

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

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Representing:

STATE BOARD OF ADMINISTRATION

DIVISION OF BOND FINANCE

AGENCY FOR ENTERPRISE INFORMATION TECHNOLOGY

FINANCIAL SERVICES COMMISSION, OFFICE OF  
INSURANCE REGULATION

DEPARTMENT OF REVENUE

DEPARTMENT OF LAW ENFORCEMENT

ADMINISTRATION COMMISSION

FLORIDA LAND & WATER ADJUDICATORY COMMISSION

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,  
August 16, 2011, commencing at 9:05 a.m.

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RICK SCOTT  
Governor

ADAM H. PUTNAM  
Commissioner of Agriculture

PAM BONDI  
Attorney General

JEFF ATWATER  
Chief Financial Officer

\* \* \*

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## 1 P R O C E E D I N G S

2 (Agenda items commenced at 9:30 a.m.)

3 GOVERNOR SCOTT: And now we go to -- the first  
4 agenda is the State Board of Administration  
5 presented by Ash Williams. Good morning.6 MR. WILLIAMS: Good morning, Governor,  
7 Trustees. Before we get going on our agenda this  
8 morning, I'd like to offer a little update, if I  
9 may. As of last night's close, the Florida  
10 Retirement System Trust Fund stood at a balance of  
11 \$121.7 billion. That is up .45 percent calendar  
12 year to date and 129 basis points ahead of target.13 It's ironic, given what went on in the markets  
14 in the past week, that to be here today, we've  
15 essentially done a round trip. Sort of like when  
16 somebody comes back from a trip, they look just like  
17 they looked when they went out the door, but you  
18 have no idea what they went through while they were  
19 gone.20 Suffice it to say, our investment policy served  
21 us very well. It did exactly what it is supposed to  
22 do, which is to protect and grow value of the  
23 retirement system over time and to provide guidance  
24 and discipline to our investment activities when  
25 confusion and fear are in fact dominating the

1 headlines and most human thinking. Discipline takes  
2 the place of emotion, and that's how you want to  
3 manage money over time.

4 We did, during the upheaval of last week, put  
5 in an extraordinary amount of time making sure that  
6 our obligations in terms of liquidity could be met,  
7 that our risks had not shifted to unacceptable  
8 levels, particularly in the area of counterparty  
9 risk.

10 We were also careful to make sure we provided  
11 information to beneficiaries. We saw a tremendous  
12 spike in contacts coming in through our website and  
13 calls to Ernst & Young. And the counsel we were  
14 offering beneficiaries was don't do anything hasty,  
15 step back, think about your options, talk to our  
16 advisers that are made available to beneficiaries  
17 and don't do anything in the throes of fear and  
18 emotion that could be a long-term mistake.

19 Broadly, I would say, while there continue to  
20 be ample things that have weighed on the minds of  
21 the markets around the world, the lingering results  
22 of the earthquake and tsunami in Japan, upheaval in  
23 the Middle East, the European sovereign debt issues  
24 and, of course, most recently the U.S. credit issues  
25 here at home, there are also a lot of good things

1 going on.

2 Jobless claims are trending down. And, in  
3 fact, they've hit their lowest levels in recent  
4 months. Earnings are continuing to hold up among  
5 major American businesses. Interestingly, I think  
6 one of the best indicators of where the economy is  
7 is what's known as insider purchasing. This doesn't  
8 mean insider trading in the unlawful sense. In this  
9 context, what I'm talking about is lawful and  
10 disclosed purchases of executives of publicly traded  
11 companies.

12 Something very interesting was going on during  
13 the panic of the last couple of weeks. So-called  
14 corporate insiders, people who know their companies  
15 better than anybody, were on a buying spree while  
16 the rest of the world was on a selling spree. That  
17 tells me that people who know businesses, who know  
18 companies and know their own earnings better than  
19 anybody else are willing to put their own money in  
20 the shares of their companies, which is I think a  
21 positive sign.

22 Also, the leading economic indicators have been  
23 in positive territory since March of '09. While  
24 there has been some slowing in those forward  
25 indicators, they're still positive, which again is a

1 good thing. So unless there are any questions, I'll  
2 be happy to go ahead and move into our agenda.

3 GOVERNOR SCOTT: I don't have any questions.  
4 All I can say is that I've been traveling the last  
5 two weeks. People are worried. Whether it's the  
6 discussion of the debt ceiling, the downgrade by  
7 S&P, but just traveling the state the last couple of  
8 weeks, I think people are cutting back and they're  
9 getting way more cautious about hiring. I don't  
10 have anything else. We'll go to the agenda.

11 MR. WILLIAMS: Thank you. Item 1, request  
12 approval of a fiscal sufficiency in an amount not to  
13 exceed \$235 million, State of Florida, Full Faith  
14 and Credit, State Board of Education Public  
15 Education Capital Outlay Refunding Bonds.

16 GOVERNOR SCOTT: Is there a motion to approve  
17 Item 1?

18 ATTORNEY GENERAL BONDI: Move to approve.

19 GOVERNOR SCOTT: Is there a second?

20 CFO ATWATER: Second.

21 GOVERNOR SCOTT: Moved and seconded, approved  
22 without objection.

23 MR. WILLIAMS: Item 2, we request deferral to  
24 our September 20 meeting of an item related to the  
25 Florida Housing Finance Corporation.

1           GOVERNOR SCOTT: Is there a motion to defer  
2 Item 2?

3           CFO ATWATER: So moved.

4           GOVERNOR SCOTT: Is there a second?

5           ATTORNEY GENERAL BONDI: Second.

6           GOVERNOR SCOTT: Moved and seconded. Item 2 is  
7 deferred without objection.

8           MR. WILLIAMS: Thank you. Item 3, request  
9 approval of a draft letter to the Joint Legislative  
10 Auditing Committee affirming that the SBA Trustees  
11 have reviewed and approved the monthly Florida PRIME  
12 summary reports and actions taken, if any, to  
13 address material impacts. There are no material  
14 impacts, and the letters are in your background  
15 materials.

16           GOVERNOR SCOTT: Is there a motion to approve  
17 Item 3?

18           ATTORNEY GENERAL BONDI: Move to approve.

19           GOVERNOR SCOTT: Is there a second?

20           CFO ATWATER: Second.

21           GOVERNOR SCOTT: Moved and seconded. Item 3 is  
22 approved without objection.

23           MR. WILLIAMS: Thank you.

24           GOVERNOR SCOTT: Thank you very much. Have a  
25 great day.

1           GOVERNOR SCOTT: The next agenda is the  
2 Division of Bond Finance presented by Ben Watkins.

3           MR. WATKINS: Good morning, Governor, Cabinet  
4 members. With respect to last week, in terms of  
5 what it meant for us in the Division of Bond  
6 Finance, basically, a number of different factors  
7 converged to create extreme volatility in the  
8 market, both on the equity side as well as the fixed  
9 income side.

10           So it was a convergence of circumstances, the  
11 European debt crisis -- well, precipitated by the  
12 S&P downgrade, which required people to start  
13 thinking about, well, what does this mean, and  
14 looking globally in terms of what their perception  
15 of the world economy was.

16           And the European debt crisis has been ongoing  
17 for a couple of years now, and there's been no real  
18 resolution. There were rumors last week with  
19 respect to the solvency of French banks and Italian  
20 banks and the spread of the contagion. And so that  
21 obviously caused concern and spooked people, really.

22           And that, coupled with a realization that the  
23 strength of the economy may not be what people had  
24 anticipated it being, and then that rolled into  
25 another significant factor affecting the fixed

1 income markets, where we operate, was the Federal  
2 Reserve, and they had a meeting on Tuesday, and  
3 basically a change in policy, where they gave  
4 explicit guidance in terms of how long they were  
5 going to leave interest rates at basically zero,  
6 which is mid-2013.

7 And usually they just say for an extended  
8 period of time, leaving themselves the flexibility.  
9 But for the first time they gave explicit guidance  
10 on that. And to just give you a sense of what it  
11 means in terms of interest rates, at the end of July  
12 we were looking at a 30-year Treasury of about  
13 4.2 percent. And now it's about 3.75 percent, with  
14 a lot of choppiness along the way, not just one  
15 direction. And the 10-year Treasury, which had been  
16 trading around 3 percent is now at 2.25 percent.

17 So we saw a significant reduction in interest  
18 rates. What that means for us in terms of execution  
19 is to evaluate the market on a day-to-day basis and  
20 avoid the bad spots when we sell. That's about as  
21 good as we can do.

22 So when I came into Cabinet aides on Wednesday,  
23 I said the market was characterized by limited  
24 liquidity in the muni market. And what that meant  
25 is investors were sitting on their hands because of

1 the extreme volatility, not wanting to make  
2 investments at extraordinarily low interest rates or  
3 in the face of volatility. They want to see some  
4 more stability.

5 But then on Thursday we come in, and investors  
6 are piling in with a vengeance. So with the move in  
7 rates significantly down, investors had been sitting  
8 on cash, waiting to deploy it, expecting rates to  
9 rise, and they got surprised with rates going down,  
10 and they needed to put money to work.

11 And so we moved ahead with the Florida Forever  
12 refunding that you all had previously authorized and  
13 sold that on Thursday. It was a 10-year loan at an  
14 interest rate of about 1.85 percent. So  
15 extraordinary times, extraordinarily low interest  
16 rates. And so we just lean into it and continue to  
17 move aggressively to refinance debt where it makes  
18 sense to do so to lower the interest cost to the  
19 State.

20 So that's sort of a micro -- that's what it  
21 meant for us relative to last week. It felt an  
22 awful lot like 2008, I'll have to tell you. But  
23 fortunately, you know, there's been stability in the  
24 last -- well, positive news on the equity side in  
25 the last couple of days. Interest rates have been

1 stable for about three days now, three trading days.  
2 So that's good news.

3 We printed and mailed the offering documents on  
4 a \$230 million Lottery refunding, and we're working  
5 on four university transactions, for them to get us  
6 the information necessary to produce offering  
7 documents and move ahead with refinancings on that  
8 front.

9 And that's really what the agenda item is about  
10 today, is getting additional authorization for PECO  
11 refundings, a \$235 million -- authorization of  
12 issuance and competitive sale of \$235 million in  
13 PECO refundings to achieve debt service savings.

14 GOVERNOR SCOTT: So this year, what's happened  
15 to state debt? Is it down or flat, or what is it?  
16 I mean, how much is it --

17 MR. WATKINS: It's basically flat, Governor.  
18 We've been doing an awful lot of refundings. And  
19 new money issuance has been limited to primarily  
20 things that had been previously authorized, which  
21 we're now moving to implement.

22 We've done a billion one in refundings so far  
23 in this calendar year, saving the State about  
24 \$135 million. So that's been the bulk of the  
25 issuance for the current year. And overall, from a

1 macro perspective, we were, at the end of 2010,  
2 \$28.2 billion in all state debt. And that number  
3 stands at about \$28.1 billion at the end of fiscal  
4 year 2011, 6/30/2011.

5 So we for the first time haven't significantly  
6 increased our debt. Normally it goes up by about a  
7 billion and a half dollars a year, average annual  
8 over the last 10 years. So the pace of increase has  
9 abated, I'll say that.

10 GOVERNOR SCOTT: What's our overall interest  
11 rate; do you know? Is it down this year then?

12 MR. WATKINS: The implied interest rate, it's  
13 been coming down over time. It's about 4.8 percent  
14 on the State's overall debt portfolio. We probably  
15 have 250 different series of bonds outstanding. And  
16 if you aggregate all of that -- the largest program  
17 is PECO, which is a 30-year program. So most of our  
18 debt is long-dated.

19 So when you think about it from that  
20 perspective, sub-5 percent is pretty remarkable.  
21 When I talked to my predecessor, he remembers  
22 implementing PECO -- PECO at 10 percent. So, you  
23 know, we're fortunate that we've been in a very  
24 favorable interest rate environment. So in terms of  
25 the environment to taking on debt, at least it's low

1 cost debt.

2 GOVERNOR SCOTT: Great. Any questions?

3 ATTORNEY GENERAL BONDI: No, Governor.

4 GOVERNOR SCOTT: Is there a motion to approve  
5 Item 1?

6 COMMISSIONER PUTNAM: So moved.

7 GOVERNOR SCOTT: Is there a second?

8 ATTORNEY GENERAL BONDI: Second.

9 GOVERNOR SCOTT: Moved and seconded. Show Item  
10 1 approved without objection.

11 MR. WATKINS: Thank you, sir.

12 GOVERNOR SCOTT: Thank you very much.

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1           GOVERNOR SCOTT: The next agenda is the Agency  
2 for Enterprise Information Technology, presented by  
3 Dave Taylor. Good morning.

4           MR. TAYLOR: Good morning, Governor and Cabinet  
5 members. The first item today on our agenda is I  
6 would like to request the approval of the minutes  
7 from the October 12th, 2010, Cabinet meeting.

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

10          ATTORNEY GENERAL BONDI: Governor, if I may,  
11 just to explain, because of course for the public,  
12 none of us were here in 2010. And so I'm sure that  
13 you have vetted these minutes, and I know my staff,  
14 they were here in 2010, they've also reviewed the  
15 minutes. So based on that and your assurance, I  
16 would move to approve.

17          GOVERNOR SCOTT: Is there a second?

18          CFO ATWATER: Second.

19          GOVERNOR SCOTT: Moved and seconded. Show Item  
20 1 approved without objection.

21          MR. TAYLOR: The second item on today's agenda  
22 is to request approval for the Agency's 2011-2012  
23 work plan. The overall goal of the Agency for  
24 Enterprise Information Technology is to lower the  
25 cost of the state information technology and to

1 recommend new strategies for providing and securing  
2 quality information technology services.

3 Our annual work plan is a detailed list of  
4 specific tasks and deliverables that we will  
5 complete this fiscal year in order to achieve those  
6 goals. On August 26, 2010, we received approval for  
7 the last year's work plan from the last Cabinet.  
8 And I'm pleased to inform you that we met all  
9 deadlines and completed all deliverables outlined in  
10 that plan.

11 By the end of this month you'll receive the  
12 Agency's annual report, and that annual report will  
13 detail our success in accomplishing all of those  
14 goals and deliverables.

15 This year's work plan is a continuation of last  
16 year's plan but includes changes that are a direct  
17 result of 2011 legislation. One significant change  
18 is that the Legislature asked us to develop and  
19 monitor the implementation of Florida's new  
20 enterprise e-mail system. This effort will result  
21 in over \$2 million in savings each year and creates  
22 40 new high-paying private sector jobs here in  
23 Florida.

24 The Legislature also approved our recommended  
25 schedule for consolidating the remaining agency data

1 centers and provided us the authority to make  
2 adjustments to that schedule as needed. Last year's  
3 consolidation produced \$1.1 million in recurring  
4 savings.

5 On August 4th we presented our work plan to the  
6 public in a town hall meeting, as well as agency  
7 staff who were in attendance, and posted the plan on  
8 the agency website for public comment. We also met  
9 with all of your staff on it as well.

10 I respectfully request your approval for this  
11 annual work plan.

12 GOVERNOR SCOTT: How do you -- on all these  
13 things, how do you measure success? Is there a  
14 separate measurement underneath each of these?

15 MR. TAYLOR: Not on each one. The overall  
16 measurement of success is actually the completion of  
17 all of those goals and objectives within the time  
18 frames. So that's overall. The annual plan has the  
19 overall metric for success of our deliverables.

20 We also have performance measures that we've  
21 submitted as part of our long-range program planning  
22 document. The first one of those is essentially  
23 aligning with the goal of saving money to the State.  
24 And so that goal is -- we measure the total yearly  
25 cost savings from enterprise consolidation and

1 shared IT services. And, you know, that's one of  
2 the goals.

3 We also have some process goals in the area of  
4 security training, security consultations with our  
5 public sector partners, cities and counties, on  
6 incidences that occur to them. And we have a goal  
7 related to mentoring and collaboration on  
8 consolidated purchasing, which we work in  
9 partnership with the Department of Management  
10 Services.

11 So we do not have performance goals on every  
12 item in our plan, but on the significant ones that  
13 lead to outcomes, we do.

14 GOVERNOR SCOTT: Commissioner?

15 COMMISSIONER PUTNAM: E-mail consolidation, our  
16 department ran the numbers. It costs us more money  
17 to get fewer services under the state e-mail  
18 consolidation program. How many other departments  
19 are in that boat, where their costs will go up not  
20 down?

21 ATTORNEY GENERAL BONDI: You can look over  
22 here. Ours will go up dramatically.

23 COMMISSIONER PUTNAM: That's just unacceptable.  
24 I mean, I understand the theory behind it, but the  
25 reality bites. And so we need to work through those

1 issues as it relates certainly to the Cabinet  
2 agencies and any other agencies who are trading down  
3 for fewer services and watching their costs go up.  
4 Do you have any thoughts on that?

5 MR. TAYLOR: Two things. First of all, in any  
6 enterprise endeavor, when you're taking 30-plus  
7 agencies who are all doing something similar but  
8 doing it in very different ways at different service  
9 levels, you're going to get some who will -- it will  
10 cost them more and some it will cost less.

11 The goal of an enterprise project at the state  
12 level is to overall lower the cost to the State and  
13 to the taxpayers. So there will be some winners and  
14 losers in the area of costs. But since we're all  
15 being funded by the Legislature, those monies can be  
16 adjusted to redistribute the money as needed to make  
17 sure everyone is made whole.

18 The other area is, is that this service  
19 actually raised the bar for service level for most  
20 agencies. I would challenge that it is at least  
21 equal to most agencies in terms of their overall  
22 service that they'll get from this service.

23 GOVERNOR SCOTT: How much money will this save  
24 over time?

25 MR. TAYLOR: It's a seven-year contract. It

1 will save a little over \$2 million a year, so we're  
2 projecting a minimum of \$15 million savings over  
3 seven years for this one IT service.

4 ATTORNEY GENERAL BONDI: I can tell you,  
5 Governor, if I may, for my agency alone, it will  
6 cost at least \$10 million. That's not sustainable  
7 for my agency. You're looking at me like I'm wrong.  
8 Correct me if I'm wrong. But, I mean, my IT people  
9 have serious concerns with this.

10 I believe this motion now, though, is just to  
11 go forward and discuss what we can do for all  
12 agencies and whether some will participate and some  
13 will not. Is that correct?

14 MR. TAYLOR: Your agency was a very unique  
15 situation because your e-mail system is embedded in  
16 a business process system, which is why AEIT  
17 supported the recommendation that you be given the  
18 option to participate or not, and your agency has  
19 chosen not to participate. So you were unique in  
20 using a product that had the embedded function in  
21 it. It would be a duplication of effort to put that  
22 in for you. That was not the case for the other  
23 agencies.

24 And as to your second question, this project  
25 was approved by the Legislature. It was in law to

1 be done, signed off by the Governor. The contract  
2 has been signed, and we are moving forward with the  
3 implementation. It will be complete within 18  
4 months.

5 ATTORNEY GENERAL BONDI: Thank you.

6 COMMISSIONER PUTNAM: So what are you asking us  
7 for? What is our action item, if you're already  
8 moving forward?

9 MR. TAYLOR: The action item is to approve our  
10 operational work plan, which is the set of all  
11 activities of the agency. As it relates to e-mail,  
12 we are monitoring the process -- the progress of  
13 that and reporting on that quarterly.

14 The project is actually being implemented by  
15 the contract holder, which is the Southwood Shared  
16 Resource Center, but we are project monitoring it  
17 and will be reporting back to you on a quarterly  
18 basis.

19 GOVERNOR SCOTT: And so we're approving your --  
20 this is to approve -- this is your work plan, right?

21 MR. TAYLOR: Correct. The Agency's -- the  
22 entire set of all the activities of the Agency.

23 GOVERNOR SCOTT: Okay.

24 COMMISSIONER PUTNAM: If you have a  
25 catastrophic event and you have all the data siloed

1 and you're trying to bring agencies back online,  
2 what order do you bring them back online? What's  
3 your policy for how you decide whose problems get  
4 fixed first?

5 GOVERNOR SCOTT: My understanding it's the  
6 governor's agencies are first, right?

7 (Laughter)

8 MR. TAYLOR: Prior to today, we had really no  
9 information related to that subject. Every agency  
10 just recovered themselves. As we're moving to a  
11 consolidated environment, AEIT saw the need to go  
12 ahead and get all of the agencies to come to some  
13 agreement on a common scheme for classification of  
14 their business allocations.

15 We didn't have the data that would essentially  
16 determine, within your own agency, which of your  
17 systems are more important than another. So we're  
18 asking -- we've asked every agency to categorize  
19 their business application in a standardized way.

20 We just recently got all that data back from  
21 the agencies, and now we're going to put all that  
22 together and tier all of those applications across  
23 agencies in a common way, and then we're going to  
24 send that back out to you.

25 Ultimately, we do not at this date have that

1 decision. It is a political decision to determine  
2 whether or not a law enforcement system is more  
3 important than a health care system. It's not  
4 something that our agency could make that  
5 determination.

6 But we will provide all that data back to the  
7 agencies, get it organized and bring that back to  
8 your attention, and we will ask you to make that  
9 decision.

10 GOVERNOR SCOTT: I assume it would be public  
11 safety would be first. I guess we'll get that back.  
12 Anything else?

13 CFO ATWATER: Governor?

14 GOVERNOR SCOTT: Yes.

15 CFO ATWATER: I appreciate what's been raised.  
16 DFS feels the same way, that we're on the short end  
17 of the change. And you may observe that  
18 differently. We also have -- our team is meeting  
19 with representatives of your team later today to  
20 talk about the work plan. I wonder, Governor, if --  
21 in myself glancing at it, I did not see the urgency  
22 that we must vote on it today.

23 I would appreciate if our team had the  
24 opportunity to go over some of the work plans with  
25 the agency today and over the next week or two and

1 see if it couldn't be a September agenda item rather  
2 than us complete it today, unless there was an  
3 objection.

4 GOVERNOR SCOTT: From your standpoint, is  
5 that --

6 COMMISSIONER PUTNAM: -- are on the short end  
7 of the stick, I would certainly second that.

8 GOVERNOR SCOTT: Dave, is there any reason that  
9 if we --

10 MR. TAYLOR: No, sir. The law requires us to  
11 present it to you within 60 days of the fiscal year.  
12 We've done that. So we can resolve it at a later  
13 date if you so wish.

14 GOVERNOR SCOTT: We could.

15 ATTORNEY GENERAL BONDI: You can defer it  
16 legally? We can defer it?

17 MR. TAYLOR: My interpretation is that we need  
18 to present it within 60 days. I would defer to my  
19 attorney on that matter.

20 ATTORNEY GENERAL BONDI: That's my concern.  
21 When is the 60 days? This Cabinet meeting?

22 MR. TAYLOR: Right. We presented it at this  
23 meeting within 60 days. The law does not specify  
24 that it --

25 GOVERNOR SCOTT: Okay.

1 MR. TAYLOR: -- be approved.

2 GOVERNOR SCOTT: So, CFO, you're making a  
3 motion to defer till September?

4 CFO ATWATER: I am. I wouldn't want to be the  
5 one giving interpretations, but you presented it,  
6 and I see it wanting.

7 GOVERNOR SCOTT: So the motion is to defer  
8 until --

9 CFO ATWATER: That we defer until the 20th.

10 COMMISSIONER PUTNAM: Second.

11 GOVERNOR SCOTT: Second. All in favor, okay.

12 ATTORNEY GENERAL BONDI: Yes.

13 GOVERNOR SCOTT: Approved. Thank you.

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1           GOVERNOR SCOTT: The next agenda is the -- oh,  
2 I'm sorry. We've got -- we did the minutes. We did  
3 the work plan. The next agenda is the Financial  
4 Services Commission, Office of Insurance Regulation,  
5 presented by Kevin McCarty. Good morning.

6           MR. McCARTY: Good morning, Governor, members  
7 of the Financial Services Commission. With respect  
8 to the U.S. downgrade by Standard & Poor's, the  
9 Office of Insurance Regulation conducted a  
10 conference call last week with large market states,  
11 with large national domestic companies, the National  
12 Association of Insurance Commissioners' leadership  
13 team, as well as the U.S. Treasury and the Financial  
14 Insurance Office, to do a stock-taking of the  
15 impacts on the insurance industry.

16           Preliminarily, there seems to be a stable  
17 marketplace. We look forward to reporting more  
18 details as that information becomes available.

19           Agenda Item Number 1 is request for approval --

20           GOVERNOR SCOTT: Excuse me. Can you go  
21 through, okay, what's your anticipation how the  
22 downgrade will impact insurance costs in the state?

23           MR. McCARTY: I don't anticipate it will have  
24 any impact on the cost.

25           GOVERNOR SCOTT: Okay. All right.

1           MR. McCARTY: Agenda Item Number 1 is request  
2 for approval for adoption of amendments to a  
3 Proposed Rule 690-137.001, relating to annual and  
4 quarterly reporting requirements. Section 624 of  
5 the Florida Insurance Code requires insurers to file  
6 on a quarterly and annual basis financial statements  
7 with the Office of Insurance Regulation.

8           This statute further provides that to  
9 facilitate the state uniformity with other companies  
10 around the country, the Commission may adopt the  
11 financial statements as produced by the National  
12 Association of Insurance Commissioners. This rule  
13 simply adopts the latest forms for quarterly and  
14 annual filings.

15           GOVERNOR SCOTT: Any questions? Is there a  
16 motion to approve Item 1?

17           CFO ATWATER: So moved.

18           GOVERNOR SCOTT: Is there a second?

19           ATTORNEY GENERAL BONDI: Second.

20           GOVERNOR SCOTT: Moved and seconded. Item 1 is  
21 approved without objection.

22           MR. McCARTY: The next agenda item is a  
23 briefing on the personal injury protection. Okay.  
24 Thank you, Governor, Members of the Commission.  
25 Thank you, Members of the Commission. I know in our

1 last Financial Services Commission we had an  
2 opportunity to hear a presentation about fraudulent  
3 check cashing schemes in the workers' compensation  
4 system. I also had an opportunity, in response to  
5 the CFO's questions about property insurance, about  
6 the ubiquitous amount of sinkhole fraud in the  
7 homeowner's market. Today I appreciate the  
8 opportunity to discuss similar problems in the  
9 personal injury protection, or PIP, and its fraud  
10 and abuse.

11 PIP is one part of the Florida automobile  
12 liability system that is required by the State of  
13 Florida to be purchased as a condition to have a  
14 privilege of driving a car in our state. It  
15 provides \$10,000 in coverage for medical bills and  
16 lost wages to each injured party in your automobile.

17 Our state is experiencing a significant level  
18 of increase in PIP fraud that is negatively  
19 impacting Florida's families. Over the years, the  
20 legislatures have made considerable efforts in  
21 several bills and even in the most recent session,  
22 but so far these attempts to find legislative  
23 solutions to effectively control fraud and abuse has  
24 been largely unsuccessful. Next slide.

25 Of the states, ten are considered to be

1 no-fault states. They have some form of mandatory  
2 no-fault insurance, and the limits vary. For  
3 example, Florida requires a \$10,000 limit, while  
4 Michigan has unlimited PIP benefits. PIP covers the  
5 insured and the resident's family, as well as the  
6 passengers in the vehicles. Next slide.

7 Thirty-eight states have traditional tort  
8 insurance. At-fault drivers are liable for the  
9 economic and noneconomic damages they cause on other  
10 drivers. Two states, Kentucky and Pennsylvania, as  
11 well as the District of Columbia, have what we call  
12 a hybrid system, where it's the option to purchase  
13 PIP or not. Next agenda item.

14 In Florida PIP coverage and property damage  
15 coverage are the only mandatory coverage. Many  
16 consumers, of course, purchase liability coverage  
17 that includes other types of coverage. Bodily  
18 injury coverage, to contrast with PIP, is mandatory  
19 in all states but Florida and New Hampshire. It  
20 covers the injuries to persons either in the same  
21 car or other cars who are injured by the fault of  
22 the driver, but does require a court determination  
23 of fault. Next slide.

24 Auto insurance coverage is by type. Physical  
25 damage coverage, which is coverage for the insured's

1 own vehicle, is not required in the state of  
2 Florida. Property coverage to the other driver's  
3 property is required, and that limit in Florida is  
4 \$10,000. But as most of you know, most people do  
5 have collision and comprehensive coverage. Next  
6 slide.

7 I'm going to do just a brief overview of the  
8 history of PIP in Florida. PIP was ushered in in  
9 the early 1970s as a viable alternative. It was  
10 highly touted to reduce litigation and provide  
11 prompt benefit payments for injured people. In 1972  
12 Florida enacted its first PIP law. It was the  
13 second state in the nation to do so. In 1979 that  
14 law was amended to raise those benefits from \$5,000  
15 to \$10,000, and in 1988 was the provision the  
16 Legislature enacted to require mandatory property  
17 damage.

18 In 2000 the grand jury issued a scathing report  
19 on the problems of PIP fraud and abuse in our  
20 system. Over the next series of years the  
21 Legislature enacted a series of changes to address  
22 that fraud. In 2001 they enhanced fraud provisions,  
23 including clinic licensures and limited third party  
24 access to crash reports. In 2003 further anti-fraud  
25 and licensing provisions were provided. And again

1 in the 2007 legislature PIP was sunsetted but then  
2 reenacted during the special session with some  
3 specific reforms, including the use of a fee  
4 schedule. PIP insurance is the last insurance that  
5 doesn't have any kind of negotiated contract or any  
6 fee schedule. So that was addressed in 2007. The  
7 next slide.

8 I want to kind of set the stage, because one  
9 might think that an increase in PIP might have  
10 something to do with an increase in population,  
11 number of drivers. So in this slide, Florida has  
12 almost 16 million drivers. This number has not  
13 grown dramatically from 2004. Therefore, if there  
14 is any increase in PIP claims, it cannot be  
15 attributed to the number of drivers on the road.

16 And our next slide I think is even more  
17 compelling. An increase in PIP claims also cannot  
18 be attributed to more car accidents. The frequency  
19 of car accidents has actually declined 11 percent  
20 from 2004 to 2009. Given that the number of drivers  
21 has remained stable and the frequency of crashes  
22 have decreased, one would expect that the amount of  
23 PIP benefits paid would remain stable or decrease  
24 slightly.

25 As you can see from the next slide, that is not

1 the case. Based on the information submitted in the  
2 data call that the office issued this year, for 31  
3 companies, which represents over 80 percent of the  
4 total marketplace, PIP benefits paid by insurance  
5 companies for Florida insurers have increased  
6 significantly since 2008; 1.43 billion in 2008, up  
7 to 2.37 billion in 2010, a 70 percent increase.  
8 Some of that increase can be attributable to  
9 increased medical costs, but not 70 percent.

10 In our next slide, one of the motivations back  
11 in the seventies for enacting PIP was to reduce our  
12 overburdened court system. However, from our data  
13 call, the data suggests that our courts are  
14 inundated with PIP-related lawsuits. Since 2008 the  
15 number of suits has grown dramatically, from 7,458  
16 in 2008 to 18,889 in 2010 for settled claims and  
17 from 4,604 in 2008 to 10,000-plus in 2010 for claims  
18 pending at yearend.

19 The next series of slides involve comparisons  
20 of Florida with other major PIP states.

21 GOVERNOR SCOTT: On the lawsuits, what's the  
22 dispute in the lawsuits? The fees, or what is it?

23 MR. McCARTY: Medical bills.

24 GOVERNOR SCOTT: Just which ones should be paid  
25 or the amount?

1           MR. McCARTY: The amount to be paid, the  
2 legitimacy of the claim.

3           GOVERNOR SCOTT: It's more that this -- they're  
4 arguing that there's fraud involved?

5           MR. McCARTY: There's fraud involved.

6           GOVERNOR SCOTT: They're not arguing that --  
7 what the fee should be, because that's set.

8           MR. McCARTY: Yes, they are.

9           GOVERNOR SCOTT: Oh, they are? They're arguing  
10 that also?

11          MR. McCARTY: Yes, they are. Well, because  
12 some of the fees are so out of line with what  
13 ordinarily fees would be for a similar procedure,  
14 diagnosis, that they question that. They also don't  
15 pay it in a certain time line, they get hit with  
16 additional fees. And fees -- attorney's fees is a  
17 contributing factor to the increases in PIP.

18          GOVERNOR SCOTT: If you go back a couple of  
19 slides though --

20          MR. McCARTY: Yes, sir.

21          GOVERNOR SCOTT: -- and look at that, that's  
22 like, what, a \$1.3 billion increase? Is that what  
23 that is?

24          MR. McCARTY: Yes, sir.

25          GOVERNOR SCOTT: Something like that, yeah.

1           ATTORNEY GENERAL BONDI: And excuse me,  
2           Governor. That's due to fraud. Do you agree?

3           MR. McCARTY: It's due to fraud or abuse.  
4           Fraud, as you know, is a legal term, and it's hard  
5           to prove fraud. There certainly is -- I would argue  
6           a significant amount of that is fraud. Fraud in the  
7           terms of staged accidents, which are blatant fraud,  
8           which is clear cases of fraud. Some of it is  
9           disputes of overutilization, which is hard to prove  
10          is fraud.

11          You may have medical folks that disagree with  
12          how much -- with a particular procedure protocol.  
13          There are generally accepted medical standards as to  
14          what is appropriate. But rarely do you see those  
15          prosecuted for fraud. But it's definitely abuse and  
16          fraud in combination.

17          GOVERNOR SCOTT: Kevin, that's like an  
18          \$800 million tax increase. It was 1.5 to 2.4, is  
19          that what that is on that slide? Am I reading that  
20          right?

21          MR. McCARTY: It's 1.4 to 2.3.

22          GOVERNOR SCOTT: So a \$900 million increase.

23          MR. McCARTY: Yes.

24          GOVERNOR SCOTT: It's just like having a tax  
25          increase.

1           MR. McCARTY: Yes. Well, it comes out of the  
2           pockets of Joe and Mary Lunchbox, yes. And the  
3           thing about it is, it's through no fault of your own  
4           because you could be a very good driver and have a  
5           very good driving record. And as we'll see later  
6           on, we have some examples.

7           So your rates are going up astronomically  
8           because -- not necessarily because other people are  
9           legitimately getting paid but because there's a  
10          group of people, fraudsters and hucksters, who have  
11          perfected the system of finding the weak points and  
12          taking advantage of that.

13          You know, the Legislature has acted  
14          aggressively and has closed down, but it's like I  
15          explained to Commissioner Putnam, it's like  
16          Whack 'em All. You close it down one place and it  
17          pops up somewhere else. They're very proficient at  
18          finding those weaknesses.

19          Okay. If we could go to slide 11. And the  
20          reason I want to point this out is all no-fault is  
21          not created equal. This slide compares Florida,  
22          which requires limits, different than other states.  
23          Michigan, as I mentioned, is unlimited PIP. Florida  
24          is \$10,000, which it has been since 1978. New York  
25          is 50,000. New Jersey is 250,000, which is a

1 default position. You can purchase 15,000 if you  
2 want to. And Pennsylvania is 5,000 med pay. And  
3 that excludes certain coverages, but it's like  
4 PIP-light. It does cover medical benefits.

5 And the next slide is to kind of put it in  
6 perspective. And what I did, at the suggestion of  
7 the CFO, was see if we can normalize this process.  
8 You can't compare a \$250,000 coverage with a \$5,000  
9 coverage. So what we did is look at this as cost  
10 per 1,000. And the fact remains is that Florida  
11 cities, Hialeah being among the highest, Tallahassee  
12 currently enjoys a lower number.

13 But let's not, as you'll see, deceive  
14 ourselves. This is a contagion that's going across  
15 the state. What was largely viewed as a South  
16 Florida problem has seen this growing contagion to  
17 Central, Tampa, Southwest Florida, and even an  
18 uptick in areas that have traditionally not seen the  
19 problem. But we don't compare very favorably even  
20 with places like Brooklyn, New York or Detroit,  
21 Michigan. The next slide.

22 Now, I got a little bit into technical terms,  
23 and I just want to kind of explain what a pure loss  
24 ratio is. If you're looking at a component on a  
25 dollar that's being paid in, that means for every

1 dollar in premium collected, every -- there's a  
2 dollar paid in medical benefits. That's just money  
3 being transferred from the insurance company to  
4 medical providers. That's none of the costs of  
5 mailing the check, of adjusting the claim, of  
6 determining fault, of paying commissions or any of  
7 that. That's just pure dollars that are being  
8 transferred from the insurance company to medical  
9 providers.

10 And you can see 2001, Florida was at 100  
11 percent. That's not a very good place to be.  
12 You're not going to make money at 100 percent,  
13 because you don't have all those other costs. And  
14 as you can see, Florida took a little dip for a  
15 while, as some of those changes from the -- that  
16 were put into place as a result of the grand jury  
17 report, some things that we're tamping down on,  
18 runners and some of the more blatant abuses that  
19 were identified in the report. And then you see it  
20 ticks back up. And if you look back at 2010, we're  
21 right back where we started in 2001.

22 So you look and compare us with some other  
23 states. Obviously, Michigan is off the charts, but  
24 that's a state that has unlimited. So take a look  
25 at even New York, which put in a fee schedule, which

1 didn't seem to have any effect. It's going up.  
2 Pennsylvania, which is kind of an outlier because  
3 it's an optional state. But then you look at New  
4 Jersey, which looks like it might be going down.

5 So I called the commissioner of New Jersey, Tom  
6 Considine, and I said, "What are y'all doing there  
7 to bring it down?" He goes, "That was temporary.  
8 Same kind of thing. They figured it out, and we're  
9 back at 123 percent pure loss ratio." So other  
10 states are struggling with the same problems that we  
11 are in Florida.

12 GOVERNOR SCOTT: So how does being over 100  
13 percent or at 100 percent impact the average  
14 motorist in the state?

15 MR. McCARTY: It increases rates. And if  
16 you'll let me show -- I'm going to show you what  
17 happens when you add on the traditional costs, which  
18 is the next slide. This slide shows what's called a  
19 combined loss ratio. And this takes -- that blue  
20 part is the part I talked to you about previously.  
21 That's the part that just is a transfer of money  
22 from the insurance company to pay the providers and  
23 hospitals.

24 Then on top of that you can see there's taxes,  
25 commissions, general expenses, loss adjustment

1 expenses, acquisition costs. And all of these  
2 together are called the combined loss ratio. Take  
3 the pure loss ratio, add the expenses, it's the  
4 combined loss ratio.

5 So what this means is, for every dollar you  
6 take in, you're paying out \$1.40 in losses and  
7 expenses. And obviously that is not sustainable.

8 GOVERNOR SCOTT: And so when you say it's not  
9 sustainable, what's going to happen?

10 MR. McCARTY: I'll go to the next slide, if I  
11 may, Governor.

12 GOVERNOR SCOTT: I'm just here to help you get  
13 to the next slide.

14 MR. McCARTY: And you have been prompting me  
15 very effectively, sir, and it's much obliged. In  
16 our next slide, what is really important to discuss  
17 is how much money it's costing Floridians for their  
18 auto insurance. And the Office sees rates filings  
19 for most insurers on a six months basis because most  
20 policies in Florida are six months policies.

21 And auto insurers, because of the robust nature  
22 of insurance and the vacillations and trends and  
23 conditions, they're very -- they file frequently.  
24 So they file on a six months basis to keep their  
25 rates fresh, which is very important in insurance.

1 So we see them over time. Over time, it has  
2 resulted in companies having significantly higher  
3 rates. As you can see on the charts, most companies  
4 have exceeded their PIP rates by more than  
5 35 percent since 2009.

6 But interestingly enough, if you look at comp  
7 and collision, what I talked about before, you have  
8 the liability on one side and the property on the  
9 other side. Comp and collision has been carrying  
10 the companies for a number of years. And so your  
11 PIP and your liability combined has been going up,  
12 but now PIP is going up more than the other  
13 liabilities are going up. And it's gotten to a  
14 point now where companies were making small profits,  
15 but up until 2009 and 2010 the PIP increases have  
16 grown so much that it outstretched what they used to  
17 be able to offset it with the other ones.

18 So it is now becoming a crisis because it is --  
19 companies are not going to -- they're not going to  
20 lose money. I mean, they're going to either, one of  
21 two things, they're going to raise rates, which  
22 they're entitled to do because their losses support  
23 it, or they're going to find ways to deploy their  
24 capital elsewhere.

25 GOVERNOR SCOTT: Kevin, on the lawsuits, what

1 sort of damages are being assessed against the  
2 insurance companies?

3 MR. McCARTY: Well, there are consequences  
4 for -- attorneys get paid according to a multiplier,  
5 and that multiplier can be very substantial. So you  
6 can find a number of cases, and insurance companies  
7 will be happy to share those with us, where it's  
8 just a few dollars difference or a few days late in  
9 payment, where the attorney's fees are based upon  
10 the number of hours, you know, with a multiplier, so  
11 it can be very significant, particularly since we're  
12 talking about relatively small dollar amounts.  
13 We're talking about 10,000. We're not talking about  
14 a 100,000 suit where there's physical damage and  
15 permanent impairment. We're talking about, in some  
16 cases, a few hundred dollars.

17 Okay. In the next slide there's a popular  
18 myth, as we looked at, that Miami is ground zero for  
19 PIP fraud, and we'll see here that that is changing.  
20 This is an example. This is only one company. And  
21 I want to caveat that. I just took a sample of one  
22 company. It's virtually impossible to sample from  
23 350 companies, and there are variations by -- and  
24 there are hundreds, if not thousands of variations  
25 in rating factors. So this is an example of one

1 company from one territory of how PIP has performed  
2 since January 2005.

3 The first example is a married 40-year-old  
4 female. In 2005 her PIP premium was \$447. In 2011  
5 it rose to \$826. That's an 84 percent rate  
6 increase. The second example is a 25-year-old  
7 female. In 2005 -- excuse me. It's a 25-year-old  
8 male. In 2005 his PIP premium was 537. In 2011 it  
9 rose to 909. That represents an 84.5 percent rate  
10 increase.

11 But I think the next one, next slide is really  
12 important and why we've heard so much about  
13 deploying more resources combating fraud in Tampa.  
14 Like I said, it's a widely held misperception that  
15 this is a South Florida problem, but this is a  
16 contagion crossing the state. PIP fraud spreads  
17 across the state, and other parts are experiencing  
18 dramatic increases.

19 For instance, in this example, there's a  
20 40-year-old female with the exact same statistics,  
21 occupation, driving history, car, et cetera, we took  
22 from Miami. In 2005 her PIP premium was \$284. That  
23 rose to 572, which is a 101 percent rate increase.  
24 The second example is a 25-year-old man. His 2005  
25 premium was 340, and rates went up to 629, which

1 represents an 85 percent rate increase.

2 Which leads us to the next slide, which is I  
3 think illustrative of a growing problem. You know,  
4 we looked at the 2000 grand jury report. Nothing  
5 was mentioned about staged accidents. That's kind  
6 of like the new fad in fraud. According to the  
7 National Insurance Crime Bureau, one type of fraud  
8 becoming prevalent is staged accidents, where claims  
9 are reported where people may not be injured, may  
10 not even be in the car. And you can see from these  
11 statistics that Tampa is leading. Orlando is  
12 closely behind, and we're seeing increases in other  
13 areas of the state as well.

14 In our next slide the number of claims in a  
15 particular area would be expected to be higher  
16 because of population. So what we did was we wanted  
17 to normalize that by dividing the number of claims  
18 by the number of licensed drivers, so we can see  
19 that it's not merely population that is the  
20 explanation.

21 The number of claims has increased in 2008  
22 across all regions of the state. However, the  
23 increases in South Florida remain the king, and St.  
24 Petersburg has seen significantly more pronounced  
25 fraud in those regions. You know, and that's --

1 remember, that lags time. That's 2010. And, so,  
2 you can expect those lines in Tampa and South  
3 Florida as well as predictably other areas of  
4 Florida as it gravitates across the state.

5 The next slide is courtesy of the Division of  
6 Insurance Fraud. DFS has seen a higher number of  
7 fraud referrals in PIP. 2004 and '5, that number  
8 was 2,628, and it has grown to, 2010, 2011, to 6,699  
9 claims.

10 But I want to put that in perspective by going  
11 into the next slide. More than half of the  
12 referrals to fraud are opposed to any other type of  
13 fraud. That includes fire, arson, health insurance  
14 fraud, provider fraud, across all coverages. The  
15 total premium in Florida, if you count property and  
16 casualty, life and health, other lines, surplus  
17 lines, residential markets, the total premium is  
18 about \$110 billion. PIP represents about  
19 \$2.4 billion. So based on these figures, PIP, at  
20 two percent of the market, yet they're 50 percent of  
21 the fraud referrals.

22 In our next slide, it's kind of evident. In  
23 2007 the Legislature, I think with very good  
24 intentions, put a fee schedule in place for PIP.  
25 This was expected to limit the unlimited amount that

1 was being billed by medical providers. Since then,  
2 the number of visits included in a particular claim  
3 have increased, and the average cost for medical  
4 providers per claim has increased.

5 This can be contrasted with what we did in the  
6 workers' comp system in 2003, where the fee schedule  
7 was coupled with very effective provider utilization  
8 controls. There may be some lessons learned from  
9 our workers' comp experience to help inform  
10 policy-makers on what we may do if we want to reform  
11 PIP.

12 Our next slide, I think, is even more dramatic.  
13 Average procedures per claim, the average procedures  
14 per claim is -- we should be on --

15 GOVERNOR SCOTT: I think it's on the next  
16 slide.

17 CFO ATWATER: It's just not showing.

18 GOVERNOR SCOTT: It's not showing.

19 MR. McCARTY: There we go.

20 GOVERNOR SCOTT: Florida is at 100 for 2010.

21 MR. McCARTY: Average procedures per claim,  
22 yes, have increased, as you see from this slide, and  
23 then on the next slide -- I think we might be  
24 behind.

25 GOVERNOR SCOTT: It's just the color is not

1 showing up.

2 MR. McCARTY: Oh, okay. The average procedure  
3 per claim billed. Within a claim, typically a  
4 provider sends multiple bills. The average number  
5 of procedures has also increased. Next.

6 Last year there was a number of very sweeping  
7 pieces of legislation that were introduced by the  
8 Legislature to try to get at the whole gamut of  
9 problems. The first bill was combating fraud and  
10 abuse, doing some systemic changes, everything from  
11 fighting fraud to addressing some of the systemic  
12 problems, offered by Senator Bogdanoff and  
13 Representative Boyd.

14 The next slide was another bill aimed at  
15 addressing the issues relating to PIP, which was  
16 sponsored by Senator Richter and Representative  
17 Horner. This was really more of a legal reform as  
18 well as getting at some of the abuses in the fee  
19 schedule.

20 Governor, Members, that conclude my report.

21 GOVERNOR SCOTT: Does anybody have anything  
22 they'd like to say?

23 CFO ATWATER: Governor, I just appreciate that  
24 you asked the commissioner to come in and share with  
25 us the facts. I think that, Commissioner, maybe we

1 just could walk through so we understand where the  
2 real concerns are. And that is, when an insurance  
3 company presents its data to your office and they're  
4 showing you a 100 percent loss ratio without  
5 building in the cost of running the business, I take  
6 it you have the consideration to make there that  
7 either this company is going to continue to offer  
8 its services and therefore create competition and  
9 hopefully create a marketplace by allowing -- you're  
10 making a decision to allow them a rate increase or  
11 you're looking at it, and if you say no, either  
12 you're putting their business model in jeopardy and  
13 their ability to pay future claims or they're going  
14 to depart the state. Is that kind of where we're  
15 at?

16 MR. McCARTY: Oh, absolutely. I mean, the  
17 company has got to make a profit. And even when  
18 they're making a profit, they weren't making the  
19 profits that money could have made if the capital  
20 was deployed in other industries.

21 So if you're in a situation where you're seeing  
22 an upward tick in your loss costs and you don't have  
23 any hope that there's going to be any change in that  
24 trajectory -- and, you know, a lot of tools have  
25 been taken away from the companies over the years

1           because of court cases.

2           You know, one of the things we talked about is  
3           the examinations under oath. Well, those have been  
4           thrown out. That was an opportunity where you can  
5           actually ask people questions to see if they're  
6           telling you the truth about an accident, whether  
7           there was an accident, whether they had a procedure.  
8           That's been taken away.

9           So there is a behavioral effect in addition to  
10          the claim cost, because one of the things you do, if  
11          you can't ask somebody if they're participating in  
12          abusive or fraudulent behavior, your next  
13          opportunity really is to pay the claim or run the  
14          risk of bad faith.

15          So, again, some of the spike you're seeing is  
16          in reaction to some court cases. And you're right,  
17          if your business plan, particularly in South  
18          Florida -- there are some Florida domestic companies  
19          that have specialized over the years of writing  
20          PIP/PD. And it's just -- it's not -- it may not be  
21          a viable business plan because the rates have gotten  
22          to the point where it's 900 to over \$1,000 for  
23          \$10,000 worth of coverage.

24          CFO ATWATER: And I would take it -- and I  
25          would just ask you -- that you must be looking as

1 well at what those insurance companies are doing to  
2 investigate fraud and uncover fraud to the best of  
3 their ability with the tools they have available to  
4 them. Can you offer us any commentary on how that  
5 is going in the industry?

6 MR. McCARTY: Well, I think the companies --  
7 you know, and that's to a varying degree. Some  
8 companies have very sophisticated fraud  
9 investigation teams. As you know, they have been  
10 very aggressive at investigating and referring  
11 fraud. Your agency and Director Askins has been the  
12 most successful in the country in prosecuting fraud.

13 So, you know, we're doing what we can, but I  
14 think the numbers are demonstrating that the -- how  
15 pervasive it is and entrenched in our system, that  
16 even sophisticated fraud detection schemes will not  
17 make a discernible difference in the amount of fraud  
18 we're seeing in our system, in my view.

19 CFO ATWATER: And it seems to have, you know,  
20 by the numbers you're showing us, each time that the  
21 Legislature has tried to figure out how to plug a  
22 hole, whether it's on a fee schedule, then someone  
23 just goes in and gets ten more treatments and runs  
24 the bill right back up again.

25 I just -- again, Governor, I appreciate you

1 sharing this because I think we all feel that the --  
2 let me ask you this question. You had mentioned we  
3 initiated this in 1972. There are now ten states  
4 that share a similar process that this is an  
5 offering that is mandatory. What was the high-water  
6 mark? Had this once hit 25 states, 30 states, 40  
7 states?

8 MR. McCARTY: To the best of my information,  
9 from my esteemed colleague behind me, it's give or  
10 take about 26 states.

11 CFO ATWATER: About 26 states. And they have  
12 been reversing themselves now over the years?

13 MR. McCARTY: It has been steady reversal of  
14 that. The latest state to reverse that was  
15 Colorado. Colorado had a 150,000-dollar, and so  
16 there were some disruptions in the marketplace.  
17 Let's not kid ourselves there. There are  
18 cost-shifting that occurs. If we -- if I were able  
19 to make a recommendation, I would suggest that  
20 people buy bodily injury, because if you're going to  
21 put a 2,000-pound vehicle on the streets and cause  
22 harm through your negligence, you should be held  
23 personally responsible for that.

24 So almost every state except Florida and New  
25 Hampshire require people to be personally

1 responsible and do that. But most states have gone  
2 through a process of trying to fix the PIP system,  
3 because the concepts behind PIP make a lot of  
4 practical sense. Your doctors and hospitals get  
5 paid promptly. You're reducing the amount of  
6 litigation.

7 But what we found is that it reduces the amount  
8 of litigation at first until those people in the  
9 system figure out how to abuse the system, and then  
10 you get an increase in the numbers. So most states  
11 have been sorely disappointed at what impact it has  
12 had on litigation and, on balance, have made a  
13 decision to revert back to a tort system.

14 CFO ATWATER: I think your slide where you  
15 present us with a 40-year-old with an unblemished  
16 driving record, mandated to have this kind of  
17 coverage, is seeing a 100 percent increase over a  
18 two-year period, as the Governor just mentioned,  
19 that is destroying their capacity to make good for  
20 their family.

21 This is -- so every time we have brought this  
22 back up to discuss, whether or not we can find the  
23 specific legislative fixes that can place this in an  
24 honest to goodness valued product that can serve  
25 Floridians well, we end up having this great debate.

1 And all the players come crashing through the door  
2 looking to protect their specific place at the  
3 table.

4 And everybody will start throwing out the  
5 phrase "Don't throw the baby out with the bath  
6 water." But there has to be a time when we stop  
7 throwing consumers to the wolves. This cannot be  
8 sustained. The people of Florida cannot do it.

9 And again, Governor, that you would allow us to  
10 have a conversation like this will help, I hope, to  
11 ease up -- you know, the next 90 days we have a  
12 legislative session beginning in January, that we  
13 owe it to the people of Florida that when those  
14 people come crashing through the door and have a  
15 seat back at that table and their only desire is to  
16 protect their particular constituency, their  
17 particular place to extract a dollar off the table  
18 and many dollars out of the wallets of the people of  
19 Florida, that the focus has to be on the consumer.

20 And if we can't get this to a place where an  
21 honest to goodness Floridian has to pay this for a  
22 product that they're not even utilizing, that  
23 someone down the street is abusing and someone else  
24 has created an industry to make a fortune off of, we  
25 owe it to them to either, as they've said before,

1           either fix it or flush it, start looking at the  
2           alternative.

3           MR. McCARTY:   And just a precautionary remark  
4           in closing.   An overwhelming number of providers and  
5           hospitals are honest and provide honest billing.  
6           There are a small subset that are abusing the  
7           system.   And the problem is, is anytime the  
8           Legislature tries to define that, there are people  
9           who legitimately are hurt and deserve benefits that  
10          are cut out of the system, and there are legitimate  
11          clinics and docs that are penalized by the system.

12          So being able to strike that balance in the  
13          system in ferreting out the good actors from the bad  
14          actors is a very, very difficult thing to do.

15          GOVERNOR SCOTT:   But, Kevin, is it fair to say  
16          this is like an \$800 million -- at least an  
17          \$800 million tax on Floridians, if you look at just  
18          that increase from -- 900 million -- from  
19          1.4 billion to 2.3 billion?

20          CFO ATWATER:   Governor, might I add, before he  
21          answers that?   I think that's accurate.   And the  
22          commissioner may disagree, but remember, you've only  
23          calculated that tax off the base rate of '08, which  
24          we know already had fraud built into that number.  
25          So I don't know where you go back to find your base

1 rate, but I think that's generous.

2 GOVERNOR SCOTT: You think that's an accurate  
3 way of looking at it?

4 MR. McCARTY: Yes. I think the loss ratio  
5 analysis shows what the -- exactly what we were  
6 talking about before. We started out with the grand  
7 jury report with 100 percent pure loss ratio. We  
8 made some dents. It went down. And then despite  
9 all of those efforts, it went back up, which results  
10 in now people are paying out of pocket, you know,  
11 \$800 million more, that they don't have to pay for  
12 necessities.

13 GOVERNOR SCOTT: Something else in a tough  
14 economic environment. Well, I think, from my  
15 standpoint -- and I assume the rest of the Cabinet  
16 would think the same way. What I would ask is that  
17 you sit down with the Legislature and the  
18 leadership, and so we do, as the CFO said, we have  
19 something that happens this session. So I would ask  
20 you to put a lot of effort into getting this fixed,  
21 because this is in a tough environment. Whether the  
22 number is 800 million, 900 million or, you know, a  
23 billion-plus, this costs Floridians a lot of money.

24 MR. McCARTY: I plan to meet with the sponsors  
25 of the bills from last year and the legislative

1 leadership team over the next few weeks to discuss  
2 this issue, and I look forward to doing it. I  
3 appreciate the opportunity to be here.

4 ATTORNEY GENERAL BONDI: Thank you.

5 GOVERNOR SCOTT: Thank you very much.

6 MR. McCARTY: Thank you, appreciate it.

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1           GOVERNOR SCOTT: All right. The next agenda is  
2 the Department of Revenue, presented by Lisa  
3 Vickers. Good morning.

4           MS. VICKERS: Good morning. Item 1 on our  
5 agenda is to request approval of the minutes from  
6 the June 16th meeting.

7           GOVERNOR SCOTT: Is there a motion to approve  
8 Item 1?

9           COMMISSIONER PUTNAM: Governor?

10          GOVERNOR SCOTT: Yes, sir.

11          COMMISSIONER PUTNAM: I only make note of this  
12 because it affects the director. Page 60, line 22  
13 says that I said she's putting her agency in an  
14 unfair position. I said we're putting your agency.  
15 So that should read, so I think we're putting --  
16 probably putting your agency in an unfair position.  
17 So I move to approve with the one change.

18          GOVERNOR SCOTT: Is there a second on the  
19 commissioner's --

20          CFO ATWATER: Second.

21          GOVERNOR SCOTT: Moved and seconded. Item 1 is  
22 approved without objection, based on the motion by  
23 the commissioner.

24          MS. VICKERS: Thank you. Item 2, we're  
25 requesting approval to adopt amendments to a

1 property tax rule, Rule 12D-9.019(7)(b), in response  
2 to an objection filed by the Joint Administrative  
3 Procedures Committee of the Legislature. The  
4 current rule was adopted in March of 2010 to address  
5 rescheduling of Value Adjustment Board hearings when  
6 there is a delay. The rule in part reads, in no  
7 event shall a petitioner be required to wait more  
8 than a reasonable time from the scheduled time to be  
9 heard.

10 The Joint Administrative Procedures Committee  
11 found that this portion of the rule modifies or  
12 contravenes the statute by failing to include a  
13 four-hour limitation. The statute in question reads  
14 as follows. It's 194.032(2). No petitioner shall  
15 be required to wait for more than four hours from  
16 the scheduled time, and if his or her petition is  
17 not heard in that time, the petitioner may at his or  
18 her option report to the chairperson of the meeting  
19 that he or she intends to leave. And if he or she  
20 is not heard immediately, the petitioner's  
21 administrative remedies will be deemed to be  
22 exhausted and he or she may seek further relief as  
23 he or she deems appropriate.

24 The Department believed that the language in  
25 the statute had been overturned by a 1974 amendment,

1 Section 194.032(3) that provided that an aggrieved  
2 party could go directly to circuit court and no  
3 longer needed to exhaust their administrative  
4 remedies. That position was upheld by the Third DCA  
5 in a 1982 opinion of *St. Joe Paper Corporation v.*  
6 *Miami Dade.*

7 Two other statutes were passed in 2000 which  
8 sort of further confused the issue. In 2000 the  
9 Legislature enacted the taxpayer bill of rights as  
10 related to property tax. And in doing so, they  
11 enacted a provision in 192.015(d) which provides in  
12 part -- well, I guess let's talk about (f) first,  
13 (f), which provides in part, the right in Value  
14 Adjustment Board proceedings to have all evidence  
15 presented and considered at a public hearing at the  
16 scheduled time, which seems pretty clear.

17 They also in that same legislation in (d)  
18 restated the language that had occurred in that  
19 earlier statute that we believed had been  
20 overturned. And that provision reads, the right to  
21 prior notice of the Value Adjustment Board's hearing  
22 date and the right to the hearing within four hours  
23 of the scheduled time.

24 The Joint Administrative Procedures Committee  
25 felt that by failing to include the four-hour

1 provision, that the Department had eliminated an  
2 important protection for taxpayers, meaning that  
3 because we only required that it be a reasonable  
4 time, a reasonable time might be interpreted to be  
5 longer than four hours, could be six hours or seven  
6 hours, and that the four-hour provision could be  
7 read independently of the requirement to exhaust  
8 administrative remedies, so that that portion of the  
9 statute had not been overturned.

10 The Joint Administrative Procedures Committee  
11 directed the Department to reference the four-hour  
12 rule in any amendment to its rule to correct this  
13 issue.

14 We've spoken to a lot of individuals over the  
15 years. When we first created this rule, the issue  
16 of what the four-hour provision meant was in  
17 controversy. And it was very clear that citizens  
18 and those who represented taxpayers in Value  
19 Adjustment Board hearings felt that this was an  
20 important issue.

21 And I think most of us can agree that asking  
22 someone to wait up to four hours from their  
23 scheduled time is pretty onerous and not really  
24 acceptable. It drives up the cost to taxpayers  
25 through lost productivity. If they've hired a tax

1 rep who is charging on an hourly basis, sometimes  
2 the fees that they have to pay to challenge their  
3 assessment in the Value Adjustment Board process can  
4 actually exceed the amount of the savings they were  
5 trying to achieve by getting the adjustment  
6 corrected.

7 But clearly, based on the Joint Administrative  
8 Procedure Committee's direction to the Department,  
9 we believe that we have to amend the statute because  
10 they have interpreted this section as remaining but  
11 that we should return to the Legislature to try and  
12 get this fixed through legislation.

13 As I mentioned in our May 3rd meeting, you have  
14 two options. You can adopt the amendments to the  
15 rule, which is our recommendation, since I think  
16 their -- their direction is pretty clear that they  
17 feel that this at least creates that limitation of  
18 four hours to the definition of reasonable, or you  
19 could reject the Joint Administrative Procedures  
20 Committee's objection, in which case they would file  
21 notice with the Department of State, and they may  
22 request the Department temporarily suspend its rules  
23 while they would presumably get legislation to  
24 direct us to take this action.

25 If you have any questions about the Joint

1 Administrative Procedures Committee, John Rosner,  
2 who is staff from that committee, is here and could  
3 answer questions about that process. And we have a  
4 citizen, Sheila Anderson, who is a tax  
5 representative, who may wish to speak to talk about  
6 the impact of the four-hour provision on citizens.

7 Clearly, the concern is that by having a time  
8 in there, some clerks may interpret that as cover or  
9 authority to make people wait up to four hours, you  
10 know, before saying that they have the right to be  
11 rescheduled.

12 CFO ATWATER: Governor --

13 GOVERNOR SCOTT: Absolutely.

14 CFO ATWATER: Just for information, do you know  
15 if -- and maybe somebody else would know.

16 Personally, I think four hours is atrocious. And we  
17 are the government. We're the one who has placed  
18 the tax. And if we can't set a schedule and hire  
19 the resources to be able to, during that intense  
20 period of time, be prepared to take care of a  
21 citizen's request to petition their government for  
22 change to what they believe is unfair -- and I know  
23 this isn't your statement, but that just seems  
24 ridiculous to me. I'm curious why the Legislature  
25 didn't say 30 minutes or whatever the petitioner

1 brought before us they get.

2 MS. VICKERS: Well, the history on this is  
3 really kind of interesting. I try not to bore you  
4 with history, but I love history. Back in 1969,  
5 because there was such a demand in front of the  
6 adjustment process, that's back when you had all  
7 this pressure in the state to try and get values to  
8 a hundred percent just value, because there had been  
9 a very poor process in the past, and the State moved  
10 away from a board of equalization to this new  
11 adjustment process. And so there was a heavy demand  
12 for hearings.

13 And sometimes in large metropolitan areas  
14 petitioners were waiting days to get their hearing.  
15 So the Legislature came in and they passed a statute  
16 that said, if your petition was not heard within two  
17 hours, you automatically won.

18 Well, that didn't really work very well because  
19 then they were having to grant a lot of adjustments  
20 that maybe were not justified because of the delays  
21 in the hearing. So the Legislature came back in  
22 1970 and created this four-hour provision. But if  
23 you carefully look at the language, you know, it  
24 talks about going to the chairperson and alerting  
25 them that you want to be heard immediately.

1           I think the four-hour provision was really  
2 looking at the situation where petitions were heard  
3 in front of a Value Adjustment Board, similar to  
4 like a hearing before the Governor and Cabinet, and  
5 so the schedule was a four-hour block. The board is  
6 going to meet from 8:00 in the morning until noon  
7 and your petition is going to be heard during that  
8 time period, or similar to a committee meeting in  
9 the Legislature. The scheduled time is 8:00 to  
10 10:00 and that bill is going to be heard during that  
11 meeting.

12           With the use of special magistrates, you have  
13 hearings being held in front of an individual, and  
14 you really can create a schedule that says your  
15 hearing is going to be at 9:00, your hearing is  
16 going to be at 9:15, yours is at 9:30. And so I  
17 think this language is really very outdated in that  
18 it was addressing sort of a different way of holding  
19 these hearings.

20           On the clerk's side, what they will say is, you  
21 know, they never know exactly whether everybody is  
22 going to show up to their hearings or not, and so  
23 they overbook these time periods. But the result  
24 is, is that if a lot of people show up, some people  
25 are being required to wait lengthy periods of time.

1           I think some clerks are probably better -- you  
2 know, if somebody steps forward and says, "I need to  
3 get back to work," or, "I can't wait," in allowing a  
4 rescheduling. Other clerks I think probably do look  
5 at the time and say, you know, "You haven't waited  
6 four hours," which is really pretty egregious.

7           The impact on taxpayers is definitely  
8 significant. I know that any one of us who has to  
9 go to a doctor's appointment or anything and you're  
10 required to wait, that's productivity and that's  
11 time. And for people who are there to try and  
12 achieve some minor adjustment to their value and  
13 they're taking time off from work to do that, it  
14 seems like we should be able to provide a better  
15 process for them.

16           CFO ATWATER: And it seems as if the  
17 Legislature, through JAPC, is saying back, don't  
18 take that out because citizens at the minimum  
19 deserve to be heard within four hours. Is that  
20 correct?

21           MS. VICKERS: Right. We have gone to the  
22 Legislature for two years. There was a bill filed  
23 in 2010 that never made it out of committee to just  
24 remove this obsolete language. It didn't go  
25 anywhere. And then last year we went -- or this

1 year, 2011, we went to the Legislature again, and a  
2 bill was filed in the Senate. And we asked to just  
3 remove the language, and instead the sponsor wanted  
4 to at least keep some time limitation in there and  
5 kept "not to exceed four hours."

6 I think four hours seems like a pretty long  
7 amount of time to make somebody wait for a hearing  
8 that's scheduled at a particular time. So I think  
9 they would want to look at that in particular.

10 I do agree that our rule, according to JAPC  
11 looking at our rule, that just says within a  
12 reasonable time could be interpreted to mean more  
13 than four hours. And that was certainly not our  
14 intention. We were really thinking in terms of a  
15 shorter amount of time. But it could be read that  
16 way. And so we feel like at least putting this in  
17 the rule, as JAPC is directing us to do, creates at  
18 least that protection, until we can fix this  
19 legislatively.

20 ATTORNEY GENERAL BONDI: So is -- I'm sorry,  
21 Governor. I as well read the legislative -- the  
22 history, back in the sixties. So you can see where  
23 the four hours came from and why, but I also see the  
24 tremendous problem with it now. When these hearings  
25 are scheduled, they're obviously not like criminal

1 cases where you have dockets of hundreds of people.  
2 How many are set each day approximately? Do you  
3 know?

4 MS. VICKERS: It depends on the county. It is  
5 very similar to the cattle calls you see sometimes.  
6 That's sort of the way they refer to them, where you  
7 can have hundreds scheduled in the morning. Most  
8 clerks look at it and try and figure out, based on  
9 past history, how many petitioners typically don't  
10 show up. And so they try to figure out what the  
11 schedule should look like based on the typical  
12 number of petitioners that will attend their  
13 hearings. And sometimes they probably get it better  
14 and sometimes not.

15 Many clerks still do the block scheduling,  
16 which is similar to -- sometimes when you go to a  
17 court hearing and you show up at 9:00 and you look  
18 around and there are a lot of other people, well,  
19 they all have 9:00 hearings. They schedule that  
20 way. They'll schedule everybody for 9:00, knowing  
21 that everybody can't be heard at 9:00, and then  
22 people sit and they wait.

23 ATTORNEY GENERAL BONDI: And that's frustrating  
24 when people do have jobs and they come in at 9:00  
25 and have to sit there all day. That's so

1 frustrating.

2 MS. VICKERS: What's interesting is that in  
3 counties like Miami-Dade, which by far have more  
4 petitions filed than anyplace else -- I mean,  
5 there's in excess of 80,000 petitions filed in a VAB  
6 season. They have continuous hearings all year  
7 long. They never stop. They don't have a VAB  
8 season that just lasts a couple of weeks or a couple  
9 of months, so they have them all year long.

10 They actually can do a better job of scheduling  
11 because they know that it's going to continue on,  
12 and so they try to schedule realistically. And if  
13 somebody has a conflict or it's delayed, you know,  
14 they can just go ahead and reschedule them for  
15 another time.

16 In a smaller county, where maybe they've paid  
17 for a special magistrate for a month, they're going  
18 to have him there for a month to hear petitions, if  
19 someone wants to be rescheduled and they want the  
20 25-day notice that's in the statute for noticing a  
21 scheduled hearing, now suddenly, if they're towards  
22 the end of the month, they're going to have to call  
23 a special magistrate back in to schedule that  
24 hearing.

25 So I think they tend to really try to compress

1 everybody into that time frame and keep them there  
2 to get them through and not try to reschedule. You  
3 know, while that might be efficient and convenient  
4 on the government's side, it certainly has an  
5 adverse impact to the taxpayer.

6 ATTORNEY GENERAL BONDI: What is your best  
7 recommendation to us right now for, you said a  
8 temporary fix?

9 MS. VICKERS: My recommendation is that we  
10 adopt the language as directed by the Joint  
11 Administrative Procedures Committee, because to not  
12 have a rule at all just leaves the statute there as  
13 guidance. Our rule at least says that it needs to  
14 be reasonable, so I would assume that if a clerk is  
15 doing their job, they understand that it is supposed  
16 to be less than four hours. If 30 minutes is  
17 unreasonable, it shouldn't be any more than 30  
18 minutes. If, you know, an hour is unreasonable, it  
19 shouldn't be more than an hour.

20 I understand that some clerks may see this as  
21 giving authority to go up to four hours. I think we  
22 can address that by trying to provide some bulletins  
23 and information to clerks about how they should be  
24 interpreting this provision. There will probably  
25 still be abuses. I don't doubt that. I think we

1 need to go to the Legislature, and we can bring back  
2 a legislative concept to you in September with our  
3 package.

4 I would like to discuss the issue more and  
5 involve some of the parties that have raised  
6 concerns to what they think would be an adequate fix  
7 for this problem.

8 GOVERNOR SCOTT: Is there an option to just say  
9 two hours?

10 MS. VICKERS: The Legislature can say anything  
11 they want.

12 GOVERNOR SCOTT: But you can't in a rule.

13 MS. VICKERS: I can't -- the Joint  
14 Administrative Procedures Committee would not --  
15 they would have another objection to two hours  
16 because the statute says four, so it would  
17 contravene the statute.

18 GOVERNOR SCOTT: All right. Did Sheila  
19 Anderson -- good morning.

20 MS. ANDERSON: Thank you, Governor. I've come  
21 for doughnuts, but I didn't see them when I came in  
22 the room. I have represented a taxpayer who has  
23 property from Key West to Pensacola, and I have gone  
24 through hearings in many jurisdictions. What I  
25 haven't heard this morning that I think is very

1 relevant is who thinks what is reasonable, and  
2 reasonable should be what the taxpayer finds  
3 reasonable, since it's their protection against  
4 overtaxation and it's their cost to not only service  
5 the Value Adjustment Board and pay for the Value  
6 Adjustment Board, which is critical to having lawful  
7 taxation, but also they're paying for the cost of  
8 going to the hearings and perhaps paying someone to  
9 help them.

10 What I think would be helpful would be that you  
11 strongly recommend to the Legislature that the  
12 four-hour language is repealed and that reliance is  
13 placed on the language that said at the -- at the  
14 scheduled time, which was intended to clarify the  
15 muddy history on the four-hour basis. And "at the  
16 scheduled time" is handled very well by counties  
17 with large volumes of petitions, and there shouldn't  
18 be any problem in the smaller venues.

19 "Reasonable" changes, in my circumstances,  
20 depending upon where the hearings are located, time  
21 of day, weather conditions, what else is going on on  
22 my schedule. I might have to be in two counties at  
23 the same day and/or other things may come up.  
24 Someone in front of me at a hearing sometimes that  
25 is properly managed may have a longer presentation

1 involved or has filed a petition asking for longer  
2 time and the clerk has not complied with that.

3 But in no case should a petitioner or a  
4 taxpayer be subject to the discretion of a clerk,  
5 because the question becomes who's working for whom.  
6 And that's the biggest part of the problem. "At the  
7 scheduled time" works, and you have that law, and it  
8 was intended to make clear what the scheduling ought  
9 to be.

10 And as Lisa has said, Miami does it very well  
11 and keeps the schedule going all day long, all year  
12 long, with multiple hearing rooms set up. And you  
13 can have your hearing heard earlier if a magistrate  
14 has gone through the schedules sooner than expected.  
15 It may take a little longer on occasion, but I think  
16 everybody understands, if someone isn't finished, to  
17 let them conclude their hearing without imposing  
18 restrictions on the process.

19 So "at the scheduled time" works. And if you  
20 could send a message to the Legislature and get the  
21 Joint Administrative Procedures Committee to sponsor  
22 a committee bill that says repeal the four-hour  
23 language, you solve the problem, at no cost to  
24 government but you will be saving taxpayers a great  
25 deal. Thank you.

1 GOVERNOR SCOTT: Thank you very much.

2 MS. ANDERSON: And I'll take a doughnut.

3 GOVERNOR SCOTT: Thank you.

4 MS. VICKERS: So our recommendation is that you  
5 approve this amendment. And we would return with  
6 our legislative package to raise this issue with the  
7 Legislature to try and correct it.

8 CFO ATWATER: Governor, might I just maybe make  
9 that motion, with the request that the Department  
10 does provide us with -- so that we could look at  
11 that recommendation as Ms. Anderson has suggested,  
12 highly endorse that to the Legislature for this  
13 session. I make the motion.

14 GOVERNOR SCOTT: Commissioner?

15 COMMISSIONER PUTNAM: I'm all for your  
16 recommendation. Part of me feels like we're gagging  
17 on a gnat a little bit here. I mean, most of these  
18 clerks are elected. I don't tell the sheriffs how  
19 to run their office. I won't tell the clerks how to  
20 run their operation. And JAPC can't, or at least  
21 when we were there, couldn't propose legislation.  
22 They didn't have that authority.

23 If you said only at the scheduled time and  
24 you've got a great clerk who runs a great operation  
25 and the person at 9:00 doesn't show up but you're at

1 9:15, they can't take you at 9:00 because it says  
2 only at the scheduled time.

3 I mean, we're trying to legislate from the  
4 Cabinet. I just think that's a -- I think it's a  
5 bad idea. I think we should accept Lisa's  
6 recommendation and encourage that this be in her  
7 legislative package and let the Legislature resolve  
8 this.

9 MS. VICKERS: You know, I have not found that  
10 taxpayers and people who are tax reps, in discussing  
11 these issues, have been unreasonable in trying to  
12 make sure that it's not so rigid that if somebody is  
13 running late, it can't be a few minutes late. I  
14 think it's the overall -- you know, to say four  
15 hours gives the perception that it's okay to make  
16 somebody wait an extraordinary length of time.

17 So we would be careful in the recommendation  
18 that we come back with, that it's not so strict as  
19 to drive the cost up of the hearing process but to  
20 try and accommodate that.

21 GOVERNOR SCOTT: I think the motion was the  
22 CFO's motion, which would ask them to come -- do you  
23 want to state yours again, or do you want to change  
24 it?

25 CFO ATWATER: Thank you, Governor. I just

1 would make the motion that we accept the rule as  
2 presented and in further discussion that they would  
3 come back to us. It was not meant to be part of the  
4 motion, but that my hope is that they would create  
5 their agenda.

6 GOVERNOR SCOTT: Is there a second?

7 ATTORNEY GENERAL BONDI: Second.

8 GOVERNOR SCOTT: Moved and seconded. Show it  
9 approved without objection. Thank you very much.

10 MS. VICKERS: Thank you.

11 ATTORNEY GENERAL BONDI: Thank you.

12 GOVERNOR SCOTT: Thank you, Ms. Anderson.

13 Thanks for coming.  
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1           GOVERNOR SCOTT: The next agenda is the Florida  
2 Department of Law Enforcement, presented by Jerry  
3 Bailey.

4           MR. BAILEY: Good morning. We have three items  
5 on your agenda this morning. The first is the  
6 approval of the minutes from the March 9 Cabinet  
7 meeting.

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

10          ATTORNEY GENERAL BONDI: Move to approve.

11          GOVERNOR SCOTT: Is there a second?

12          CFO ATWATER: Second.

13          GOVERNOR SCOTT: Moved and seconded. Show Item  
14 1 approved without objection.

15          MR. BAILEY: The second item is our third  
16 quarter performance report. And you'll see that our  
17 stats remain strong across the board. As you know,  
18 we focused a lot of our resources on drug crime  
19 during this quarter. Beginning as early as January  
20 we worked closely with the Attorney General's Office  
21 and Attorney General Bondi on the bath salts issue.  
22 I think that has been resolved to the favor of the  
23 public. And in March, Governor, you and the  
24 Attorney General announced the strike forces.

25          You've heard a lot of numbers this morning, but

1 I need to give you some more. We're approaching a  
2 thousand arrests with the statewide prescription  
3 drug task forces. It has been very gratifying the  
4 way state agencies and local sheriffs and chiefs  
5 have worked together on this project, and it  
6 continues as well.

7 We've taken over 600,000 pills out of  
8 circulation as of the last report, multiple weapons  
9 seized, vehicles, approaching \$2 million in cash  
10 that's been seized from these operations.

11 I have to give public thanks to the Department  
12 of Health. This is not just a law enforcement  
13 initiative. Surgeon General Farmer and the  
14 Department have been very aggressive. They've  
15 worked closely with us. And between law enforcement  
16 and regulatory agencies, this is working.

17 Just yesterday in South Florida we had the  
18 destruction of 150,000 of these pills. And these  
19 were pills that were the direct result of the  
20 quarantines. The ones that have been seized in law  
21 enforcement operations are still in evidence lockers  
22 somewhere. But these were quarantined pills.

23 As some people may not know, FDLE serves as the  
24 staff for the Florida Medical Examiners' Commission.  
25 Yesterday we released the report -- and that is

1 available online -- of the 20 medical examiners'  
2 districts in the state.

3 Of the 9,000-plus death investigations that our  
4 medical examiners did during this period, over half,  
5 well over half, 5,600 of the people had drugs in  
6 their system. Some of the controlled substances  
7 were in their system, with oxycodone being the clear  
8 leader, taking the place of cocaine, which was the  
9 leader just two or three years ago.

10 Of those 5,600 that had the drugs in their  
11 system, 2,700 of those people died as a direct  
12 result of prescription drugs. Again, that program  
13 is working, and you will hear more from us as it  
14 continues.

15 But we do do other things. In partnership with  
16 local, state and federal law enforcement --

17 GOVERNOR SCOTT: Excuse me, Commissioner.

18 MR. BAILEY: Yes, sir.

19 GOVERNOR SCOTT: Do you remember the numbers as  
20 far as the -- was it oxycodone, the number of sales,  
21 how much it's gone down that were sold through  
22 practitioners? Didn't it go from like 35 million  
23 pills to less than a million?

24 MR. BAILEY: I have those figures. Yes.

25 GOVERNOR SCOTT: It was over 35 -- it was a

1 little over 35 million in 2010, the first five  
2 months. In the first five months of this year it's  
3 less than a million.

4 MR. BAILEY: Yes. And, again, that's with just  
5 this being -- that's for the first half, with us  
6 only starting this at the very end of March. We're  
7 seeing the sales plummet.

8 GOVERNOR SCOTT: And overall sales, even  
9 through pharmacies, was still down, I think,  
10 17 percent. So you guys have done a great job.

11 MR. BAILEY: Yes, sir. In partnership with  
12 local and other state agencies and federal, we  
13 closed two significant mortgage fraud cases. One  
14 case was a Georgia/Florida/California case, netting  
15 5 million -- closing down a \$5 million fraud scheme.

16 The second case led to multiple arrests of a  
17 scheme operating in Flagler, Volusia and Lake  
18 Counties, involving 23 homes and \$9 million in  
19 losses. And as a part of a national strike force we  
20 arrested 10 individuals for Medicare/Medicaid fraud,  
21 with a scheme of more than \$5 million. And this was  
22 a piece of a nationwide takedown of 111 arrests and  
23 a total fraud of \$225 million.

24 And, finally, one thing you need to be aware of  
25 is our continuing -- the growth of officer-involved

1           shootings and our investigation of those. For this  
2           period, we're up to investigating 43 cases where our  
3           officers in the state have had to shoot someone.  
4           These are concentrated in the Orange and -- Orange  
5           County and adjacent areas, but it continues to be  
6           and I expect it to be a growth area for what we're  
7           doing at FDLE.

8                     And I'd be happy to answer any of your  
9           questions on Item 2.

10                    GOVERNOR SCOTT: Is there -- does anybody have  
11           any questions?

12                    ATTORNEY GENERAL BONDI: Just a couple of  
13           comments. I know one of the fraud investigations  
14           you talked about is federal. But the one involving  
15           Flagler, Volusia and Lake County, my office has been  
16           working closely with you on that. We have a pending  
17           case on that, \$9 million, it's a very complex scheme  
18           to defraud. Thank you for all your hard work on  
19           that. Thank you so much.

20                    And could I bring up something else that  
21           happened last week, Governor? Last week we had a --  
22           we had a trial in Palm Beach County involving a gang  
23           called Top Six, and it was a racketeering case. And  
24           we had, a couple of hours before he testified,  
25           nothing is firmly tied in, but a witness was

1           executed. And I called you, and within minutes you  
2           had security detail protecting all of those people  
3           in Palm Beach. And thank you so much for that. I  
4           know my office will never forget it. So thank you  
5           for the protection that you provided.

6                     And we were successful, even without that  
7           witness, in the prosecution of the case last week.  
8           So thank you, Commissioner, for that, very much.

9                     GOVERNOR SCOTT: Thank you very much for -- I  
10          mean, if you look at just all the things you go  
11          through, thanks to everybody in law enforcement in  
12          the state, but thank you very much, FDLE. But, I  
13          mean, look at all the things that have happened this  
14          year, including the seven deaths of law enforcement  
15          in the line of duty. People are putting their lives  
16          at risk every day. And so I think everybody on the  
17          Cabinet would want to thank you and thank everybody  
18          in law enforcement for everything they're doing with  
19          regard to public safety. So is there a motion to  
20          approve Item 2?

21                    COMMISSIONER PUTNAM: So moved.

22                    GOVERNOR SCOTT: Second?

23                    CFO ATWATER: Second.

24                    GOVERNOR SCOTT: Moved and seconded. Show Item  
25          2 approved without objection.

1           MR. BAILEY: Our final product is the -- is my  
2 performance contract for the coming year. This  
3 contract is very similar to the one that was redone  
4 and readopted just one year ago. The primary  
5 difference in this one is the public assistance  
6 fraud component is no longer there. That is moved  
7 to CFO Atwater.

8           And we're working now with your staff to add  
9 and modify measures to take in the new cyber crime  
10 unit. Other than that, it's essentially the same  
11 contract as last year.

12           GOVERNOR SCOTT: Are there any questions? All  
13 right. Is there a motion to approve Item 3?

14           ATTORNEY GENERAL BONDI: Move to approve.

15           GOVERNOR SCOTT: Is there a second?

16           COMMISSIONER PUTNAM: Second.

17           GOVERNOR SCOTT: Moved and seconded. Show Item  
18 3 approved without objection. Thank you very much.

19           MR. BAILEY: Thank you.  
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1           GOVERNOR SCOTT: The next agenda is the  
2 Administration Commission presented by Phillip  
3 Miller. Good morning.

4           MR. MILLER: Good morning, Governor, members of  
5 the Commission. We have two items on the  
6 Administration Commission agenda. Item 1 is the  
7 minutes of the March 9, 2011 meeting.

8           GOVERNOR SCOTT: Is there a motion on Item 1?

9           CFO ATWATER: So moved.

10          GOVERNOR SCOTT: Is there a second?

11          COMMISSIONER PUTNAM: Second.

12          GOVERNOR SCOTT: Moved and seconded. Show Item  
13 1 approved without objection.

14          MR. MILLER: Thank you. Item 2 consists of two  
15 parts. Consideration of a First District Court of  
16 Appeal Mandate and Opinion issued in the Ronald J.  
17 Fagan vs. Citrus County and Katherine's Bay, LLC,  
18 proceeding and also consideration of a Motion to Tax  
19 Costs filed by Katherine's Bay.

20                 This item relates to final agency action taken  
21 by the Commission in 2010. The parties to the  
22 proceeding are Ronald J. Fagan, the challenger and  
23 nearby resident of the parcel in question, Citrus  
24 County and Katherine's Bay, LLC, the applicant  
25 seeking the land use map amendment.

1           To provide some general background information  
2 on the proceeding, Katherine's Bay applied for a  
3 future land use map amendment seeking to change the  
4 land use on a 9.9-acre parcel from low intensity  
5 coastal and lakes district to recreational vehicle  
6 park district. Citrus County adopted an ordinance  
7 approving the future land use amendment.

8           Ronald J. Fagan, a nearby resident, challenged  
9 the land use amendment through the Division of  
10 Administrative Hearings. An administrative hearing  
11 was conducted, and the administrative law judge  
12 determined that the future land use amendment was  
13 not in compliance. The proceeding was forwarded to  
14 you as the commission for final action.

15           At the January 26, 2010, meeting the Commission  
16 approved and the secretary entered a final order  
17 determining the Citrus County small scale  
18 development amendment was not in compliance. The  
19 Commission's final order was appealed by Katherine's  
20 Bay to the First District Court of Appeal. The  
21 First District Court of Appeal reversed the  
22 Commission's final order and has remanded the  
23 proceeding to the Commission for reinstatement of  
24 the ordinance adopting the small scale amendment.  
25 This is the matter before you today.

1           The Commission's legal counsel, Mary Thomas,  
2           will present a brief legal analysis of the action  
3           mandated by the First District Court of Appeal, the  
4           pending motion to tax costs filed by Katherine's Bay  
5           and the content of the draft final order.

6           GOVERNOR SCOTT: Good morning.

7           MS. THOMAS: Good morning. The First District  
8           Court of Appeal overturned the final order on two  
9           grounds. First, the Court found that the  
10          administrative law judge failed to apply future land  
11          use element policies that are more specific to the  
12          development of RV parks in coastal areas and instead  
13          applied a general planning policy applicable to all  
14          land use decisions.

15          The rules of statutory construction provide  
16          that specific policies control over general policies  
17          and that all provisions on related subjects are to  
18          be read together and harmonized so that each is  
19          given effect.

20          The development of RV parks in coastal areas  
21          was specifically anticipated by future land use  
22          element policy, which provides that in order to  
23          minimize the adverse impact of RV parks on resources  
24          of coastal areas, the land development code shall be  
25          amended to include additional review criteria for RV

1 park projects. If all of the provisions of the comp  
2 plan are read together, RV parks are clearly  
3 permissible in coastal areas.

4 The second ground for the District Court's  
5 decision to overturn the final order was their  
6 finding that it was an error for the ALJ to rely on  
7 the testimony of a lay person regarding potential  
8 adverse impacts which may result from the proposed  
9 development. Case law holds that lay witnesses'  
10 testimony does not constitute competent substantial  
11 evidence to support a finding of fact. There must  
12 be other competent substantial evidence in the  
13 record.

14 In summary, the District Court of Appeal held  
15 that there was no competent substantial evidence in  
16 the record to support the ALJ's conclusion that the  
17 amendment was internally inconsistent with the  
18 comprehensive plan. Therefore, the Court remanded  
19 the case back to the Administration Commission for  
20 reinstatement of the ordinance adopting the  
21 amendment.

22 In regard to the award of costs, the prevailing  
23 party has filed a motion to tax costs pursuant to  
24 Rule 9.400 of the Florida Rules of Appellate  
25 Procedure. Under the rule, upon a motion by the

1 prevailing party, the lower tribunal shall award  
2 costs to the prevailing party. Costs are assessed  
3 against the non-prevailing party. The Commission  
4 has no discretion on this matter.

5 The draft final order reinstates the ordinance,  
6 finds the comp plan amendment at issue to be in  
7 compliance and awards costs to the prevailing party.

8 GOVERNOR SCOTT: Do you know what the costs  
9 are?

10 MS. THOMAS: \$700.

11 GOVERNOR SCOTT: Thank you.

12 MR. MILLER: Just as a clarification on the  
13 cost issue, it's only the filing fee and the cost of  
14 the transcript. It does not include any attorney's  
15 fees.

16 GOVERNOR SCOTT: Okay.

17 MR. MILLER: We don't have any speakers on this  
18 issue. Staff recommends approval and authorization  
19 to enter the draft final order reversing the  
20 Commission's January 2010 final order and granting  
21 the motion to tax costs. We're available for any  
22 questions.

23 GOVERNOR SCOTT: Are there any questions? Is  
24 there a motion on Item 2?

25 COMMISSIONER PUTNAM: So moved.

1 GOVERNOR SCOTT: Is there a second?

2 ATTORNEY GENERAL BONDI: Second.

3 GOVERNOR SCOTT: Moved and seconded. Show Item  
4 2 approved without objection.

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1           GOVERNOR SCOTT: The next agenda is the Florida  
2 Land & Water Adjudicatory Commission, presented  
3 by Phillip Miller.

4           MR. MILLER: Thank you, Governor, members of  
5 the Commission. We have three items on the agenda  
6 today. Just as an introductory remark, all three  
7 items were previously considered by you and  
8 initiation of rule-making was authorized. The three  
9 items are back before you for final adoption of the  
10 rules.

11           Item 1 is a petition to merge the Westchase  
12 Community Development District and the Westchase  
13 East Community Development District in Hillsborough  
14 County. The Commission previously considered the  
15 petition for merger through creation of Rule Chapter  
16 42000-1 Florida Administrative Code, at the May 3rd,  
17 2011, Cabinet meeting. At that time the Commission  
18 granted authorization to begin rulemaking to provide  
19 for merger of the two districts.

20           The rulemaking notices were published. No  
21 public hearings were requested, and no public  
22 comments were received in response to the notices.  
23 At this point, Chapter 120 rulemaking noticing and  
24 review requirements have concluded, and no  
25 objections to the petition have been received. The

1 item is being brought back before the Commission for  
2 approval and authorization to file the rule  
3 certification package, finalizing creation of Rule  
4 Chapter 42000-1. We have the district's legal  
5 representative, Karen Brodeen, available for  
6 questions.

7 GOVERNOR SCOTT: Any questions?

8 COMMISSIONER PUTNAM: Move to approve.

9 GOVERNOR SCOTT: Is there a second?

10 ATTORNEY GENERAL BONDI: Second.

11 GOVERNOR SCOTT: Moved and seconded. Item 1 is  
12 approved without objection.

13 MR. MILLER: Item 2 is a petition to dissolve  
14 the Circle Square Woods Community Development  
15 District in Marion County. The Commission  
16 previously considered the petition for dissolution  
17 of the district through the repeal of Rule Chapter  
18 42S-1 at the June 16th, 2011, Cabinet meeting. At  
19 that time the Commission granted authorization to  
20 begin the process to repeal the rule.

21 The rule repeal notice was published. No  
22 public hearing was requested. No public comments  
23 were received in response to the notice and no  
24 objections were received. Staff again recommends  
25 approval and authority to file for final adoption

1 the rule certification documents finalizing the  
2 repeal of Rule Chapter 42S-1 relating to the Circle  
3 Square Woods Community Development District.

4 GOVERNOR SCOTT: Is there a motion?

5 COMMISSIONER PUTNAM: So moved.

6 GOVERNOR SCOTT: Second?

7 ATTORNEY GENERAL BONDI: Second.

8 GOVERNOR SCOTT: Moved and seconded. Item 2 is  
9 approved without objection.

10 MR. MILLER: Thank you. Our last item is a  
11 petition to dissolve the Coastal Lake Community  
12 Development District in Walton County. The  
13 Commission previously considered the petition for  
14 dissolution of the district, the repeal of Rule  
15 Chapter 42WWW-1 (sic) at the June 16, 2011, Cabinet  
16 meeting.

17 At that time the Commission granted  
18 authorization to begin the process to repeal Rule  
19 Chapter 42WW-1. The rule repeal notice was  
20 published. No public hearing was requested. No  
21 public comments were received in response to the  
22 notice. Again, the Chapter 120 notice and review  
23 requirements have concluded, and no objections to  
24 the petition have been received. We have the  
25 district's legal representative, Jere Earlywine,

1 available for any questions.

2 GOVERNOR SCOTT: Any questions? Is there a  
3 motion on Item 3?

4 COMMISSIONER PUTNAM: So moved.

5 GOVERNOR SCOTT: Second?

6 CFO ATWATER: Second.

7 GOVERNOR SCOTT: Moved and seconded. Show Item  
8 3 approved without objection. Thank you.

9 MR. MILLER: Thank you. That concludes our  
10 agenda.

11 GOVERNOR SCOTT: Thank you.

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1           GOVERNOR SCOTT: The next agenda is the Board  
2 of Trustees of the Internal Improvement Trust Fund,  
3 presented by Herschel Vinyard. Good morning,  
4 Herschel.

5           MR. VINYARD: Good morning, Governor, members  
6 of the Cabinet. We have seven items for your  
7 consideration this morning. First is submitting the  
8 minutes for your approval from the May 17 and  
9 June 16 Cabinet meetings.

10          ATTORNEY GENERAL BONDI: Move to approve.

11          GOVERNOR SCOTT: Is there a motion?

12          ATTORNEY GENERAL BONDI: Sorry. Move.

13          GOVERNOR SCOTT: Is there a second?

14          COMMISSIONER PUTNAM: Second.

15          GOVERNOR SCOTT: Moved and seconded. Show Item  
16 1 approved without objection.

17          MR. VINYARD: Item 2 is the Watson Island  
18 Amended and Restated Partial Modification of Deed  
19 Restrictions. This was an item that was withdrawn  
20 on April 5 from your agenda. This is -- the  
21 background is the Board of Trustees with a previous  
22 Cabinet and the City of Miami entered into an  
23 agreement that would allow Flagstone to develop a  
24 portion of Watson Island in Miami.

25          The modification that you have in front of you,

1 the focus is, is it allows the State to recover back  
2 preconstruction rent and construction rent. That  
3 was something that the City of Miami was able to  
4 receive under the agreement. The State did not get  
5 any of that money. If you approve the modification,  
6 that will result in an additional \$1 million payment  
7 to the Board of Trustees.

8 The Department is recommending approval. We do  
9 have here for questions Alice Bravo with the City of  
10 Miami, Kevin Cowan with Flagstone.

11 GOVERNOR SCOTT: Can you explain why -- I guess  
12 the Board of Trustees gets only 15 percent? Why is  
13 that? Why wouldn't we get the 85 and the City get  
14 15?

15 MR. VINYARD: The original agreement -- I'll  
16 give you a little more background. In the 1940s the  
17 State gave this island to the City of Miami. And  
18 the one item that kind of allows the State to  
19 continue to be involved with this project was it  
20 said this island has to be forever for a public  
21 purpose.

22 And so while there's a substantial portion of  
23 the island that will remain for public purposes,  
24 this one small segment allowed the State to stay  
25 involved. And so with that small involvement, we

1 don't own the land. The City of Miami does. That  
2 was why we arrived at -- or I guess the prior Board  
3 of Trustees arrived at the 85/15 split.

4 GOVERNOR SCOTT: Do you think it's fair?

5 MR. VINYARD: There was -- there's been a lot  
6 of discussions on this, sir. As I understand it, if  
7 we kind of redid the entire deal -- the private  
8 party in this, Flagstone, has invested about  
9 \$50 million already. This would require the City to  
10 go back and do another RFP. We do have the City's  
11 lawyer here, and they may be able to explain a  
12 little bit more about that. But we did not want to  
13 completely disrupt the deal because of the  
14 significant investment by the private sector.

15 GOVERNOR SCOTT: Do you have a question?

16 ATTORNEY GENERAL BONDI: I'd like to hear from  
17 the City. I've been troubled by this.

18 GOVERNOR SCOTT: And there's two things -- I  
19 think there's two things we'd like to understand.  
20 One is why is the 85/15, why is that fair, and then,  
21 two, if we wanted to say, no, we want to get some  
22 other percentage, like 50/50, what would have to  
23 happen.

24 MS. BRAVO: Good morning. Alice Bravo,  
25 assistant city manager. We're honored to be here

1 today and thank you for having this opportunity to  
2 provide additional information. If you don't mind,  
3 I'll take the second question first.

4 Before the City embarked on this process, the  
5 city commission approved going forward with an RFP  
6 process. And because it's waterfront property, the  
7 city charter requires a competitive procurement and  
8 that, once a selection is made, that there also be a  
9 public referendum to approve the City entering into  
10 an agreement with the development.

11 So back in 2001, the City culminated the  
12 procurement process. The city commission selected  
13 to award the project to Flagstone, and then there  
14 was a public referendum in November of 2001, by  
15 which the terms of the agreement were approved by  
16 the public, I believe, in the range of 67 percent of  
17 the public approved the measure. So that measure  
18 that was presented to the public laid out the terms  
19 of the agreement and what the revenues would be to  
20 the City.

21 And so going to the first part of the question,  
22 modifying those rents to the City would probably  
23 necessitate a new RFP process and a new public  
24 referendum, and therefore our public sector partner  
25 that has invested heavily in this process would

1 be --

2 GOVERNOR SCOTT: Is it probably or is it for  
3 sure?

4 MS. BRAVO: For sure, definitely.

5 GOVERNOR SCOTT: Okay.

6 MS. BRAVO: And so I think early on in the  
7 discussions with the State and settling on the  
8 15/85 percent share, that allowed the City to still  
9 meet the parameters of that public referendum that  
10 was approved, and also taking into perspective the  
11 City has expenses and costs associated with managing  
12 the land and the property and working with the  
13 developer on this. So we're the caretakers of the  
14 property and incur expenses as well.

15 GOVERNOR SCOTT: All right. But why is 85/15  
16 fair to the State?

17 MS. BRAVO: I think it's for that reason, the  
18 fact that we as the landlord and having to manage,  
19 permit, supervise, enforce the property, we're  
20 responsible for everything that happens there, that  
21 that's why the City's proportion is greater than  
22 that of the State.

23 ATTORNEY GENERAL BONDI: Tremendously greater.  
24 Can you explain in detail what's the management to  
25 warrant the 85 percent?

1 MS. BRAVO: Well, on the land there are several  
2 uses. There's public uses. There's utilities  
3 access right-of-way, code enforcement. Just  
4 permitting and regulating everything that happens  
5 there on a day-to-day basis requires extensive staff  
6 time. Our facilities management department, police,  
7 fire, et cetera, all tend to the land. And,  
8 therefore, as the property owner, we incur all those  
9 expenses.

10 MR. COWAN: Can I speak, please? Kevin Cowan  
11 for Flagstone. A couple of things, please,  
12 remember. In terms of this being fair, this was  
13 decided upon approximately 10 years ago, this 85/15  
14 split. The developer has put \$53 million in this  
15 project, in reliance on this project going forward.

16 And while we certainly understand everyone's  
17 right to revisit all of that, please remember that  
18 this guy was invited to Miami to bid on this  
19 property -- project 10 years ago, bid in good faith.  
20 This was approved. This has all been going on now  
21 for 10 years. So a change like this would -- I  
22 think would be -- or I don't think it would be. I  
23 feel confident it would be completely fatal to the  
24 project.

25 Also, just for background information, the

1 85/15 split, the 15 percent that's being given to  
2 the State, we had the research done on all of the  
3 deed waiver agreements between the City and the  
4 State that have ever been done, I think, since 1940.  
5 And the 15 percent that the State is getting is  
6 twice as much as it has ever been given before by  
7 the City of Miami.

8 So while it may not sound great on its face, in  
9 reality it's more than fair. There was a great deal  
10 of, let's call it vigorous debate 10 years ago by  
11 the Governor and the Cabinet and the city manager on  
12 this issue. So it is -- in context, it does seem  
13 fair to everybody.

14 And the last thing I just want to kind of point  
15 out is, this is a public-private partnership. This  
16 developer has discussed this with lenders and  
17 investors, and this has had a high degree of  
18 visibility for the last 10 years. It's being looked  
19 at again. I think it's important that we not change  
20 any of the rules. Everybody is watching. Can the  
21 City of Miami, can the State of Florida make this  
22 mega yacht waterfront marina come to life? It's a  
23 beautiful project. And I think any change like this  
24 now would really be tremendously unfair and  
25 unfortunate. Thank you.

1           GOVERNOR SCOTT: Secretary Vinyard, so why --  
2 if this was approved 10 years ago, why is it coming  
3 up now?

4           MR. COWAN: There were -- in the last 12-month  
5 period the document was amended and restated in  
6 order to give the developer different -- in order,  
7 Governor, to allow him to develop in phases rather  
8 than the project all at once and in order to allow  
9 him to complete in time frames that were more  
10 realistic.

11           All of that was necessitated by the financial  
12 crisis in 2008 and '9. He was shovel-ready in 2008,  
13 and then all the financing collapsed. So that  
14 necessitated your approval of a new amended --

15           MS. BRAVO: And if I might add, it's that  
16 amendment of the terms that provided for some  
17 advance payments and advance payments to the State  
18 as well. Otherwise, under the original terms, the  
19 State and the City would not have received any  
20 revenues until much later in the program.

21           GOVERNOR SCOTT: Any other questions? Okay.  
22 Thank you very much. Okay. Is there a motion on  
23 Item 2?

24           CFO ATWATER: So moved.

25           GOVERNOR SCOTT: Is there a second?

1 COMMISSIONER PUTNAM: Second.

2 GOVERNOR SCOTT: All in favor say aye. Aye.

3 CFO ATWATER: Aye.

4 ATTORNEY GENERAL BONDI: Aye.

5 COMMISSIONER PUTNAM: Aye.

6 GOVERNOR SCOTT: Any opposed? Okay. The item  
7 is approved. Thank you very much. Good luck.

8 MR. COWAN: Thank you.

9 MR. VINYARD: Governor, the next item is the  
10 Crown Castle/Babcock Ranch matter. For your  
11 consideration, this is a new lease with Crown  
12 Castle. Crown Castle currently has a cell tower on  
13 Babcock Ranch, which you own, the Board of Trustees  
14 owns. It's in Charlotte County. Current lease  
15 payment to Babcock Ranch, LLC, is \$3,500 annually.  
16 The new lease, which was negotiated by the  
17 Department of Management Services, will result in a  
18 \$65,000 annual payment. We hope that will go up  
19 substantially, because there are escalators. If  
20 they succeed, we succeed.

21 The Department is recommending approval. We  
22 have Steven Aruz with Crown Castle and Tom Berger  
23 with DMS if you have any questions.

24 GOVERNOR SCOTT: So is this put out for bid?  
25 How did -- what's the negotiation?

1           MR. VINYARD: Sir, when the State -- and I  
2 guess, Commissioner Putnam, you may have been  
3 involved in that at some point. When the State  
4 purchased, Babcock Ranch was privately owned, it had  
5 this cell tower on it. And so the lease kind of ran  
6 with the land. This was an opportunity that we saw  
7 that we could significantly enhance the revenue to  
8 the ranch.

9           GOVERNOR SCOTT: So the term was expiring?

10          MR. VINYARD: Yes, sir. Well, it will expire  
11 in 2013.

12          GOVERNOR SCOTT: Any other questions? Is there  
13 a motion on Item 3?

14          ATTORNEY GENERAL BONDI: Move to approve.

15          GOVERNOR SCOTT: Is there a second?

16          CFO ATWATER: Second.

17          GOVERNOR SCOTT: Moved and seconded. Item 3 is  
18 approved without objection.

19          MR. VINYARD: The next item is the sale and  
20 purchase contract of reclaimed river bottom in the  
21 Caloosahatchee River. This is for your  
22 consideration, an agreement to convey to Carol  
23 Foster and Rudy Ungerer a third of an acre of  
24 state-owned reclaimed river bottom in Hendry County.

25                 This used to be waterfront. Because of some

1 activities by the Corps in the 1930s, it's no longer  
2 water. The consideration for this property will  
3 result in a payment of \$1,800 to the Board of  
4 Trustees. This is essentially a third of an acre  
5 behind the couple's backyard. And unfortunately,  
6 because the constitution requires it, we have to  
7 bring it to you for approval.

8 GOVERNOR SCOTT: Okay. Is there a motion?

9 ATTORNEY GENERAL BONDI: Move to approve.

10 GOVERNOR SCOTT: Is there a second?

11 CFO ATWATER: Second.

12 GOVERNOR SCOTT: Moved and seconded. Show Item  
13 4 approved without objection.

14 MR. VINYARD: Rulemaking, the repeal of rule  
15 sections. As you know, Governor Scott issued  
16 Executive Order 11-72, requiring agencies to  
17 complete a comprehensive rule review and decide  
18 whether or not any rules or regulations can be  
19 modified or repealed. This is our first cut. We're  
20 asking you for authorization to enter into  
21 rulemaking to repeal certain rule sections which are  
22 duplicative or no longer necessary. We recommend  
23 approval, sir.

24 GOVERNOR SCOTT: Any questions? Is there a  
25 motion on Item 5?

1 COMMISSIONER PUTNAM: So moved.

2 GOVERNOR SCOTT: Is there a second?

3 ATTORNEY GENERAL BONDI: Second.

4 GOVERNOR SCOTT: Moved and seconded. Show Item  
5 5 approved without objection.

6 MR. VINYARD: The next item, the Department  
7 recommends that Item 6 be withdrawn.

8 GOVERNOR SCOTT: Is there a motion to withdraw  
9 Item 6?

10 COMMISSIONER PUTNAM: So moved.

11 GOVERNOR SCOTT: Is there a second?

12 CFO ATWATER: Second.

13 GOVERNOR SCOTT: Moved and seconded. Show Item  
14 6 withdrawn without objection.

15 MR. VINYARD: The next item is the Board of  
16 Trustees/Seminole Boosters Exchange Agreement. This  
17 is an exchange of about a one-acre parcel of  
18 state-owned non-conservation land which is currently  
19 being used by FSU as a truck parking lot. The  
20 exchange would be for two acres owned by the  
21 Seminole Boosters, Inc. This is a value-for-value  
22 exchange, when you add in that FSU will be paying  
23 the Boosters an additional \$85,000 to equal out the  
24 price.

25 The development of this property is part of a

1 larger effort to improve the Gaines Street District.  
2 And we have Dennis Bailey with Florida State  
3 University here for questions or comments.

4 ATTORNEY GENERAL BONDI: Do any of my fellow  
5 Cabinet members have any questions? I can say that  
6 I -- because I'm not familiar with Florida State and  
7 the area, I drove by the area last night, and I  
8 wanted to see it myself. And it looks like it could  
9 certainly use development. And there are some great  
10 apartments and condominiums within the area. And is  
11 it accurate that the City and the County are both in  
12 support of this?

13 MR. VINYARD: Yes. We have -- the Chamber of  
14 Commerce is here, members of the booster club, as  
15 well as the City and County as well.

16 ATTORNEY GENERAL BONDI: As well as the  
17 university?

18 MR. VINYARD: Absolutely.

19 ATTORNEY GENERAL BONDI: And Commissioner Bryan  
20 Desloge, I was just told, is here as well?

21 MR. VINYARD: He is.

22 ATTORNEY GENERAL BONDI: Are there any other  
23 questions? Is there a motion?

24 GOVERNOR SCOTT: I have a question. So who --  
25 what's the purpose? So the property is a swap with

1 Seminole Boosters, Inc.; is that right?

2 MR. VINYARD: Yes, sir.

3 GOVERNOR SCOTT: So what's the -- how is  
4 this --

5 MR. VINYARD: As I understand it, the Seminole  
6 Boosters would like to develop this one-acre parcel  
7 for some mixed-use development. I do have FSU here  
8 to answer the detailed questions on what the -- what  
9 the plans are, sir.

10 GOVERNOR SCOTT: Okay. Could somebody -- is  
11 there somebody from Seminole Boosters?

12 MR. BAILEY: Good morning, Governor --

13 GOVERNOR SCOTT: Good morning.

14 MR. BAILEY: -- members of the Cabinet. I'm  
15 Dennis Bailey, Associate Vice-President for  
16 Facilities at Florida State University. Let me just  
17 make a couple of comments. We gave you a packet of  
18 information. Hopefully that's self-explanatory. I  
19 can clarify any of that if necessary.

20 Our interest in this trade is primarily to  
21 develop our -- improve our recycling operation,  
22 which is part of a huge sustainability initiative,  
23 and we believe that we can do that much better on  
24 the Morgan property, which is the property the  
25 Boosters have recently purchased.

1           We think the increase in our recycling program  
2 is the most important stated facet of our  
3 sustainability initiative that our students,  
4 faculty -- students, faculty and staff have  
5 repeatedly asked us to do.

6           The property that the Boosters own and propose  
7 to swap with us would provide an excellent location  
8 for us to consolidate our recycling operations for  
9 the foreseeable future and to grow those operations.  
10 We have over ten times the enclosed and covered  
11 space that allows us to protect recycled materials  
12 and do a better job of segregating and managing  
13 those materials over time.

14           Even in our current ragtag kind of facilities  
15 that are shown in the picture, we're up to  
16 40 percent of our waste stream being recycled, which  
17 is pretty dramatic, I think. And we've done, I  
18 think, a very nice grassroots job. We think this  
19 new property will allow us to take our whole program  
20 to the next level.

21           With the larger area and dramatically increased  
22 amount of enclosed facilities, it will provide a  
23 better base for operations. We also think that the  
24 swap will allow us to include additional recycled  
25 material streams, better segregate various recycled

1 materials, accumulate larger quantities of recycled  
2 materials, allowing us to take better advantage of  
3 fluctuating market prices, and work with various  
4 recycling companies on truckload lots. We think  
5 we'll recover -- more than recover our additional  
6 out-of-pocket costs in less than three years on  
7 this.

8 The property that the university is proposing  
9 to swap has little academic value in its existing  
10 condition. It's too far from the main campus to  
11 effectively support student activities. It's  
12 irregularly shaped and too small to accommodate the  
13 construction of anything significant.

14 The property appraisal obtained by State Lands  
15 indicated that the highest and best use of this  
16 property was to be aggregated with other adjacent  
17 properties and create a mixed-use development. We  
18 also say that the proposed use of the existing  
19 university property by the Boosters to develop their  
20 College Town project after the swap is consistent  
21 with FSU's approved 10-year master plan. The  
22 university supports this use and believes it will be  
23 beneficial to the university.

24 GOVERNOR SCOTT: So what's the purpose of  
25 Seminole Boosters, Inc.?

1 MR. BAILEY: Pardon?

2 GOVERNOR SCOTT: So Seminole Boosters, what do  
3 they do? What's their purpose?

4 MR. BAILEY: Maybe that's a question better  
5 answered by one of the boosters.

6 MR. MANNHEIMER: Thank you, Governor. My name  
7 is Douglas Mannheimer. I'm here as a volunteer  
8 today. I'm a former chairman of Seminole Boosters,  
9 am here today, would be happy to help you. The  
10 purpose of Seminole Boosters is broad, but among its  
11 missions is to support the health, education and  
12 welfare of Florida State University students.

13 And the Boosters look towards development of  
14 this project as an enhancement for Florida State  
15 University. It's been through about a three-year  
16 committee process. And a year ago in April a blue  
17 ribbon commission of students, faculty and  
18 administration endorsed the concept of dining,  
19 shopping and student housing, a mixed-use  
20 development here, which is actually going to be a  
21 private development, private investment. It's going  
22 to create 400 new jobs in downtown Tallahassee,  
23 towards the university, \$19 million of construction.  
24 But this will be student housing, student shopping  
25 and entertainment and provide a beautiful new venue

1 at Florida State that the university felt was very  
2 badly needed.

3 Seminole Boosters is also -- is an investor in  
4 this, is taking endowment money, investing in this  
5 project. The return is going to yield scholarships  
6 back for Florida State.

7 GOVERNOR SCOTT: So the Seminole Boosters, does  
8 Seminole Boosters do scholarships now?

9 MR. MANNHEIMER: Yes, sir.

10 GOVERNOR SCOTT: And so they're taking that  
11 money and they're investing in the project with the  
12 belief that they can make a better return?

13 MR. MANNHEIMER: Yes, sir. There is an  
14 endowment. They've got significant endowment  
15 monies. Sort of a Floridian -- they probably could  
16 be investing in Chinese widget factories. I don't  
17 know, but they're investing in the stock market and  
18 bonds and so on. This is an investment in a project  
19 at Florida State University, which has been vetted  
20 and they believe will have significant return.

21 But it sort of has the double-whammy effect of  
22 helping Florida State while investing in  
23 Tallahassee, getting significant return, significant  
24 benefit to the university community. I think that's  
25 the thought, to invest -- to invest at Florida State

1 in something which will give significant return and  
2 return, enhance their ability to provide  
3 scholarships.

4 GOVERNOR SCOTT: So the individuals giving  
5 money to Seminole Boosters, I guess it's a tax  
6 deductible contribution; is that right?

7 MR. MANNHEIMER: Most of this money for the  
8 endowment has been contributions, yes, endowment,  
9 gifts. For instance, Mr. DeVoe Moore is here today,  
10 who I think if there's any champion of free  
11 enterprise in Florida, it might be DeVoe Moore. He  
12 gave significant amounts of the property here for  
13 this purpose, but donated it. And in return this  
14 property and other investment, majority of which  
15 will be private investment, will yield return of  
16 some private investors -- hopefully it will yield  
17 return for them, but it will yield return for  
18 Seminole Boosters, which in turn enhances  
19 scholarships.

20 GOVERNOR SCOTT: So it's basically you're  
21 taking money given primarily for scholarships and  
22 investing it to get a better return longterm for  
23 scholarships.

24 MR. MANNHEIMER: Money for scholarships and  
25 capital improvements, but it's given to Seminole

1 Boosters, but it must be invested in something. And  
2 so this investment is in something in Florida as  
3 opposed to sending it to New York, Chicago or out of  
4 the country.

5 GOVERNOR SCOTT: And what does the community  
6 think around there, the other retail establishments?

7 MR. MANNHEIMER: I can tell you that I think  
8 there's, honestly, as I've seen, there's folks here,  
9 Bryan Desloge from the City is here, folks from the  
10 Chamber of Commerce. There's been great  
11 anticipation and excitement about this. It's part  
12 of the Gaines Street renovation project, which  
13 you've begun to see.

14 Let me -- on the folks who might be there, the  
15 restaurants, shops and so on, they'll be paying  
16 market rate. We believe they'll be paying top  
17 market rate. The private businesses who are there  
18 are not receiving a subsidy to be there. They will  
19 pay market competitive rate, which we need to get  
20 this return.

21 And I think there's a general consensus, if you  
22 brought your child to Florida State in the 11th  
23 grade and you took the tour and then that evening,  
24 well, where should we go and see Florida State?  
25 There's some wonderful businesses on Tennessee

1 Street that we might send them to, a few disparate  
2 places. But there's not a beautiful place that's  
3 Florida State for a family to visit. And we  
4 think -- the university thinks this is a great  
5 enhancement for the whole university community.

6 But there are others from the community, I  
7 know, that are here, Chamber of Commerce, City  
8 Commission. Will Butler here has been a consultant,  
9 and he might address the city community acceptance.

10 GOVERNOR SCOTT: Thank you.

11 MR. BUTLER: Thank you, Doug. Good morning,  
12 Governor and Cabinet. I'm Will Butler with REI, a  
13 real estate asset management company based here in  
14 Tallahassee. And to address your question  
15 specifically, yes, the local Economic Development  
16 Council is here and represented, Kim Williams,  
17 current chairman. They support this project. The  
18 Tallahassee Chamber of Commerce, Sue Dick and Todd  
19 Sperry, the chairman and president, are here in  
20 support of this project.

21 The CRA, which is made up of city and county  
22 commissioners, actively voted to support this  
23 project to the tune of a \$2.4 million grant. That  
24 was a very public process, required public hearings.  
25 And it was a unanimous vote in support.

1           So we have small businesses here. We have  
2 county commissioners here. We have a number of  
3 folks who are very important in the community, in  
4 the business community and to the Boosters that are  
5 all here in support of this project. And it has  
6 been a very public process for at least two years  
7 now. I know I have spoken numerous times to the  
8 public and have heard very little, if any,  
9 opposition to this project. Thank you.

10           GOVERNOR SCOTT: So no one is opposing it? No  
11 one here is opposing it?

12           ATTORNEY GENERAL BONDI: Governor, I think you  
13 had stepped out, but I -- because I'm not familiar  
14 with Tallahassee, I went to the location last night  
15 to see it. And it's amazing. You have really nice  
16 apartments and some beautiful townhouses, and then  
17 you have a really underdeveloped, not so nice area  
18 that I think has the potential to make it great. I  
19 wish you'd do something like this at University of  
20 Florida.

21           But I just -- I think it had a lot of  
22 potential, just from seeing it, if our -- if the  
23 economy is with us, to make this a very positive  
24 thing for Florida State. That was a joke about  
25 Florida.

1           GOVERNOR SCOTT: So the risk here is that money  
2 was given to Boosters for scholarships and they're  
3 going to invest in this rather than something that's  
4 more liquid. Is that the risk?

5           MR. MANNHEIMER: There certainly could be some  
6 risk, but I think, frankly, there's risk in the  
7 markets right now. There is no bank here. The  
8 private investment is going to be there, Boosters  
9 money, and they're going to be paid first. And I  
10 think that if you believe that students will live in  
11 housing near the university and if you believe that  
12 people need dining and shopping near the university,  
13 all the projections show this is going to do quite  
14 well and have excellent return to the benefit of  
15 scholarships.

16           GOVERNOR SCOTT: Yes, sir.

17           MR. BUTLER: And if I may, Governor, excuse me.  
18 In addition, I think it's important to note that  
19 this is just the first phase of a multi-phased  
20 program that we have put together. We own -- the  
21 Boosters own approximately 20 acres in and around  
22 the University Center that's currently been utilized  
23 for parking six days a year. And those properties  
24 are not on the tax roll. We're looking at this  
25 first phase to serve as a catalyst for the

1 redevelopment of the additional 20 acres, which will  
2 return significantly greater monetization to those  
3 assets than we currently have. That also benefits  
4 the City and County and the school board, because it  
5 will go back on the tax roll.

6 So if you look at it comprehensively and not  
7 just as an isolated project or a one-off, we think  
8 it has value beyond the returns that we forecasted  
9 just for this first phase, which are considerable.

10 GOVERNOR SCOTT: And is this a  
11 significant investment as a percentage of assets for  
12 the Seminole Boosters?

13 MR. BUTLER: Again, I'm probably not the most  
14 appropriate person to answer that question.

15 MR. MANNHEIMER: Governor, with some  
16 trepidation, I think it's -- I think in the end that  
17 the investment -- Mr. Moore is here, who gave the  
18 land, gave land for this project. But I think about  
19 another \$3 million of Seminole Booster investment  
20 were made in it, and roughly they have an endowment  
21 of more than 50 -- I think it's like 55 million.

22 GOVERNOR SCOTT: So it's not significant. And  
23 part of the land was given for this purpose?

24 MR. MANNHEIMER: Yes, sir. Mr. Moore is here.  
25 He did that.

1 COMMISSIONER PUTNAM: Governor.

2 GOVERNOR SCOTT: Yes, sir.

3 COMMISSIONER PUTNAM: Mr. Secretary, the  
4 question before the Cabinet is the land swap.

5 MR. VINYARD: Yes, sir.

6 COMMISSIONER PUTNAM: And by law that has to be  
7 equivalent or better to the gain of the people of  
8 Florida, right?

9 MR. VINYARD: Yes, sir.

10 COMMISSIONER PUTNAM: So if the whole College  
11 Town concept goes bust, what exposure does the State  
12 of Florida have?

13 MR. VINYARD: The State of Florida will still  
14 have the two acres that the vice-president at FSU  
15 mentioned will be their recycling center.

16 COMMISSIONER PUTNAM: So we don't have  
17 exposure --

18 MR. VINYARD: That's correct.

19 COMMISSIONER PUTNAM: -- to whatever future  
20 plans there may be and the Seminole Boosters have?

21 MR. VINYARD: Yes, sir.

22 COMMISSIONER PUTNAM: Thank you.

23 GOVERNOR SCOTT: Any other questions? Is there  
24 a motion on Item 7?

25 ATTORNEY GENERAL BONDI: Move to approve.

1 GOVERNOR SCOTT: Is there a second?

2 CFO ATWATER: Second.

3 GOVERNOR SCOTT: All in favor say aye. Aye.

4 CFO ATWATER: Aye.

5 ATTORNEY GENERAL BONDI: Aye.

6 COMMISSIONER PUTNAM: Aye.

7 GOVERNOR SCOTT: Anyone opposed say no. The  
8 item is approved.

9 Thank you very much. This concludes our  
10 Cabinet meeting. We are adjourned.

11 (Whereupon, the meeting was concluded at 11:40  
12 a.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA )

COUNTY OF LEON )

I, Jo Langston, Registered Professional Reporter,  
do hereby certify that the foregoing pages 5 through 118,  
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of the parties, or a relative or employee of such attorney  
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outcome.

IN WITNESS WHEREOF, I have hereunto set my hand  
this 5th day of September 2011.

\_\_\_\_\_

JO LANGSTON  
Registered Professional Reporter