of the insurance company's
14 contract and based on the terms of the Cat Funds's
15 reimbursement contract.

16 There are situations where --

17 GOVERNOR CRIST: Jack, can I stop you there,
18 please, sir? Are you saying to me that some of
19 these claims are paid before they're reviewed? Is
20 that what I hear you --

21 DR. NICHOLSON: Absolutely, absolutely. We
22 cannot pay a claim if -- there were 2.8 million
23 claims in '04 and '05. Okay? When an insurance
24 company reimburses the policyholder, then it comes
25 to us to seek reimbursement. We reimburse that

1 company within two to seven days after it submitted
2 reimbursement.

3 GOVERNOR CRIST: Because that's what the
4 current law requires you to do?

5 DR. NICHOLSON: Right, as soon as practicable
6 after the claim is submitted. Then we have a
7 program that on the tail end --

8 GOVERNOR CRIST: So you can't even review them
9 under law? You have to pay them under the current
10 law?

11 DR. NICHOLSON: It would be impossible. It
12 would be impossible to --

13 GOVERNOR CRIST: I'm not talking about
14 possible. I'm asking what the law is. The law
15 requires you to go ahead and pay them as soon as
16 practicable, which you say is five or seven days,
17 regardless of any review? No review is done? You
18 just give them the dough?

19 DR. NICHOLSON: We review the numbers to make
20 sure the company, you know, is not overstating
21 their coverage and things like that. It's kind of
22 a high level review. But we don't look at
23 individual claims at that point. The time that we
24 look at individual claims is only on a sampling
25 basis after the company has paid a good portion of

1 their claims at the tail end so that we can see
2 that --

3 GOVERNOR CRIST: There's very illuminating to
4 me. There's no check and balance.

5 Who is sponsoring that legislation, General?

6 ATTORNEY GENERAL McCOLLUM: Representative
7 Long and Senator --

8 GOVERNOR CRIST: We need to lobby
9 Representative Long and Senator Bennett.

10 ATTORNEY GENERAL McCOLLUM: Senator Bennett,
11 right.

12 GOVERNOR CRIST: Thank you, Jack, for that
13 illumination.

14 Okay. It has been moved that it be deferred.
15 It has been seconded, I think. Did you want to say
16 anything, Ash, before we --

17 MR. WILLIAMS: The only thing I wanted to add
18 to the mix is that we do have a circumstance,
19 recognizing the gravity of what we're dealing with,
20 where time is of the essence. We have obligations
21 out, we have a declining cash balance currently, we
22 have Citizens coming into the marketplace in the
23 not to distant future, and we have hurricane season
24 coming as well.

25 So we will try and work on this just as

1 quickly as we can, work with OIR, et cetera, and
2 come back to you with information, hopefully to
3 bring this back just as quickly as we can.

4 GOVERNOR CRIST: Well, it has been moved and
5 seconded to defer, and without objection, show it
6 -- the deferral adopted.

7 MR. WILLIAMS: Item 3 is a related item
8 relating to the emergency assessments that would in
9 turn be driven by the financing, so I would presume
10 that would likewise be deferred.

11 GOVERNOR CRIST: Could you repeat what you
12 just said? I'm sorry.

13 MR. WILLIAMS: Yes. Item 3 is the resolution
14 regarding a levy for a --

15 GOVERNOR CRIST: Oh, I think a deferral is
16 completely in order. I would make that motion
17 again.

18 ATTORNEY GENERAL McCOLLUM: Second.

19 GOVERNOR CRIST: Show it approved, the
20 deferral, without objection.

21 MR. WILLIAMS: Thank you. Item 4 is a request
22 for approval of modifications of the issuance
23 limitations on the Vaccine and Gene Therapy
24 Institute of Florida, Revenue Bond Series 2009.
25 This is a revisitation of an item that we took up

1 in early December placing limitations on this
2 paper.

3 The underwriter has subsequently taken the
4 bonds to market and was unable to distribute them
5 and pulled the issue from the market on the 18th of
6 December, 2009. They have come back to us and
7 represented that with some modifications of the
8 limits that we placed on them in December that they
9 feel they can successfully underwrite the issue.

10 We're been in pretty heavy contact with the
11 underwriters, with VGTI, et cetera, in the time
12 since they pulled that issue from the market.
13 We've proposed a couple of modifications to those
14 limitations which are documented in Item 4 and in
15 the backup. And I would recommend approval.

16 GOVERNOR CRIST: Is there a motion?

17 CFO SINK: Move it.

18 ATTORNEY GENERAL McCOLLUM: Second.

19 GOVERNOR CRIST: Moved and seconded. Show it
20 approved without objection.

21 MR. WILLIAMS: Thank you.

22 GOVERNOR CRIST: Thank you, Ash. Appreciate
23 it.

24

25

1 GOVERNOR CRIST: Jack Nicholson, Cat Fund.

2 Good morning again, Jack.

3 DR. NICHOLSON: Good morning. Since these
4 items relate to the financing of the bonds, I think
5 that -- I suggest that these be deferred as well.

6 GOVERNOR CRIST: I would agree. Is there a
7 motion to defer these items, Items 1 and 2?

8 CFO SINK: Excuse me. Do you want to go ahead
9 and approve the minutes of the last meeting, Jack?

10 DR. NICHOLSON: Yes. Item 1 is approval of
11 the minutes for June 10th -- I'm sorry. Approval
12 of the minutes of July 29, 2008.

13 CFO SINK: I move it.

14 ATTORNEY GENERAL McCOLLUM: Second.

15 GOVERNOR CRIST: Is that one that just got by
16 us for some reason?

17 One moment. Let's put us in the proper
18 perspective. I now convene a meeting of the
19 Florida Hurricane Catastrophe Fund Finance
20 Corporation Board. This Board is composed of
21 members of the State Board of Administration and
22 also Ben Watkins and Jack Nicholson. All members
23 are present.

24 Where is Ben? Hi, Ben. All members are
25 present.

1 Dr. Nicholson, are you ready to proceed? And
2 I think you would like us to approve your minutes.
3 Is there a motion to approve the minutes?

4 CFO SINK: Move it.

5 ATTORNEY GENERAL McCOLLUM: Second.

6 GOVERNOR CRIST: Moved and seconded. Show the
7 minutes approved without objection.

8 ATTORNEY GENERAL McCOLLUM: And there's a
9 motion you need to defer Item 2, Jack? You would
10 like to defer Item 2; right?

11 DR. NICHOLSON: Yes. Item 2 deals with
12 requesting adoption of a resolution authorizing the
13 corporation to issue revenue bonds.

14 ATTORNEY GENERAL McCOLLUM: I would move to
15 defer Item 2 in light of what we've just done in
16 the State Board of Administration meeting.

17 GOVERNOR CRIST: And I'll second it. All in
18 favor say aye.

19 (Affirmative responses.)

20 GOVERNOR CRIST: Opposed, like sign.
21 The motion carries. Thank you.

22 (Proceedings concluded at 10:29 a.m.)

23

24

25

CERTIFICATE OF REPORTER

STATE OF FLORIDA:

COUNTY OF LEON:

I, MARY ALLEN NEEL, Registered Professional Reporter, 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 65 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 16th day of March, 2009.

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