

TEXAS DEPARTMENT OF TRANSPORTATION  
PUBLIC TRANSPORTATION ADVISORY COMMITTEE MEETING

1:35 p.m.  
Thursday,  
November 8, 2012

Room 325  
TxDOT Building 6  
3712 Jackson Avenue  
Austin, Texas

COMMITTEE MEMBERS:

MICHELLE BLOOMER, Chair  
J.R. SALAZAR, Vice Chair  
CHRISTINA MELTON CRAIN  
GLENN GADBOIS  
BRAD UNDERWOOD

TxDOT STAFF:

ERIC GLEASON, PTN Director  
KELLY KIRKLAND, PTN Section Director  
BOBBY KILLEBREW

<u>AGENDA OF PUBLIC TRANSPORTATION ADVISORY COMMITTEE</u>	<u>PAGE</u>
ITEM	
1. Call to Order	
2. Approval of Minutes from September 13, 2012, meeting	3
3. Review and discussion of PTAC Work Plan and update of current activities related to work plan elements, consistent with committee duties as described in 43 TAC §1.84(b)(3)	3
4. Presentation by Texas Transit Association	5
5. Legislative priorities discussion and comment	35
6. Presentation on the Moving Ahead for Progress in the 21st Century Act (MAP-21) changes and potential impacts	58
7. Discussion and comment on the potential rule making necessary to implement MAP-21 changes	60
8. Division Director's Report to the Committee regarding public transportation matters	
9. Public comment	none
10. Confirm date of next meeting	
11. Adjourn	106

P R O C E E D I N G S

1  
2 MS. BLOOMER: Move on to Item 2 of the agenda,  
3 approval of the minutes from the September 13, 2012,  
4 meeting. Do I have a motion?

5 MR. SALAZAR: This is J.R. I make a motion.

6 MS. CRAIN: Second.

7 MS. BLOOMER: Okay. I have a motion from J.R.  
8 Christina, do you second the motion to approve minutes?

9 MS. CRAIN: Yes.

10 MS. BLOOMER: All right. We have a motion and  
11 a second. Since we have folks participating on the phone  
12 I'll just go through the list to make it easier. Brad?

13 MR. UNDERWOOD: Aye.

14 MS. BLOOMER: Christina?

15 MS. CRAIN: Yes.

16 MS. BLOOMER: Glenn?

17 MR. GADBOIS: Yes.

18 MS. BLOOMER: J.R.?

19 MR. SALAZAR: Yes.

20 MS. BLOOMER: And we're missing Rob. And  
21 Michelle -- yes. All right.

22 Item 3 on the agenda is review and discussion  
23 of the PTAC Work Plan and update of current activities  
24 related to the work plan elements. In looking at the  
25 other items on the agenda, number 4, 5, 6, and 7, I think

1 we'll just quickly kind of give an update of where we are  
2 on our work plan elements. And I think based on our last  
3 meeting the majority of the discussion focused on our  
4 state and federal priorities with the majority of that  
5 discussion really being on our state legislative  
6 priorities.

7 And if I recall correctly, our working group 1  
8 had proposed items related to the Texas Enterprise Fund,  
9 Medicaid planning, and exemption of state motor fuels tax,  
10 as well as a recommendation for three-year financial  
11 planning.

12 What I'd like to do is if we can -- because  
13 part of the discussion we had related to all those items  
14 was having TTA come and sort of present their legislative  
15 agenda as well as provide the committee with some answers  
16 to their questions about the who, what, where, when, why,  
17 how, how much, and who might be in opposition to any of  
18 these three -- is to go ahead and just move on to agenda  
19 item 4 for the presentation by the Texas Transit  
20 Association. And then we can get into any questions we  
21 have and move on to the actual discussion of our  
22 legislative priorities if everybody is okay with that.

23 I see nodding heads on this end. Any comment  
24 from our folks on the phone?

25 MS. CRAIN: I'm fine.

1 MR. GADBOIS: This is Glenn. My phones are  
2 nodding yes.

3 MS. BLOOMER: Okay. Thank you, Glenn's phone  
4 and Christina. All right. Then I will go ahead -- Eric  
5 just passed out a document, TTA Legislative Agenda. And  
6 is it possible to get this --

7 VOICE: Online for people on the phone?

8 MS. BLOOMER: Yeah. Possible to get it for the  
9 folks on the phone?

10 VOICE: Can we have Rebecca scan it?

11 MR. KILLEBREW: It will take a couple of  
12 minutes. This is Bobby. Are the people on the phone  
13 where they can receive an email with the attachment?

14 MR. GADBOIS: Yes.

15 MS. CRAIN: Yes.

16 MS. BLOOMER: Okay. Then we'll see if we can  
17 get you a copy of it as we go through. But if there's no  
18 further discussion on Item 3 we'll go ahead and turn it  
19 over to the Texas Transit Association for a presentation  
20 of their legislative items.

21 MS. FISHER: Thank you, Michelle. I appreciate  
22 it. My name is Nancy Fisher and I'm here on behalf of  
23 Texas Transit Association. Ray Allen, who is also with  
24 our lobby team, is here.

25 One of the first items that I'd like to discuss

1 is our initiative which will give a fuel tax exemption to  
2 non-metro transit systems. Currently these transit  
3 systems have to pay this fuel tax. And in a meeting with  
4 Phil Wilson, who's the executive director of Texas  
5 Department of Transportation at the beginning of his  
6 tenure there, he suggested to us that this is pretty much  
7 of a wash and suggested that our association look at this  
8 as a way to save our members money by not having to pay  
9 this tax.

10 And so we are pursuing that and will hopefully  
11 have our legislation drafted and ready to file when -- as  
12 we move forward into next session, which begins in  
13 January.

14 Basically this bill would exempt our transit  
15 systems from the diesel fuel tax or other types of taxes.

16 As you know, there are several exemptions for these taxes  
17 right now, and so we just wanted to try and add our  
18 transit individuals to this exemption.

19 For example, school buses -- school districts  
20 are exempted. There are also some commercial bus lines  
21 that are exempted and other industrial groups that are  
22 exempted.

23 I know that there will be a fiscal note with  
24 this, and so there will be a decrease in revenue to Fund  
25 6. It should not be so substantial that hopefully with

1 some good work by our team at Texas Transit Association we  
2 can get this bill passed. Is there any questions  
3 concerning that particular piece of legislation?

4 MS. BLOOMER: I think some of the questions  
5 that came up last time were sort of how the money  
6 flowed -- so when you pay the penny of sales tax where it  
7 goes and could you follow the penny. And then one of the  
8 other questions a member had was eventually since there  
9 would be a reduction in revenue that folks would be in  
10 opposition because they would be worried that that would  
11 lower the amount of money they would then have available  
12 to them.

13 MS. FISHER: When the bill is filed and --

14 MR. GADBOIS: Hey, Michelle.

15 MS. BLOOMER: Question?

16 MR. GADBOIS: Michelle, can I jump in quickly  
17 because I had to leave before that part of the discussion.

18 But I'm -- that's Fund 6 money. Right? It doesn't go in  
19 the general fund as you all had described in the  
20 discussion -- or wondered about in the discussion; it's  
21 Fund 6 money.

22 And so if you have TxDOT saying they're  
23 comfortable with it there are very likely other  
24 constituencies that would be a significant problem.

25 MS. FISHER: Certainly we hope that is the

1 case, sir, and we will be working with other interest  
2 groups like Texas Good Roads and others that do receive  
3 funding from Fund 6 to support this legislation.

4 I -- until we get the bill filed and get a  
5 fiscal note on the bill we won't know exactly what that  
6 fiscal note will be. But we will be working with TxDOT  
7 and others in hopes of making sure that we have the  
8 support that we need.

9 MR. ALLEN: I might continue by talking for a  
10 moment or two about the next item on our legislative  
11 agenda dealing with medical transportation -- the medical  
12 transportation program.

13 In a nutshell, Demetria Pope with the  
14 Department of Health and Human Services is currently  
15 holding a series of meetings across the state -- I believe  
16 there are 14 or 15 of them. Brad, you went to one --

17 MR. UNDERWOOD: Yesterday.

18 MR. ALLEN: -- yesterday. I've attended three  
19 and other people from TTA -- providers have attended many  
20 of them. They continue through November 14 where the last  
21 one will be in Bryan/College Station.

22 So the fundamental issue is that HHSC is  
23 proposing major changes in how non-emergency medical  
24 transportation is provided. Currently it is provided by a  
25 large variety of transportation area service providers,

1 many of whom are local transit organizations, particularly  
2 in rural and small urban areas.

3 One of the proposals under consideration is for  
4 expansion of the full-risk broker option. We currently  
5 have two full-risk broker options operating regionally,  
6 one in southeast Texas and one in the Dallas region. And  
7 the bottom line is if we rolled this out statewide it  
8 would have -- it would cause irreparable harm to many of  
9 the small urban and rural providers who are currently  
10 providing that service and for whom the income from that  
11 service is a key component of their annual budgets.

12 And so we have been vigorously opposing what is  
13 now called option number 1. HHSC put out a document,  
14 which I have provided to those of you who are here and  
15 which should be available via email shortly to those on  
16 the telephone.

17 They listed five options. Option 1 is for this  
18 broker expansion. Option 2 is a managed care carve-in  
19 where a managed care provider would also handle  
20 transportation under their contracts. Option 3 is TSAP --  
21 a transportation area service provider enhancement.

22 4 is a regional transportation partnership,  
23 which the Texas Transit Foundation proposed in the form of  
24 a white paper, which is being seriously considered that,  
25 in essence, would have transit providers anchoring

1 services in very large portions of the state where we have  
2 regional strengths and where there aren't strong transit  
3 providers currently providing that service then that would  
4 be available for private opportunity.

5 And so the fifth is a hybrid model of the  
6 above.

7 So Texas Transit Association is proposing  
8 through budget riders and/or specific legislation to  
9 implement pilot programs throughout the state focusing on  
10 partnerships among our transit providers who are currently  
11 providing that service and people that they would  
12 partnership in their region.

13 That is item number 4 on the HHSC draft of  
14 possibilities. And we would probably also feel pretty  
15 comfortable with that combined with perhaps option number  
16 3.

17 So, anyway, the bottom line is they will be  
18 making decisions about that, and because of its huge  
19 importance to us we believe that that will be a major part  
20 of our legislative agenda as we move forward.

21 MS. BLOOMER: This is Michelle. Can I just ask  
22 a few questions --

23 MR. ALLEN: Sure.

24 MS. BLOOMER: -- to clarify? J.R. and I were  
25 both at the HHSC medical transportation forum in Fort

1 Worth on Tuesday -- what day?

2 MR. SALAZAR: Tuesday.

3 MS. BLOOMER: Tuesday. And so I did, though,  
4 think it would be a good opportunity if the committee  
5 wanted to weigh in on the discussion, both directly to  
6 HHSC as well as potentially to the commission, to let them  
7 know sort of where we feel public transportation is in the  
8 state and provide comment on that as well.

9 But I need a little help understanding -- I  
10 think I understand option 1 -- that's what we currently  
11 have in Dallas/Fort Worth -- and the pros and cons against  
12 option 1 -- option 2 as well.

13 But option 3 I'm having a hard time wrapping my  
14 mind around. I can understand there's some transit  
15 providers that are in favor of option 3 and I'm just  
16 trying to understand the pros and cons of 3. I think I  
17 understand --

18 MR. GADBOIS: Michelle --

19 MS. BLOOMER: Just a --

20 MR. GADBOIS: Michelle --

21 MS. BLOOMER: Just a minute.

22 MR. GADBOIS: -- for those of us on the  
23 phone --

24 MS. BLOOMER: Uh-huh.

25 MR. GADBOIS: -- I think I need to understand

1 what option 2 and option 1 are.

2 MS. BLOOMER: Okay. Sure. Let me --

3 MR. GADBOIS: Could you explain a little --

4 MS. BLOOMER: Sure.

5 MR. GADBOIS: -- but about those option  
6 questions.

7 MS. BLOOMER: Option 1 is what HHSC refers to  
8 as the full-risk broker expansion model, which is  
9 currently the model in the Dallas/Fort Worth and I believe  
10 Houston area.

11 VOICE: Yes, ma'am.

12 MS. BLOOMER: And I -- you know, based on our  
13 current experience I wouldn't recommend taking that model  
14 statewide.

15 Option 2 is the managed care carve-in, which is  
16 basically that -- this option proposes to carve in non-  
17 emergency medical transportation services into managed  
18 care. So my understanding of that option is that health  
19 providers would now become transportation providers. And,  
20 in speaking, their focus is again on providing high  
21 quality medical services, not transportation. That's what  
22 the public transportation industry does. And so that  
23 doesn't seem to be a direction most folks want to go  
24 either.

25 Option 3 is the Transportation Service Area

1 Provider -- or TSAP enhancement option. And that's the  
2 one I'm having a hard time really understanding.

3 And then option 4 is a regional transportation  
4 partnership. And this is another pilot that is happening,  
5 and it's happening with three public transit districts.  
6 The Brazos Transit District, Capital Area Rural  
7 Transportation Services, and Hill County Transit are all  
8 working together to provide MTP service in a 24-county  
9 region. So most folks -- at least public transportation  
10 folks, as well as a lot of clients at the Fort Worth  
11 meeting, were in favor of option 4.

12 And then option 5 is what they call a hybrid  
13 model, and it's basically a hybrid between options 1 and  
14 2. And so if you are opposed to options 1 and 2 then  
15 you're most likely opposed to option 5.

16 But if you could just help me understand option  
17 3 a little bit better --

18 MR. ALLEN: Sure.

19 MS. BLOOMER: -- maybe where the  
20 transportation industry is on --

21 MR. SALAZAR: And if I could just --

22 MR. ALLEN: Sure, J.R. Please.

23 MR. SALAZAR: Let me inject something first. I  
24 did -- for the record, J.R. I did speak at the forum in  
25 Fort Worth. And I do support number 4 with the pilot

1 project, but I'm also in support of number 3, being the  
2 fact that the company that I work for is a TSAP. And one  
3 thing that I told Michelle is that, you know, some of the  
4 concerns that we have obviously are down south in Houston,  
5 but also in the Dallas/Fort Worth area where we're having  
6 the big nightmare with the full-risk broker.

7 But in other areas of the state the TSAP model  
8 is working. And I would say that for the area that I'm in  
9 in the west central Texas area where there's 19 counties  
10 that we essentially provide the non-emergency medical  
11 transportation.

12 And just to give you a very quick background,  
13 when we applied for that back in 2005 whenever it was with  
14 TxDOT -- 2004 -- whatever year it was, we came together as  
15 a group of providers: us and the three subcontractors  
16 that we have in place now.

17 And so we sat down and discussed what we would  
18 do. And it was then decided that Central Texas Transit  
19 would apply for that area -- the TxDOT district area --  
20 sorry; not the TxDOT district, but the council of  
21 government service area. And so we did. And then we  
22 subcontracted the City of Abilene to CityLink and then  
23 seven counties to two other rural transit districts.

24 And that model has worked out really well for  
25 us. And so I think that's one thing that we need to keep

1 in mind -- that the mess that we have in the Dallas/Fort  
2 Worth area may not be quite of a mess in the West Texas  
3 area and then -- so that's just my quick little comments.

4 MR. ALLEN: Those are excellent comments. Let  
5 me explain a little bit first about option 4, and that is  
6 that it was created as an extension of a white paper  
7 submitted by the Texas Transit Foundation to HHSC. And  
8 what we were proposing was that, because of the short  
9 amount of time we had to put in input, that we had three  
10 transit agencies -- all very strong, all located in  
11 central Texas, all with contiguous boundaries -- and they  
12 had agreed they would come together and form a central  
13 Texas pilot program to show what could be done other than  
14 a full-risk broker that would protect both the continuity  
15 of service to current riders and the quality of service to  
16 current riders. And if we're allowed to operate together  
17 in ways that we're currently not we could probably  
18 significantly include efficiency.

19 So we pushed forward the idea of a pilot  
20 program. The agency leadership of HHSC changed at the top  
21 level and at the level that was overseeing medical  
22 transportation. And they have accelerated their plan to  
23 make a decision about how they're going to provide  
24 transit.

25 And, frankly, for us to -- this is important

1 for us to understand. This is a \$200 million bump on the  
2 back of an agency that is in the tens of billions of  
3 dollars. So this -- though it is -- it's life blood to  
4 us, it is a nuisance. I don't mean to say that they're not  
5 concerned about it and they're handling it appropriately,  
6 but it's something to be dispatched and done away with so  
7 that we get on to building roads and other transit issues  
8 and all the other things that are on their agenda.

9 So, as we have worked our way through some of  
10 these hearings, it has become very clear that there are --  
11 is a large variety of ways where this three-agency pilot  
12 could be dramatically expanded. And J.R.'s just given one  
13 perfect example of how a regional approach and a regional  
14 solution where transit is integrally involved is probably  
15 doable almost in every area of the state.

16 And there are areas where the TSAP is a group  
17 of transit providers and subcontract to private agencies.

18 On the other hand, there are private agencies that are  
19 subcontracting to transits. And where that's possible on  
20 a regional basis, that has worked out well.

21 Where it hasn't worked well -- what hasn't  
22 worked well is for a single broker in a large geographic  
23 area to gain a monopoly where it can then use the power of  
24 that monopoly to suppress the cost -- the prices to  
25 transit people who are then subcontracted to provide at a

1 much lower rate than we're currently receiving and to  
2 supplant transit organizations with, in some cases,  
3 individual drivers of individual cars to provide that  
4 service.

5           So, anyway, what we're looking at now is  
6 probably some kind of combination between proposal number  
7 4 and proposal number 3 as we move forward. So the  
8 urgency is important because of the severity of the threat  
9 to people in the transit world and because of the speed  
10 with which the agency wants to make a decision. Those are  
11 creating a nexus of really a dire sense of urgency on our  
12 part.

13           Hopefully we will through the hearings that are  
14 being held effectively present our case. I'm certain that  
15 that's happening right now. But we do have to put  
16 together a plan and say to HHSC, Look, we've got a plan  
17 that covers most of the state and what we can't cover you  
18 should look at possibly having a broker or a group of  
19 brokers or some kind of a regional hybrid handling that.

20           So, anyway, that's the status -- and I didn't  
21 mean for it to go on so long. And I might just jump ahead  
22 and cover the other issue if --

23           MR. GLEASON: If I could -- before we go on if  
24 I could ask the folks on the phone to please make sure  
25 that you have your phones on mute. As you're trying to

1 speak we're getting a little bit of background noise.

2 Thank you.

3 MR. ALLEN: I'm going to jump ahead for a  
4 moment.

5 MS. BLOOMER: Can I hold --

6 MR. ALLEN: Sure.

7 MS. BLOOMER: Can we hold on a second --

8 MR. ALLEN: Sure.

9 MS. BLOOMER: -- because I think this issue is  
10 a very important one. And after having attended the forum  
11 I think -- depending on where the committee feels I think  
12 it would be very important for the committee to weigh in  
13 as a committee on this issue, both directly to --

14 MR. ALLEN: Absolutely.

15 MS. BLOOMER: -- HHSC and to the commission.  
16 Because my understanding is Demetria Pope is going to take  
17 all the information from the 14 forums, prepare a report,  
18 which she committed to making available on their  
19 website -- and then from there my question to her was,  
20 then what happens?

21 We're obviously all trying to serve the same  
22 clients. We're all very passionate about making sure they  
23 get to the services they need, but we need to all work  
24 together to figure out how best to do that.

25 And one of the suggestions I offered her at

1 that meeting was I don't know -- I understand the need to  
2 move it forward, but I don't understand why all of a  
3 sudden we're now going like 150 miles per hour in lieu of,  
4 you know, having some discussions. And I think it would  
5 be pertinent to get a group of statewide HHSC and transit  
6 industry folks together to come up with a longer-term  
7 solution.

8           And I know the committee had recommended -- or  
9 the working group had committed -- commented that they  
10 wanted one of the statewide initiatives to be asking the  
11 Legislature to have PTN at the table. And I think that's  
12 important, but I think more importantly is to have  
13 representatives from both the health and human service and  
14 the public transit industry side weigh in on this issue  
15 and come together. Because, ultimately, they're trying to  
16 get their clients to medical appointments and we serve all  
17 their other clients needs. So there seems to me that  
18 there's this nexus that we just aren't working together to  
19 do.

20           MR. ALLEN: Absolutely correct.

21           MS. BLOOMER: And I just want to clarify -- so  
22 on option 3 it's not just the fact that we're -- the  
23 transit industry is in favor of it because it would extend  
24 the current model to 2015 and allow for the collection of  
25 data to then make a more informed and thorough decision.

1 It's the concept itself of a TSAP that we're in favor of as  
2 well. Okay.

3 MR. UNDERWOOD: Michelle, if I could, I think  
4 what you're saying is a very good idea as far as PTAC  
5 weighing in on this issue. I think the only issue that I  
6 have with that is we probably need to do it sooner than  
7 later. In Fort Worth yesterday Demetria talked about how  
8 she was going to be preparing the report maybe by as early  
9 as the first or second week of December. That's really  
10 quick. And if we're going to get some comments in we  
11 probably need to do that either via conference call within  
12 the next week or two. Last meeting is going to be in --  
13 the 14th in Bryan, Texas.

14 MS. BLOOMER: Right.

15 MR. UNDERWOOD: And then I think she's having a  
16 meeting following up that first week of December and the  
17 report's going to be out.

18 MS. BLOOMER: Right. The deadline she gave at  
19 the forum in Fort Worth was November 15 to get comments  
20 in, which, again, was sort of -- blew me away. It's like  
21 I just heard about this meeting. I'm here today on the  
22 7th and comments are due on the 15[th].

23 MR. UNDERWOOD: Yeah.

24 MS. BLOOMER: And we're talking about a \$200  
25 million a year bump?

1 MR. ALLEN: Bump. But, again, but the --

2 MR. UNDERWOOD: But I don't -- but I also don't  
3 know how much she's driving that train -- if it's just  
4 being driven for her and she's on the back side. So --

5 MR. ALLEN: When I was in the hearing on -- in  
6 Houston a few days ago prior to the one in Fort Worth, she  
7 said that she wanted the comments to arrive no later than  
8 the 14th because she was going to start writing on the  
9 morning of the 15th. So their current plan is to have all  
10 comments there.

11 I don't -- wouldn't begin to attempt to steer  
12 you in what you say and what you recommend, but it appears  
13 that perhaps one of the immediate recommendations would be  
14 for a little extra time to prepare comments and proposals.

15 MS. FISHER: May I make a suggestion?

16 MR. ALLEN: Sure.

17 MS. FISHER: Madame Chair, this is Nancy  
18 Fisher. I would ask as you move forward in your process  
19 if you could work with the stakeholders at the Capitol. I  
20 think it would be very advantageous to PTAC if your --  
21 Christina, who is the appointment from the Lieutenant  
22 Governor's Office, and you go and meet with the Lieutenant  
23 Governor or his staff on this issue.

24 I think that there is some urgency on the  
25 agency's behalf because they feel like the Legislature

1 wants some clarity to this issue next session. And so  
2 that might be one reason why they're looking at trying to  
3 get a report done by mid -- by this year. With input from  
4 Christina and you to the Lieutenant Governor's office I  
5 think would be very well heard and perhaps their other  
6 appointee, who is not here today, might also -- may want  
7 to accompany you on that meeting. And I'll be happy to  
8 help you in any way.

9 MS. BLOOMER: Okay. And I think one thing we  
10 heard too at the forum was just sort of their -- the  
11 transit industry understands the transit side but not  
12 necessarily the Medicaid side -- and vice versa --  
13 Medicaid understands the medical side but not necessarily  
14 the transportation side. And the same holds true for a  
15 lot of elected officials.

16 And so I think it would be very helpful for all  
17 of us on this committee, as well as if any of us go to  
18 speak to elected officials, to have a very good  
19 understanding -- at least a basic level of what the issues  
20 are. And I don't know if that it is in the Texas Transit  
21 Foundation white paper that was sent to HHSC, but that  
22 would be very helpful because it's a very confusing issue  
23 and it's very hard to sort of boil it down to what the  
24 real issues are and to feel confident in speaking to them.

25 MR. ALLEN: In the packet that I handed you I

1 gave you -- the last page of three is some talking points  
2 from TTA's perspective, which might not be universally  
3 applicable to this organization, but it talks about the  
4 things that were of concern to us. And I also have,  
5 Madame Chair, a copy of the white paper if you'd like to  
6 have it copied so that people here can get it and then  
7 scan it to send it out to other board members. I'd be  
8 happy to --

9 MS. BLOOMER: That would be great. Thank you.

10 MR. ALLEN: -- make this available to you.

11 MS. BLOOMER: Okay.

12 MR. ALLEN: Let me mention the other item that  
13 is directly related to this.

14 MR. GADBOIS: This is Glenn. Before we move  
15 on --

16 MS. BLOOMER: Yes, Glenn.

17 MR. GADBOIS: -- some questions. Given you  
18 all were at the hearing we -- so we've got legislative  
19 issues and we've got regulatory issues. And then we've  
20 got, you know, region-by-region issues. The solutions  
21 that work for J.R. may not be the same right solutions  
22 for, you know, central Texas and their partnership.  
23 Right?

24 So help me understand, it is HHS -- in the  
25 process of developing regulatory rules for Medicaid

1 transportation that are looking to choose one option or  
2 are they developing rules that are looking to develop a  
3 process for deciding area by area which option's most  
4 applicable.

5 MS. BLOOMER: That is a good question. Anybody  
6 that attended? My --

7 MR. UNDERWOOD: Glenn, you know, it was my  
8 impression yesterday that they are looking for any  
9 suggestion. And Demetria is very open about, you know  
10 what, if you think a combination of 2 and 3 is best or 3  
11 and 4 or whatever, or if you have another option that's  
12 not even listed here please put that forward.

13 They're looking for any type of reasonable  
14 solution. She did not say that she was committed to any  
15 of them or one of them. I mean, at least that's the  
16 impression I got at our meetings.

17 MR. GADBOIS: Okay. And the reason I'm asking  
18 is because given what I've just heard from you guys some  
19 places have already been doing -- some areas have been  
20 doing pilots that seem to be working well. And then when  
21 Michelle suggested a process by which the transit  
22 providers and the HSSC, you know, agencies work together  
23 to decide a proper solution for their region that's  
24 description of a process.

25 But when options -- you know, five options are

1 tossed out it's looking like, you know, decide which ones  
2 of these -- we can put up a menu, you know, but our rules  
3 are going to really choose, you know, a menu item or more.

4 Right?

5 MS. BLOOMER: Glenn, this is Michelle. I  
6 think -- I understand where you're coming from. And my  
7 impression of the forum was consistent with Brad -- that  
8 they're looking at input on five options. But, like Brad  
9 said, I think they are very open to any and all  
10 suggestions, and if one of those suggestions is maybe it's  
11 not one of the five and maybe it's not any model, but like  
12 you suggest it's maybe more of a process driven by the  
13 regional stakeholders to come up with what works best for  
14 them.

15 So I think it's up to us to sort of provide our  
16 two cents into how we think best the state can address the  
17 issue. And I think one of the points that was made, and  
18 has been made for today, is that what works maybe in  
19 J.R.'s region won't necessarily work in D/FW or El Paso.  
20 And, hence, maybe one of the five -- it's not best to pick  
21 a model, but, yet, to leave it to each region to determine  
22 how best to meet that need while leveraging the state's  
23 existing investment in public transportation --

24 MR. ALLEN: Perfect.

25 MS. BLOOMER: -- being the key.

1           MR. GADBOIS: Okay. And the reason I asked  
2 this, Michelle -- and just to harp on it for a little bit  
3 longer -- is if HHSC, which is a multi-billion dollar  
4 agency that -- you know, that has to do this  
5 transportation program by court order, but it's a little  
6 pot of money that they don't care all that much about --  
7 are they just looking to appease somebody and give them a  
8 better answer -- one that may cause a little less public,  
9 you know, frustration given what's happening in Houston  
10 and Dallas, or are they really looking to solve this?

11           My suspicion is there's also a legislative  
12 strategy here where we've got to get the Legislature  
13 giving HHSC the permission to take a little more time if  
14 we want to suggest process over pick that one option.  
15 Does that make sense?

16           MS. BLOOMER: I think I got that, yes.  
17 Everybody's nodding on this end. Okay. Given that, isn't  
18 the 14th next --

19           MR. UNDERWOOD: Next Wednesday.

20           MS. BLOOMER: -- Wednesday? Okay. So do we  
21 as a committee want to move forward on preparing a letter  
22 to send to HHSC as well as the commission regarding this  
23 issue?

24           MR. UNDERWOOD: Yes.

25           MS. BLOOMER: And are we in agreement with what

1 that letter will say?

2 MR. GLEASON: If I can, I think the record  
3 should show the basic bullet points that the committee  
4 wants the letter to have in it.

5 MS. BLOOMER: Okay. And I think maybe we can  
6 all stew on that until we get to the next item to lay out  
7 those bullet points. And then we'll just go ahead and  
8 just continue in case we have anything else to address  
9 the --

10 MR. ALLEN: I might just say for historical  
11 assistance here, that TxDOT ran this program and ran it  
12 well for quite some time. It was shifted to the  
13 Department of Health and Human Services. I'm not sure I  
14 exactly know why or remember the reason why. Nancy  
15 probably does -- her memory is better than mine.

16 Which leads me to the point that I wanted to  
17 finish with -- is that TTA has sent a letter to executive  
18 director of TxDOT Phil Wilson requesting that he provide  
19 some historical context to the Health and Human Services  
20 Commission leadership.

21 That would specifically address what Michelle  
22 just mentioned a moment ago -- is that anything that we do  
23 in the state of Texas should not be done without regard to  
24 the incredible investment that the state has made in  
25 transit.

1           If we moved, for example, to a full-risk broker  
2 model that would not only not pay attention to that  
3 investment but it might very well dramatically and  
4 speedily undermine that investment, which is a concern to  
5 us because we're the ones to be undermined.

6           But those within TxDOT who have been integral  
7 to the transit portion of their transportation mandate  
8 understand it very, very well, whereas those folks at  
9 TxDOT -- at HHSC may lack that historical understanding.  
10 And so we're asking TxDOT to provide some resource by way  
11 of history and education to the brand new leadership of  
12 HSSC.

13           And one last comment I will make -- and that is  
14 that -- this is a personal comment. I think that when  
15 HHSC started this series of hearings I think they had in  
16 mind that the likely answer to their question was going to  
17 be a full-risk broker model because of its ease of  
18 administration -- you know, one contract, one broker, and  
19 you hold them responsible for everything.

20           I think the people in the transit industry have  
21 done a very good job so far and will continue until the  
22 last gasp of the last hearing in pointing out that that is  
23 not what is likely -- not what -- from my perspective it  
24 is not believed to be the best solution.

25           MR. UNDERWOOD: Right.

1 MR. ALLEN: So I think they've been quite  
2 surprised at the depth of concern and at the creativity of  
3 people offering other alternatives. So I think -- you  
4 know, I think it's important that you go ahead and speak  
5 to the agency on behalf of PTAC, and we would certainly  
6 hope that TxDOT and its leadership will have ways that  
7 they feel are appropriate for them to provide information.

8 MR. SALAZAR: This is J.R. I just wanted to  
9 clarify the comment that I made earlier about option 3 or  
10 option 4. I do want everyone to know for the record I am  
11 in favor of option 4. I truly support that, especially my  
12 seat on TTA and on PTAC. But I also see the impact -- or  
13 the areas of the state where maybe that may not work. So  
14 I just wanted to clarify that I'm not opposed to option 4.

15 MS. BLOOMER: Okay. This is Michelle.

16 MR. GADBOIS: Can --

17 MS. BLOOMER: Glenn, hold on. One of the --  
18 there were three items the working group wanted brought  
19 forward -- the Texas Enterprise Fund, the Medicaid plan,  
20 and the exemption from the state metro fuel tax. We've  
21 covered the two. Does TTA have a position regarding the  
22 Texas Enterprise Fund? Was that -- Brad, was that part  
23 of --

24 MR. GADBOIS: Michelle, before we move on can I  
25 address what -- I think it's Ray -- is it Ray from TTA?

1 MS. BLOOMER: Yes.

2 MR. GADBOIS: Could I address what Ray just  
3 said about historical stuff --

4 MS. BLOOMER: Very quickly.

5 MR. GADBOIS: -- before we move? What Ray  
6 has -- my understanding in working with Michael Morris and  
7 others to start doing regional planning, that one of the  
8 problems we consistently have had is that some providers  
9 may bridge the gap of basically two different languages  
10 and approaches to doing their business.

11 The transit side wants to basically lay out a  
12 system and a service, to think about things in those ways  
13 and the health and human service folks are really focused  
14 on individuals and the services given to individuals.

15 What I don't hear in your conversations very  
16 much is any appreciation of the HHS perspective. Did some  
17 service providers do a great job of talking the language  
18 in bridging that translation gap? What I'm not hearing in  
19 what you presented, Ray, are you all thinking about ways  
20 to bridge that individual versus systems gap?

21 MR. ALLEN: I'm not sure that I understand your  
22 question except that to say that I'm perhaps not the best  
23 person to communicate the full range of TTA's  
24 capabilities, their interests. We're quite a varied  
25 group. We have some -- you know, we have differences of

1 opinion among ourselves, as J.R.'s already pointed out,  
2 not that, frankly, that hasn't been a fight within the  
3 organization. It's just a different perspective.

4 And we're having a hard time getting our hands  
5 around the idea of fundamental change in which we're all  
6 required to shuffle the deck, both individually and  
7 regionally, in order to forestall a process that would  
8 threaten every one of us, whether you're a private sector  
9 TSAP or a transit-based TSAP.

10 VOICE: Or any --

11 MR. ALLEN: Yes -- or any of those -- any other  
12 option. So if I'm expressing myself in language that's  
13 unique to TTA I will just plead that that's my job. Our  
14 client is TTA, not the entire transit industry. But I  
15 will say that it's not TTA's intention or long-term goal to  
16 exclude anyone from service to people in Texas or from the  
17 debate or discussion about how we're going to go about  
18 that.

19 MS. BLOOMER: This is Michelle. Let me just  
20 add, Glenn, I think too part of maybe the regional  
21 approach is what works and -- to focus on what works best  
22 in each region may be different. But I know -- I didn't  
23 go to the Dallas meeting, but I did go to the meeting in  
24 Fort Worth, and it was mostly your demand response rural  
25 public, small urban providers. Our metropolitan transit

1 provider was not in attendance. And maybe that is because  
2 they are more in the system approach. But the folks that  
3 were there representing public transportation were very  
4 much from a client perspective, not a system approach.

5 MR. ALLEN: That's correct.

6 MS. BLOOMER: So I think that's where we have  
7 sort of strife in working with HHSC, because the folks I  
8 heard at the meeting that spoke were those who were  
9 concerned about the client and the fact that our client is  
10 public transit providers are the same clients of HHSC, and  
11 how come we're serving them with two separate systems when  
12 it's the same client trying to make multiple trips.

13 But I think we'll go ahead and close the  
14 discussion for now on Medicaid and we'll open it back up  
15 under the next agenda item. But I did just want to see if  
16 there was any other discussion on the Texas Enterprise  
17 Fund that we wanted to have. Because I know we have  
18 talked about sending a letter to the commission outlining  
19 our state legislative priorities -- which I've mentioned  
20 them three times.

21 Medicaid we may want to take out and address  
22 separately, which leads us to -- I understand the fuel tax  
23 one. I'm still not comfortable enough that I know enough  
24 to sign anything related whether we're for or against the  
25 Texas Enterprise Fund and setting money aside. And we had

1 talked at the last meeting of coming back and having a  
2 good update with a little bit more information of how that  
3 works and what we would ask for. And there was some  
4 strategic discussion of did we want to ask for a set-  
5 aside, and, if so, how would that be awarded and that kind  
6 of thing.

7           So I don't know if we're going to talk about  
8 that today or if we want to hold that. We want to focus  
9 on Medicaid since we have till November 14 or 15, and that  
10 might give the folks on the working group, one, a little  
11 bit more time to put together some information to help the  
12 other committee members -- and maybe it's just me --  
13 understand the Texas Enterprise Fund as it currently is  
14 and how it's historically worked and what we would be  
15 asking the Legislature to do and why that is in the  
16 benefit of public transportation.

17           MR. GADBOIS: And, Michelle, I thought your  
18 question was did TTA -- do you all have any thoughts on  
19 Enterprise Fund. I actually have an answer to your  
20 question that you all have asked, you know, via the  
21 transcript at the last meeting and I'm happy to answer any  
22 of those I can remember.

23           MS. BLOOMER: Glenn, would it be possible for  
24 you to send that out for all the committee members just to  
25 sort of review and give us time to digest it and then ask

1 if TTA has any thoughts? It might be hard for TTA to  
2 respond since we don't really know at this point what we  
3 would be asking or recommending.

4 MR. ALLEN: We -- I can give an answer to that,  
5 and that is we don't have a position at this time because  
6 we haven't had those internal discussions at TTA. But  
7 if -- as soon as PTAC makes a recommendation or even a  
8 preliminary recommendation which you'd like for us to  
9 study then we can bring it to the leadership of TTA and  
10 would be delighted to do that.

11 MS. BLOOMER: Okay. Thank you. And one of the  
12 things we had talked about at the last meeting is since we  
13 are here to help advise the Texas Transportation  
14 Commission on issues of statewide importance related to  
15 public transportation -- obviously you represent the  
16 industry that we would like to work better and to  
17 coordinate so we can utilize you as a resource to sort of  
18 hear what the transit providers in the state are  
19 interested in and maybe better coordinate going forward.  
20 So that would be great.

21 Are there any other questions for our two folks  
22 from TTA?

23 MR. SALAZAR: If I can again -- this is J.R. --  
24 just very briefly, Michelle, I know that I talked to Scott  
25 Neeley, our TTA president, and we are very close to hiring

1 a executive director for TTA. I think they are in the  
2 negotiation process right now, and hopefully some time  
3 next week we'll be able to announce our new executive  
4 director.

5 MS. BLOOMER: Okay. Great news. All right.  
6 Then if there's no other discussion on item 3 we'll move on  
7 to -- oops, sorry, that was 4 -- item -- we will move on  
8 to item 5, legislative priorities discussion and comment.

9  
10 I think we've sort of mixed that in with the  
11 previous one. But just to clarify sort of where we are, I  
12 think our initial intent was to send one letter to the  
13 commission for state legislative priorities and one letter  
14 to the commission on federal priorities. I still think  
15 the federal is off in the future.

16 I think the discussion we need to have right  
17 now is as far as the state letter do we want to try to do  
18 something that encompasses all three or do we want to go  
19 ahead now and focus on Medicaid and responding --  
20 providing some recommendations to HHSC as well as to the  
21 commission?

22 MR. UNDERWOOD: I think it sounds really  
23 aggressive to do both, but, to be honest, seeing next week  
24 is our deadline I think we probably ought to focus on  
25 Medicaid and getting a letter to HHSC. That would be my

1 preference. And then, Michelle, if you need help -- if  
2 you're going to create a subgroup or you're going to work  
3 on that letter or whatever I would offer some time and  
4 conversation if you'd --

5 MS. BLOOMER: Okay. Can we have -- if  
6 everybody is okay with focusing on getting the letter to  
7 HHSC, as well as -- I would say to the commission as  
8 well --

9 MR. UNDERWOOD: Copy them on it, yeah.

10 MS. BLOOMER: -- if we could just sort of, as  
11 Eric recommended, go ahead and sort of flesh out what  
12 those main comments would be -- or recommendation in the  
13 letter. And then that will give me sort of a game plan of  
14 how to go forward, and then I can pull other folks in to  
15 help write that letter between now and Wednesday.

16 And I don't -- we can just toss it around, but  
17 I don't know if we as a committee want to weigh in on any  
18 of the options per se. What Demetria Pope was looking for  
19 was pretty much in the -- had boxes -- I support option  
20 and blank, I oppose option blank. If we want to go as far  
21 as being that specific or if we want to propose -- I think  
22 they had an alternative recommendation -- is just to  
23 propose an alternative recommendation of what we think  
24 would work best.

25 And I'd like to, you know, take the opportunity

1 to just reinforce that we are very client focused -- and  
2 it's the same clients -- and the leveraging of the state's  
3 existing investment in public transportation. I don't if  
4 other -- what other folks think would be important.

5 MR. UNDERWOOD: I think we have to kind of keep  
6 it less about the options and more about concepts we would  
7 support. So in case they come up with something else that  
8 we might could live with -- I think we have to keep  
9 restating the position we have to be able to support  
10 public transportation and public transportation playing a  
11 key role in whatever we're doing about leveraging the  
12 assets that we currently have -- not creating duplicate  
13 systems.

14 I think we have to say something about keeping  
15 our ultimate customer -- the rider -- in mind. At the  
16 hearing in Fort Worth, you know, there was -- I'll be  
17 honest -- there wasn't a ton of transportation providers  
18 there. This was mostly social workers, case workers,  
19 riders that were there that were opposing --

20 VOICE: In Dallas?

21 MR. UNDERWOOD: In Dallas -- I'm sorry, not in  
22 Fort Worth, in Dallas. I apologize. You know, and  
23 there's -- you know, in the last five months there's been  
24 6,000 complaints against logistic here in the Dallas/Fort  
25 Worth area. And so people are starting to come out about

1 this more and want a change.

2 And so I think we have to keep our comments  
3 focused on -- you know, with the final user in mind but  
4 continue to support public transportation. I don't think  
5 we need to get so deep into we want to do this one.

6 MS. BLOOMER: And I was --

7 MR. GADBOIS: And I actually like your  
8 statement of leveraging existing assets rather than the  
9 blanket statement of we need to support public  
10 transportation. We need to leverage the investments we've  
11 already made, where they work well to serve the customer,  
12 the rider.

13 The other thing I would suggest is that we're  
14 not about choosing options. What works for J.R. may not  
15 work for the Dallas/Fort Worth area. What I've heard  
16 Michelle suggest and I like is HHS needs to commit to a  
17 region-by-region process for deciding the solution that  
18 can work, including a number of stakeholders.

19 MR. UNDERWOOD: And I don't disagree with that,  
20 Glenn. The only thing I think that in this letter we  
21 should oppose the full-risk broker model period though. I  
22 don't think this is a good thing for public transportation  
23 any way you slice it, and I think that would be something  
24 safely that I think we could all agree on -- that is not a  
25 good option for Texans or public transportation period.

1 MR. SALAZAR: This is J.R. I agree with that  
2 last statement Brad made.

3 MS. BLOOMER: Okay. So we've sort of come full  
4 circle. If we don't think full-risk brokerage is a good  
5 model for Texas then I would almost say -- I would also  
6 put in there option 2 because it gets, again, away from  
7 folks doing what they do best.

8 MR. UNDERWOOD: I agree.

9 MS. BLOOMER: And then so it's 1, 2, and 5 that  
10 we would not recommend and support and 3 and 4 and/or in  
11 favor of a regional process involving health and human  
12 service and transportation stakeholders working together  
13 to collaboratively develop a model that meets their needs.

14 MR. UNDERWOOD: And I think we can effectively  
15 say that.

16 MR. GADBOIS: Before we go there and I agree to  
17 that why is it that 1 is not good for anybody -- that we  
18 all agree to that?

19 MS. BLOOMER: Well, I think -- one of the  
20 issues is it hasn't worked well yet. The examples --

21 MR. GADBOIS: But it's worked well in other  
22 states.

23 MS. BLOOMER: That's -- and I don't know --

24 MR. UNDERWOOD: That's debatable too though  
25 even, Glenn.

1 MS. BLOOMER: Yeah. What we've heard --

2 MR. UNDERWOOD: No.

3 MS. BLOOMER: -- is it hasn't worked well in  
4 other states. And it's currently not working well in  
5 Dallas/Fort Worth. I don't know if it's working well in  
6 Houston --

7 MR. UNDERWOOD: It's not working well in  
8 Houston.

9 MS. BLOOMER: -- but if we can't make it work  
10 in Dallas/Fort Worth why would we want to take something  
11 that's broken and expand it statewide.

12 MR. GADBOIS: And what is it that's not  
13 working?

14 MR. SALAZAR: The level of -- this is J.R. The  
15 level of service -- everything that these clients are used  
16 to, that is not the service that they're getting now. And  
17 so they're complaining about drivers not showing up, about  
18 drivers not being able to speak English, of not having  
19 wheelchair tie-downs, being asked to transfer into a  
20 seat -- just a numerous amount of things that passengers  
21 that are -- MTP customers -- passengers don't like.

22 And I want to go back to something that Brad  
23 said about in the Fort Worth area -- you mentioned the  
24 Dallas area. In the Fort Worth area it's the same thing  
25 where -- is primarily riders that were there and made

1 the -- a lot of the comments.

2 But my comment was the company that I work for,  
3 Central Texas Transit, has been doing medical  
4 transportation since 1977. We've been doing that for 34  
5 years, and I just don't think that a full-risk broker  
6 would come in and have the compassion for the people that  
7 we serve the way that we do as a company. And that's kind  
8 of tying back to something that Brad said.

9 MR. UNDERWOOD: Yeah, and Glenn -- and to me,  
10 it's an overall concept of taking a out-of-state for-  
11 profit company and putting them in charge of our society's  
12 most vulnerable individuals. It doesn't work. I think  
13 this is about reducing the amount of service.

14 MR. GADBOIS: But, Brad, I'm all for saying it  
15 that way. We're -- an approach to this is giving somebody  
16 a profit motive the only real incentive they have to do  
17 things incorrectly -- I'm all for saying that. But just  
18 saying we don't want number -- option number 1 I think is  
19 a mistake.

20 MS. BLOOMER: Right. Well, we will have to  
21 provide documentation or an explanation as to why we don't  
22 support option 1, option 2 -- whichever ones we don't.  
23 And we can work on that language.

24 I guess the question I'm trying to get to is do  
25 we want to specifically take a position on any of the

1 options or, like Brad was initially suggesting, stay away  
2 from the options and focus more on concepts -- what we  
3 would support.

4 MR. UNDERWOOD: I just didn't want to really  
5 limit us to say we want option 3 or option 4. I think to  
6 me we would be in support of anything that furthered  
7 public transportation and ultimately public transportation  
8 providers in the state -- ultimately providing a  
9 service -- not cab companies, not subcontracts, things  
10 like that.

11 MS. BLOOMER: Well, I think -- back to Glenn's  
12 point is in support of public -- meaning leveraging  
13 existing state resources --

14 MR. UNDERWOOD: Absolutely.

15 MS. BLOOMER: -- existing -- and I think one  
16 of my concerns too is the goal of the ease of  
17 administration of -- you know, if we're implementing a  
18 transportation program either on the HHSC side or the  
19 transit side our number one goal should not be ease of  
20 administration. It should be meeting the needs of the  
21 clients and the customers.

22 And it seems -- and I don't want to speak out  
23 of turn, but it seems like the way we're going and HHSC is  
24 going is that we're wanting to take the call centers and  
25 they're no longer going to be an HHSC. Everything is

1 being moved out and the responsibility is being moved out.

2 And my concern is then what is HHSC responsible for and  
3 what is the goal of this initiative that they have to  
4 develop a model. Is it achieve administrative ease or is  
5 it to ensure the clients that need the transportation get  
6 it -- and maybe focus on the ultimate goal of the program,  
7 which is to get folks where they need to go and who is  
8 best at doing that.

9 And I think there is room for all providers --  
10 public, for-profit, private, non-profit. It's just  
11 finding each person's niche to meet that need.

12 MR. GADBOIS: What I think -- I mean, I like  
13 Brad's suggestion and/or J.R.'s -- whoever it was -- that  
14 we're focusing on what we want and/or problems that need  
15 to be solved.

16 And so the four examples -- setting up a system  
17 whereby you're not focusing on the customer and the  
18 customer service, whereby you're not leveraging existing  
19 investments and resources, you have good experience now  
20 providing good quality service -- those are things we  
21 ought to get behind and make sure that they're solving --  
22 not taking, you know, 1 off the table just to take it off  
23 the table.

24 MS. BLOOMER: Okay. I think I have enough.  
25 And then if I can rely on maybe Brad and J.R. to assist --

1 and Glenn -- in reviewing the letter. Are we comfortable  
2 with the discussion here that we can go ahead and have the  
3 Chair draft a letter and send it to the commission?

4 MR. UNDERWOOD: I'd make that motion. Is that  
5 what you're looking for?

6 MS. BLOOMER: I'm looking for a --

7 MR. GADBOIS: Glenn seconds.

8 MR. GLEASON: Glenn, Michelle's looking for a  
9 nod from Eric.

10 MS. BLOOMER: I'm looking for a nod from Eric.

11 MR. GLEASON: You can't see that. She's not  
12 getting it yet. I would -- Michelle wants me to nod. I,  
13 frankly, need to hear that conclusion on how to approach  
14 whether or not to call out specific options as good or bad  
15 one more time. I'm not quite comfortable with the  
16 committee consensus. It's not that I have an objection to  
17 it.

18 I'm just confused on how to approach what has  
19 been suggested -- maybe we ought to identify 1 and 2 as  
20 something we're not supportive versus where the  
21 conversation ended, which I think was more emphasizing the  
22 positive things that we're looking for this model to do --  
23 to leverage, as they say, investment, but then not  
24 necessarily wanting to take anything off the table. I'm  
25 just not quite clear on how you're --

1 MS. BLOOMER: Okay.

2 MR. GLEASON: -- expecting that to be phrased.

3 MS. BLOOMER: Well, and I think if -- if I'm  
4 gauging the committee's discussion correctly I think we  
5 want to take a position on 1, 2, and 5. We want to take  
6 them off the table completely. No?

7 MR. GLEASON: That's not what I heard.

8 MR. GADBOIS: No.

9 MS. BLOOMER: I thought --

10 MR. GADBOIS: No. That's not what I --

11 MS. BLOOMER: I thought -- that's what I heard  
12 from --

13 MR. UNDERWOOD: I agree. The reason why --  
14 because they don't support our overall goals of moving  
15 public transportation forward and the ultimate --

16 MS. BLOOMER: But my understanding, Glenn, was  
17 that we -- your point was we just say we're in opposition  
18 to it. We need to provide additional information as to  
19 why we're in opposition to it. So are you --

20 MR. GADBOIS: So let's focus on 1. If we say  
21 that the model has to leverage existing resources that are  
22 doing a good job and it has to be customer service, if  
23 somebody can figure out a way to do 1 -- it satisfies that  
24 and other things would we really be opposed to it?

25 MR. UNDERWOOD: Yeah. And the reason why is

1 because you can't -- I think it's very difficult to put --  
2 the way this model is set up they get paid regardless if  
3 they deliver the service or not. I mean, it's a for-  
4 profit model.

5 MR. SALAZAR: So the best way to make money is  
6 not to provide service.

7 MR. GADBOIS: Wait.

8 MS. BLOOMER: Hold on. Hold on. There's like  
9 three --

10 MR. GADBOIS: As long as they're setting it up  
11 that way, Brad, then they don't comply with what we say  
12 they need to do --

13 MR. UNDERWOOD: Okay.

14 MR. GADBOIS: -- in which case we would be  
15 opposed to that.

16 MR. UNDERWOOD: Correct.

17 MS. BLOOMER: Okay.

18 MR. GADBOIS: But if they could put up  
19 something that actually did a good job of leveraging  
20 resources and provided good customer service through a  
21 one-broker model, then we would be okay with that.

22 MR. UNDERWOOD: I think what you're talking  
23 about, instead of a full broker model it's an asset-based  
24 model, which would then -- basically goes back to a TSAP  
25 is what it is. And that was one of the suggestions -- I

1 think that's sort of what you're alluding to -- is not a  
2 full-risk broker. It is a asset-based broker.

3 In a full-risk broker model -- let's just say,  
4 for instance, Dallas/Fort Worth is a \$30 million a year  
5 contract. They have an exposure to lose millions of  
6 dollars if the service demands it. You know, if that many  
7 people are utilizing the benefit of NTP then they stand at  
8 risk.

9 Public transportation providers cannot put  
10 themselves on the chopping block to lose \$3 million next  
11 year if it doesn't work out. That's a full-risk capitated  
12 broker model. And so that's the sheer concept.

13 An asset-based model -- or an asset-based  
14 broker would mean that a public transportation provider  
15 could, in fact, be considered almost like a TSAP --  
16 exactly what we are at now.

17 MS. BLOOMER: So what we need to decide is if  
18 we're going to lay out the core parameters of a model that  
19 we would find acceptable versus if we want to say yes or  
20 no to 1, 2, 3, 4, and 5. And what I'm hearing is --  
21 because I think what we can say is here are the core  
22 things the model has to have in order for us to be in  
23 support of it.

24 MR. UNDERWOOD: Correct.

25 MS. BLOOMER: These are the four things. And

1 if it doesn't have this, regardless of what model it is --  
2 either one of these on this page or another one that comes  
3 up -- we will not support it if it doesn't have these four  
4 things that fit the customer or it's, you know, et cetera,  
5 et cetera. And in that way we are basically saying as it  
6 stands we would not support a full-risk broker model  
7 unless it meets these four things.

8 MR. GLEASON: This is Eric. And, Glenn, this  
9 one is mostly for you. Would the committee be willing to  
10 based on what they've heard from members about the  
11 experience to date is, following what Michelle just said,  
12 would the -- so basically setting up a performance  
13 specification, if you will, for how a broker model would  
14 need to perform to be successful.

15 Is the committee also willing to then at the  
16 same time recognize that they're hearing that the current  
17 experience in Texas doesn't measure up?

18 MR. GADBOIS: If that's a question for me,  
19 sure. I'm very willing to -- and I actually said when I  
20 started, we can point to problems if -- you know, I'm fine  
21 with that.

22 MR. GLEASON: Okay.

23 MS. BLOOMER: I think what the committee is  
24 looking to do is maybe more focus on the positives and  
25 here's what we would be willing to support. And anything

1 that rhymes with these four core issues or components we  
2 would support. And in that way, vice versa, anything that  
3 doesn't we would not support -- without saying we take a  
4 more positive approach versus a negative approach.

5 MR. GLEASON: So the plan making is that the  
6 letter be as specific to recognize that the current  
7 experience in Texas doesn't seem to measure up to the  
8 specifications that the committee is interested in seeing.  
9 That's what I'm asking.

10 MR. UNDERWOOD: I'm fine with it. Sure.  
11 Absolutely.

12 MS. BLOOMER: Okay.

13 MR. GLEASON: Does that make sense?

14 MS. BLOOMER: I think so. But you're going to  
15 help me write the letter. Right? (Pause.) All right.  
16 Okay. So we have a motion and a second and we've had  
17 significant discussion and clarification. Actually, you  
18 know what? I think we have a motion. Did we have a  
19 second?

20 MR. UNDERWOOD: Glenn seconded it.

21 MS. BLOOMER: Brad made the motion. Glenn --  
22 okay. Glenn seconded.

23 MR. GADBOIS: I seconded.

24 MS. BLOOMER: Okay. Just going down the  
25 list -- Brad?

1 MR. UNDERWOOD: Aye.

2 MS. BLOOMER: Christina?

3 MS. CRAIN: Yes.

4 MS. BLOOMER: Glenn?

5 MR. GADBOIS: Yes.

6 MS. BLOOMER: J.R.?

7 MR. SALAZAR: Yes.

8 MS. BLOOMER: Michelle. Yes. All right. We  
9 will get that letter drafted and sent, and we'll be sure  
10 to send it out to the members when we do.

11 Moving on to item 6, presentation --

12 MR. GADBOIS: Actually, before we move to  
13 the -- beyond this item, the question you asked but didn't  
14 wait for an answer on is do you write a legislative  
15 letter, and that's actually still the issue I'm more  
16 interested in.

17 And so I would like to ask the committee's  
18 interest in developing a letter that you all could look at  
19 and say yes to or we decide -- well, I guess we can't  
20 decide at this point. I don't know how good this is,  
21 folks. And, you know, frankly, there's no -- you know,  
22 it'll be legislative session before we move it forward, in  
23 which case it's too late.

24 MS. BLOOMER: Well, Glenn, here's --

25 MR. GADBOIS: So you all help me understand.

1 MS. BLOOMER: Here's the issue we -- that I'm  
2 having on the statewide legislative letter. At our last  
3 meeting we talked about the three items that the working  
4 group put forward -- the Texas Enterprise Fund, the  
5 Medicaid planning item, and exemption from state motor  
6 fuel tax. We're taking out the Medicaid planning item and  
7 making its own -- and making it its own letter and issue.

8 That leaves us the Texas Enterprise Fund and  
9 the exemption from the state motor fuels tax. And at this  
10 time I personally feel I don't have enough information to  
11 weigh in on the Texas Enterprise Fund issue, and we do on  
12 the state motor fuels tax.

13 So if we want to weigh in on that separately we  
14 can. Or if we want to hold off and weigh in on the motor  
15 fuel tax and the Enterprise Fund together we can do that  
16 as well. I'm agreeable to whatever the committee wants.

17 I just don't have enough information or a good  
18 enough understanding of the Texas Enterprise Fund and what  
19 we're asking and how that impacts statewide public  
20 transportation to weigh in.

21 MR. GADBOIS: Well, and we can be pretty  
22 quickly in dispensing that. What we asked for originally,  
23 and continue to ask for with the Enterprise Fund, is who  
24 do they fund that gets allocation every session and given  
25 money. And then there are projects that are selected to

1 be funded out of that fund.

2 All we are asking for is to make public  
3 transportation an eligible expense for that fund. That's  
4 it. There are eligible things listed -- public  
5 transportation is not one of them. What we have suggested  
6 here is we want public transportation to have access to  
7 that money. Then we can go, you know, ask the Governor to  
8 actually give us money out of that fund if it's funded.

9 MS. BLOOMER: And I think part of the  
10 discussion we had last time was what has historically been  
11 funded under the Texas Enterprise Fund and how does it  
12 work. And if we were to work for money for public  
13 transportation under the Texas Enterprise Fund how would  
14 it be awarded? Would it be competitively?

15 MR. GADBOIS: We are not --

16 MS. BLOOMER: Would it be project based?

17 And --

18 MR. GADBOIS: Again, we are not asking for  
19 money. We are asking to make public transportation an  
20 eligible -- eligible for some of that money, period.  
21 That's all we're asking for from the Legislature.

22 Then once that happens there's got to be a  
23 request to the Governor's Office, and the Governor is the  
24 one who then actually allocates. And what has  
25 historically been -- the money has been allocated to is,

1 you know, bringing an industry into Texas.

2 MS. BLOOMER: Okay. I guess I -- if we're  
3 going to ask for -- and I'm not saying that I don't agree.

4 I'm just thinking if we're going to ask somebody to make  
5 public transit projects an eligible expense under the  
6 Texas Enterprise Fund the next question they're going to  
7 ask is what are you going to do with it and why should we  
8 make you eligible. And isn't everybody else that's already  
9 eligible for Texas Enterprise Fund not going to want  
10 another person invited to the Thanksgiving table to share  
11 in their pot?

12 MR. GADBOIS: I don't think they will care  
13 because there's no constituency out there until funds are  
14 allocated. And so it's really a question of whether the  
15 Legislature assumes this is a good idea to maybe fund.  
16 And all we have to do in that argument is help them to  
17 understand there's an economical development aspect to  
18 public transportation.

19 MS. BLOOMER: Yeah. Well, this -- and, I mean,  
20 I will bend to the will of the entire committee. But  
21 where I am is I just need more information. I don't know  
22 the Texas Enterprise Fund as well as I think you do, and  
23 so I'm just looking for maybe a Texas Enterprise Fund 101  
24 or TEF for Dummies or something so I can better understand  
25 it so when I read the letter and I put my signature on

1 that letter I know what we're all talking about, I know  
2 what we're asking for, and I, if asked, can better explain  
3 why I am in favor of it. So --

4 MR. GADBOIS: Okay. Then let me put it in very  
5 stark terms. If we don't make a decision today on  
6 legislative stuff there's no reason to make a decision on  
7 legislative stuff. So you're going to be making decisions  
8 today to do something or we're too late to actually have a  
9 real impact.

10 MS. BLOOMER: Any other committee members want  
11 to weigh in? I will --

12 MR. SALAZAR: This is J.R. I'm not against the  
13 Enterprise Fund and I understand your comment, Glenn,  
14 about the -- you know, we need to move on it now. But I  
15 don't know that much about it either. And that's all I'm  
16 asking for is just a little bit more information on the  
17 Enterprise Fund.

18 And I know that we're not asking for money from  
19 them now -- we're just asking to be put on the list. But  
20 my question is what happens if we do get money from  
21 them -- if we do ask for money from them -- the  
22 ramifications of that. What happens then is some of my  
23 questions.

24 MS. BLOOMER: Brad, do you have any thoughts or  
25 comments?

1 MR. UNDERWOOD: I'm just consumed --

2 MS. CRAIN: This is Christina. I've got just a  
3 few. Can you hear me?

4 MS. BLOOMER: Yes, we can hear you great.

5 MR. SALAZAR: Yes.

6 MS. CRAIN: Okay. I agree with J.R. I -- and  
7 with Michelle. I don't know enough about the Enterprise  
8 Fund to make a decision today. I do think though that we  
9 have potentially a little bit more time. When would our  
10 next meeting be?

11 MS. BLOOMER: After the first of the year.

12 MR. GLEASON: It would be after the first of  
13 the year probably, Christina, unless some compelling  
14 reason to meet earlier.

15 MS. CRAIN: And, you know, I mean, the  
16 Legislature goes through May. So, I mean, I understand  
17 the concern, but, you know, things get dropped in there at  
18 the last minute. And I just think that we need to do this  
19 right if we're going to look at this. And I'm with both  
20 Michelle and J.R. I just don't know enough about it to  
21 make a decision today on anything.

22 MS. BLOOMER: Why don't we do this? Why don't  
23 we focus at least the next seven days on the Medicaid  
24 issue and getting that out. Because if we had to  
25 prioritize the three issues in front of us would we not

1 put Medicaid up at the top of that list and then maybe the  
2 exempt-from-motor-fuel tax and the Texas Enterprise Fund.

3 And then in that time, Glenn, if you could work  
4 on something that would help the other committee members  
5 sort of get up to the same level of understanding of the  
6 Texas Enterprise Fund that you have and sort of just help  
7 us understand better why -- what it is and why it's a good  
8 thing and how we could use it to leverage and enhance  
9 public transportation, I think that would be extremely  
10 helpful.

11 And then what we could do from that point on is  
12 focus on a second letter to potentially address those two  
13 items if we can all get on the same page regarding the  
14 Texas Enterprise Fund. If not, we can move forward with  
15 the state motor fuel tax item only. And then if we had to  
16 we can do a very brief conference call with everybody  
17 having had the Texas Enterprise Fund white paper and copy  
18 of a proposed letter with enough time to sort of review it  
19 and, if needed, ask Glenn independent questions so we can  
20 all get comfortable with it. At this point I'm just not  
21 ready to --

22 MR. GADBOIS: And I decline your offer to do  
23 more work on this. We've been talking about this for four  
24 months and I actually don't think, given filing deadlines  
25 and the need to round up sponsors, et cetera, for a bill,

1 that unless -- you know, yeah, we could try to hang this  
2 on some Christmas tree legislation.

3 But, you know, that's lot of work. What we  
4 were looking at doing was was weighing in as a committee  
5 in time to have those people who are working on  
6 legislation find an author that might be willing to  
7 sponsor a bill, get it drafted and get it filed before the  
8 filing deadline. And I just don't see that happening if  
9 we wait until our next board meeting, which case it's  
10 written.

11 You know, I'm fine with that. Let's just go on  
12 and -- but we're not going to do anything more on this  
13 Enterprise Fund.

14 MS. BLOOMER: Well, let me ask this question.  
15 Would TTA be willing to assist the committee in sort of  
16 drafting who, what, where, when, why, how -- all the  
17 pertinent questions related to the Texas Enterprise Fund  
18 to help the members get a better understanding? And  
19 then --

20 MS. FISHER: I'll be happy -- I'll do that for  
21 you, Michelle.

22 MS. BLOOMER: Great. Thank you, Nancy. And  
23 then if all the committees can get to a -- members can get  
24 to a plan where we're comfortable with it and want to move  
25 forward we can work with TTA to draft language and then

1 take forward. Okay.

2 That leaves the motor fuels tax. I think we're  
3 all comfortable with that. Do we want to send then a  
4 separate letter or do we want to hold off and see what  
5 happens on the Texas Enterprise Fund? Or do we need to  
6 even deal -- TTA is moving that one forward. Correct?

7 MS. FISHER: Yes, we are.

8 MS. BLOOMER: Okay. Then maybe what we do is  
9 later on once it comes we can just support that initiative  
10 instead of taking a position out in front. Okay. All  
11 right. Okay. I think we are ready to move on --

12 MR. GADBOIS: And I need to scoot. Do you all  
13 need me to vote for anything else or do we have a quorum  
14 with me?

15 MS. BLOOMER: I think we have a quorum without  
16 you. Do you?

17 MR. GADBOIS: Good-bye. See you all later.

18 MS. BLOOMER: Thanks, Glenn. All right. So  
19 we're working on one letter by next Wednesday. Great.  
20 All right.

21 Item 6, presentation on Moving Ahead for  
22 Progress in the 21st Century, also known as MAP-21. We'll  
23 be turning it over to Bobby.

24 MR. KILLEBREW: Thank you, Michelle. For the  
25 record, Bobby Killebrew, deputy director of Public

1 Transportation Division here at TxDOT.

2 If I may, does the committee need to take a  
3 five-minute comfort break because this may actually be a  
4 lengthy discussion as well and I don't want to impose on  
5 anyone that -- so should we adjourn for five-minute recess  
6 and come back or --

7 MS. BLOOMER: Let me just ask -- Christina, are  
8 you okay if we take a five-minute break and reconvene at  
9 2:55?

10 MS. CRAIN: Yes.

11 MS. BLOOMER: All right. Great. We'll take a  
12 five-minute break. Thank you.

13 (Whereupon, a short recess was taken.)

14 MS. BLOOMER: Christina? (Pause.) Do we have  
15 Christina back?

16 (No response.)

17 MS. BLOOMER: I've lost Christina.

18 MS. CRAIN: I'm back.

19 MS. BLOOMER: All right. We have four members.  
20 We have a quorum. I'll turn it back over to Bobby for  
21 MAP-21.

22 MR. KILLEBREW: Thank you again, and welcome  
23 back from recess. Christina, my apologies. The folks  
24 here in the room were enjoying some leftover Halloween  
25 candy. I wish I could send you some real quickly through

1 an email or something. So --

2 MS. CRAIN: It's okay. I've got my own here.

3 MR. KILLEBREW: Absolutely. Thank you.

4 MS. GLEASON: Just put it on mute, Christina,  
5 and you'll be fine.

6 MR. KILLEBREW: What a busy fiscal year this  
7 has been. It started a busy fiscal year both the state  
8 and federal for us, and MAP-21 has brought a lot of  
9 changes to the transit world in particular. And I won't  
10 say that these are bad changes, but these are changes that  
11 we will have to probably go through a rule making process  
12 for.

13 And so today's conversation with the committee  
14 is, one of your major functions is looking at the  
15 Administrative Code and our rules that we operate under --  
16 our funding formulas and so forth. This will start that  
17 ball rolling. The committee's been through rule making  
18 before. You know it's a pretty lengthy process -- on  
19 average, six months. So this is just the beginning of it.

20 In your packets sent to you through email --  
21 and if you're here in the room also included here -- are  
22 some what I'll call white papers and also FTA fact sheets.  
23 There's 28 sheets and hopefully the copy you have at the  
24 very bottom of the page it will have page 1 of 28, 2 of  
25 28, and so forth.

1           We'll also try to do our very best to put these  
2           in numerical order by their section number. That doesn't  
3           work quite as well when you look at these pages, but  
4           they're pretty much in order. So as you're thumbing  
5           through those we can probably use the section number as a  
6           reference or the page number at the bottom as a reference.

7           There's a lot of changes in programs that TxDOT  
8           does not administer. There's a lot of changes in the  
9           programs that we do administer. And if we had to  
10          prioritize as a state agency what we would ask the  
11          committee to focus on we have three programs in particular  
12          that we think are going to be our most urgent, highest  
13          priority, and most immediate impact to our business.

14          And so as we're going through here -- we'll  
15          probably go through the entire packet, but we want to  
16          circle back around in particular to three of those  
17          programs and ask for the committee's assistance and  
18          gathering their thoughts on those three programs.

19          Those three programs are the Section 5310,  
20          which most people call the E&D program, the elderly and  
21          disabled, or elderly persons and persons with  
22          disabilities; the Section 5311, which is our rural  
23          program; and a new Section 5339, which historically TxDOT  
24          has called that the State of Good Repair, or for the  
25          operators on the committee, the VCR program.

1           So in particular we think those are going to be  
2 the most urgent priority as we begin this fiscal year.  
3 But we will go through all the programs in your packet at  
4 a fairly quick pace.

5           And, for that, Kelly Kirkland and I both are  
6 going to do a tag team operation. And as luck would have  
7 it this is not actually by design, but Kelly's on the  
8 other side of the room, Christina, from me, so you may be  
9 hearing stereo when we're talking -- you may be hearing it  
10 from one speaker and then the other. That's only because  
11 we're separated by distance. And so, with that, I'd like  
12 to turn it over to Kelly Kirkland.

13           MR. KIRKLAND: Thank you, Bobby. Good  
14 afternoon, Madame Chair, PTAC members and guests. For the  
15 record, my name is Kelly Kirkland, and this afternoon I  
16 have the honor to represent the planning staff of the  
17 Public Transportation Division giving a short presentation  
18 about the new federal transportation bill, as Bobby  
19 mentioned, nicknamed MAP-21.

20           What I propose to do is go through the packet  
21 in order, very briefly touching on all of the sections  
22 that are mentioned there, and then go back and talk about  
23 the three sections that Bobby mentioned as areas that we  
24 felt could use some attention in the near future in terms  
25 of our Administrative Code.

1           And, finally, we'll talk a bit about 5307,  
2           which is not a program that comes through TxDOT, but has  
3           some changes I think that has some significant impact on  
4           operators in the state.

5           Starting off on page 1 of 28, of course, is the  
6           Section 5303, or MPO planning funds, that FTA has --  
7           Federal Transit Administration. Just want to mention here  
8           that there is a fairly significant increase in this  
9           funding source from the prior year, going from about 6.9  
10          to 8.5 million estimated for the full fiscal year of 2013.

11          On the downside I've been hearing from our  
12          Planning and Programming Division that on the Federal  
13          Highway Administration side, which also provides  
14          metropolitan planning funds, that program for Texas is  
15          going to be about flat from last year, and I think that's  
16          a big disappointment to the MPO planning staff.

17          On the next page we have a short talk about our  
18          Section 5304, which is our statewide planning funds. We  
19          use these funds -- the majority of these funds go for the  
20          regional coordinated plan process. We also have an  
21          emergency contract with Texas A&M Transportation  
22          Institute, who provides assistance to transit providers,  
23          both rural and small urban and some larger urban as well.

24          And there's some further discussion on that, as Bobby  
25          mentioned, the FTA page with these fact sheets that follow

1 each of these white papers.

2 MS. BLOOMER: Can we ask questions as we go  
3 along?

4 MR. KILLEBREW: Of course. Sure.

5 MS. BLOOMER: I notice it says TxDOT in  
6 addition to the current required coordination with MPOs is  
7 now also required to coordinate with regional planning  
8 organizations to develop a long-range state transportation  
9 plan.

10 MR. KILLEBREW: That's correct. And the  
11 regional planning organizations are defined in MAP-21.  
12 And I think that some of our existing rural planning  
13 organizations may not meet the definition, but probably  
14 will probably be able to be addressed without a whole lot  
15 of effort on their part. It's basically adding  
16 representation for transits at that point.

17 MS. BLOOMER: I guess I'm trying to understand  
18 if this is -- I know the committee has had discussions in  
19 the past about PTN developing a statewide transportation  
20 plan. Does this formalize that requirement?

21 MR. KILLEBREW: I think what -- the way that  
22 TxDOT would satisfy that requirement would be the long  
23 range transportation plan that is currently the  
24 development that is spearheaded by our planning and  
25 program division. But we also participate in the

1 development of that plan.

2 MS. BLOOMER: And that was the plan that we  
3 sent the letter to the commission --

4 MR. KILLEBREW: Uh-huh.

5 MS. BLOOMER: -- acknowledging their work on  
6 the first one and making recommendations to enhance it  
7 going forward?

8 MR. KILLEBREW: Right. The state --

9 MS. BLOOMER: Okay.

10 MR. KILLEBREW: -- long range transportation  
11 plan was developed and adopted by the commission in late  
12 2010. And then an addendum, but would also serve as a  
13 stand-alone plan, was a statewide rural transportation  
14 plan that was just most recently finished and adopted.

15 MS. BLOOMER: And --

16 MR. UNDERWOOD: And this also assumes there is  
17 an RPO in the area. Like you said, a lot of them are not  
18 going to meet the definition of an RPO --

19 MR. KIRKLAND: Maybe not meet the --

20 MR. UNDERWOOD: -- and some areas don't even  
21 have RPOs.

22 MR. KILLEBREW: That's correct.

23 MR. UNDERWOOD: Okay.

24 MS. BLOOMER: All right. And I guess what I'm  
25 trying to get is the requirement -- there's the

1 requirement and then there is what we probably should be  
2 doing, which isn't just meeting the requirement. And I  
3 think as a committee we've talked about sort of where is  
4 the state trying to go with public transportation and how  
5 do we see the investment the state is making in  
6 transportation making an impact and where do we want to  
7 focus that impact.

8           And I was trying to determine if we're going to  
9 meet the requirement or we're going to use the requirement  
10 to get us to that longer term planning. Because I know  
11 the rail division is new but they have a plan and this is  
12 what rail will look like in the state of Texas in 2030  
13 or -- but on the public transportation side we don't  
14 really have any guiding document.

15           And so I guess the question I had to ask is  
16 does this really use this as an opportunity to sort of  
17 develop that guiding document of what public  
18 transportation should look like in the state of Texas. I  
19 just throw that out there.

20           MR. KILLEBREW: And, if I may, this is Bobby.  
21 Just to iterate to what Kelly said. This plan requirement  
22 also filters over to the highway side of the House as  
23 well. So we probably do internally need to keep a close  
24 eye on what our sister division is doing and keep the  
25 committee apprised of that too as we go down the road to

1 make sure our buses are on that road with them. So I  
2 think it's an opportunity as well.

3 MR. KIRKLAND: And, FYI, the next redo for the  
4 state long range transportation plan is due in 2014. And  
5 I've been hearing from planning staff and planning and  
6 programming division they're going to be the consultant on  
7 board some time in early 2013 -- calendar 2013.

8 Moving to the next section on page 5 of 28 we  
9 have the Federal Urbanized Formula Program known as 5307.

10 And I'd just like to point out here that we have one new  
11 urbanized area in the state -- San Marcos -- which is  
12 going to be eligible for the funds as the -- as a small  
13 urban agency between 50,000 and 200,000 population.

14 And we had four existing urbanized areas move  
15 from small urban to large urban status -- over 200,000  
16 population. And that includes Conroe to The Woodlands,  
17 Killeen, Laredo, and Brownsville.

18 MR. KILLEBREW: Kelly, if I may also, there was  
19 another slight change in the Section 5307 program in the  
20 fact that previously under the 2000 census Galveston was  
21 considered to be urbanized area. The state in the 2010  
22 census -- their population count was below urbanized  
23 status, and so now they are no longer in Section 5307.  
24 They have now become a member of the rural -- or the  
25 5311 -- group. So that was also another significant

1 change in this program.

2 MR. KIRKLAND: Good point, Bobby. Thank you.

3 MS. BLOOMER: Question.

4 MR. KIRKLAND: Yes.

5 MS. BLOOMER: If we're going to move on. I  
6 know we wanted to focus on the impact to the TxDOT-funded  
7 programs. But some of these programs, even though they're  
8 not TxDOT funded, impact statewide providers, under MAP-21  
9 JARC is now part of the 5307 Urbanized Area Formula  
10 Program or the rural program. Have they -- the  
11 eligibility is kind of fuzzy. So is it only designated  
12 recipients that are eligible for funds -- transit  
13 entities -- versus under JARC it was public, private, for  
14 profit, nonprofit. That will impact providers throughout  
15 the state.

16 And then the operating -- we heard something at  
17 the semiannual meeting that the operating exemption and  
18 the 100 bus sort of morphed and wasn't what people thought  
19 it was going to be and that would have negative impacts on  
20 providers throughout the state. Have we gotten any more  
21 information on what the operating exemption is and how  
22 that impacts providers throughout the state?

23 MR. KIRKLAND: Okay. Michelle, to take those  
24 questions in order, first the eligibility for being a  
25 designated recipient or a direct recipient of either 5307

1 or 5311 funds has not changed. So certain agencies that  
2 may have been eligible under the old JARC with the freedom  
3 programs may not be eligible under 5307 or 5311 to receive  
4 funds directly.

5 MS. BLOOMER: So the only entities eligible for  
6 5307 funds under MAP-21 are designated recipients or  
7 direct recipients.

8 MR. GLEASON: To receive funds directly.

9 MS. BLOOMER: Directly.

10 MR. KIRKLAND: Directly.

11 MR. GLEASON: I don't believe there's anything  
12 that would prevent a subsequent decision at the local  
13 level.

14 MR. KIRKLAND: Sub-allocate -- allocate  
15 subcontracts. Right.

16 MR. KILLEBREW: This is Bobby. Correct. The  
17 direct -- the person who receives the funds directly from  
18 the Federal Transit Administration has to be the  
19 designated recipient or the direct recipient. There is  
20 the possibility to sub-allocate. The people who they can  
21 sub-allocate to is also very stringent. It can only be  
22 sub-allocated to state or local governmental authorities,  
23 including public transportation providers. So --

24 MS. BLOOMER: So it can't be --

25 MR. KILLEBREW: So -- now that's the allocation

1 of it, if I may continue, that's very strict. And  
2 that's -- that goes back to federal statutory language, so  
3 that's in law.

4 That does not prohibit, say, a Section 5307  
5 transit operator from working with a non-traditional  
6 provider that may have been a JARC provider in the past in  
7 some form or fashion, through purchasing things from them  
8 like service or using them in their regional  
9 transportation model to fill in a gap where the transit  
10 operator can't provide the service.

11 They're just not going to be able to allocate  
12 money -- grant it out, as you will -- to those entities,  
13 nor could those non-traditional providers actually be a  
14 direct recipient or a designated recipient in this  
15 program.

16 MR. UNDERWOOD: Okay. So you'd be forced to  
17 use the capital cost of contract in the 5307 program then  
18 to do that.

19 MR. KILLEBREW: You might fulfill it through a  
20 capital cost of contracting. You might also fulfill that  
21 if you're doing an in-local agreement with someone who has  
22 that level of organization. You might be able to do it  
23 that way -- as examples.

24 MR. KIRKLAND: And, Michelle, your second  
25 question. Of course, the MAP-21 did change quite a bit of

1 the authorization for agencies to use 5307 funds for  
2 operating expenses when those funds were awarded to a  
3 large urbanized area.

4 A little bit of background, there are about  
5 probably three or four different exceptions to that that  
6 were in SAFETEA-LU and prior legislation. For example,  
7 areas that had been newly converted from small urban  
8 status to large urban status were generally given some  
9 kind of a phase-in period to continue to use those funds.

10

11 All of that is absent in MAP-21. Instead, we  
12 have a special rule that applies to agencies in large  
13 urbanized areas with fixed route service and the buses are  
14 either 75 or fewer buses or 100 to 76 buses in peak  
15 service. And that was the description in the new  
16 legislation.

17 FTA, when they published the announcement of  
18 the apportionment for the continued resolution of funding  
19 for Federal 2013, also had a significant amount of  
20 guidance in many programs, including 5307. And one of the  
21 things they did was they said that agencies providing  
22 service in large urbanized areas -- that was at 75 bus or  
23 100 bus.

24 But there was also another factor where it  
25 appears that what they did was take that agency's fixed

1 route service level and use that as a percentage to  
2 further impact the funding allowed for operating expenses.

3 MS. BLOOMER: So --

4 MR. KIRKLAND: So what it says is if you -- the  
5 original formula said if you had 75 or fewer buses in peak  
6 hour service -- fixed route peak hour service then you  
7 could use up to 75 percent of your share of the 5307 funds  
8 for operating expenses.

9 What they do now is say there's a 75 percent  
10 and there's a fixed route service factor -- it says your  
11 share of the fixed route service divided by the total  
12 fixed route service in that area applies to that funding  
13 formula.

14 In other words, if you have a -- an urbanized  
15 operator is in a large urban area and there's a transit  
16 authority also providing service in a different part of  
17 that large urbanized area, if your fixed route service --  
18 and I believe it was -- was it revenue miles, Bobby? Do  
19 you recall what the --

20 MR. KILLEBREW: Yes, it's revenue miles. And  
21 maybe we can just use a real example for Michelle. This  
22 might help. Let's just pull out a real example. We're all  
23 amongst friends here so -- Dallas/Fort Worth area -- we'll  
24 go in Michelle's backyard.

25 We got Dallas, which is -- you know, the

1 DART -- which runs at a very large system up there and  
2 they're running different types of service. But they were  
3 in a fixed route service as well. To do this calculation  
4 of how much money that -- in the 5307 program that can be  
5 used for operating -- they're going to take that area's  
6 fixed route peak service and, if you have little systems  
7 also providing service in that area, say, like, Arlington,  
8 they're going to take Arlington's fixed route service, and  
9 as a percent of Arlington's fixed route service, compare  
10 it to, say, Dallas as a whole. That's how much operating  
11 assistance they can get.

12 Now, since we're amongst friends let's talk  
13 about this. If Arlington does not operate fixed route  
14 service --

15 MS. BLOOMER: Yeah.

16 MR. KILLEBREW: -- they only operate demand  
17 response service will Arlington be able to use any of the  
18 5307 money they get for operating? That's where this --  
19 where we're at at this particular point.

20 MS. BLOOMER: That -- is that the question we  
21 can't -- we aren't unable to answer at this point?

22 MR. KIRKLAND: No, we do have an answer to  
23 that.

24 MR. KILLEBREW: We do have the answer on this  
25 one.

1 MR. KIRKLAND: In FTA we talked with Region 6  
2 staff and they said they had asked Washington -- and they  
3 said in that case Arlington would not be able to use any  
4 federal 5307 funds for operating expenses.

5 MS. BLOOMER: So, basically -- I'm sorry. I  
6 just -- this is I know recorded -- but that is ludicrous.  
7 Because none of these providers --

8 MR. UNDERWOOD: That was Michelle Bloomer  
9 talking.

10 MR. GLEASON: You have to identify yourself.

11 MS. BLOOMER: Yeah, this is Michelle Bloomer.  
12 That is absolutely ludicrous. And I don't believe that  
13 was the intent of the original language that was put  
14 forth, because basically now the only MPOs that can  
15 utilize 5307 funding for operating are your large metros.  
16 So --

17 MR. KIRKLAND: And to be a large metro that has  
18 100 or fewer buses at peak hour service. And how many of  
19 those are there?

20 MS. BLOOMER: So really nobody can.

21 MR. KILLEBREW: Well, if Arlington were to run  
22 a fixed route service then they would have a percentage of  
23 the 5307 money that they could use for operating. But  
24 because Arlington only runs demand response they would not  
25 be eligible.

1 MS. BLOOMER: But even if they ran a fixed  
2 route service, compared to -- because of the urbanized  
3 area, including both DART and the Fort Worth  
4 Transportation Authority, the amount of fixed route  
5 service any one of -- not just the four -- and I know we  
6 all call them the enclave -- but not just the four  
7 enclaves. There are five other providers in the  
8 Dallas/Fort Worth area that utilize operating assistance  
9 out of that pot that will no longer get it.

10 And so I guess my question is do they  
11 understand that? Do the folks that drafted the 75 and 100  
12 bus understand the implications that this now has, and  
13 what's going to happen when all these folks wake up and  
14 realize that last year they could use funding for  
15 operating and this year they either can't, period, or they  
16 can but it's such a small amount that it's not going to  
17 make their system viable.

18 And, I mean, I think it's not -- I mean, I'm not  
19 just concerned about D/FW. I'm concerned about the folks  
20 I heard at the meeting in July when Paulette was sort of  
21 walking through this -- and it's actually worse than I had  
22 thought in July.

23 MR. KIRKLAND: Yes.

24 MS. BLOOMER: And I'm not sure --

25 MR. KIRKLAND: Worse than we thought too.

1 MS. BLOOMER: -- the folks that sort of pushed  
2 for the change realized how that has ended up. And I  
3 don't know. I just --

4 MR. KILLEBREW: Michelle, if I may as well --  
5 this is Bobby again. And I'm going to get really serious  
6 on this note because this is just a disaster here.

7 What we call the enclave cities up in the  
8 Dallas/Fort Worth metroplex they're -- basically we've  
9 always said they're grandfathered under the state statute,  
10 which is our state grant program, in how we give them  
11 state money. That statute is very, very specific to those  
12 systems -- without calling them by names -- but to those  
13 systems.

14 The statute also states that in order for them  
15 to receive state grant money it has to be a federally  
16 participating project. There has to be one dollar of  
17 operating federal money in the expense before state grant  
18 money can be used.

19 It is a double whammy for the enclave cities.  
20 And I do not believe anyone -- to answer your question and  
21 my personal opinion -- I do not believe the people who  
22 made these laws ever envisioned this to be the situation.

23 It is very, very serious for those specific systems in  
24 the Metroplex. It's very serious for all the other  
25 systems around the state that are also impacted by this,

1 but extremely serious for those four.

2 MS. BLOOMER: And I just want to -- my focus  
3 isn't specifically on those four. I'm more concerned -- I  
4 am concerned about those four obviously because they're  
5 from the region I hail from. But I'm worried about the  
6 entire state and the impact this has just on the operating  
7 issue. And then to top it off, oh, by the way, I guess if  
8 you can't use any of your federal money for operating now  
9 you're not going to get any state money either. And if  
10 folks don't --

11 MR. UNDERWOOD: Maybe those cities should just  
12 partner with DART.

13 MS. BLOOMER: Maybe our next -- maybe we have  
14 our federal legislative item for us. I mean, I don't want  
15 to take up any more time unless -- but I think it's  
16 extremely important that any entity that is going to be  
17 impacted by this be notified -- because I don't know that  
18 they are -- and so that they know what the impacts are and  
19 maybe we as a committee can start to address it as a  
20 federal legislative issue.

21 Because my understanding is this was not the  
22 intent of the folks that were trying to go forward and  
23 make -- sort of expand the use of operating assistance and  
24 give entities really local decision making -- saying, just  
25 give us the amount of money, tell us what we're required

1 to do with it, and let us determine how best to do it.  
2 And now we're getting more restrictive on the transit  
3 providers. Okay. Sorry.

4 MR. KILLEBREW: As a side note -- this is Bobby  
5 again. Paulette Shelton did bring this up at the last  
6 transit operators meeting. She has recently contacted me  
7 for email addresses for urban transit systems who might  
8 find themselves in this situation.

9 So she also was cognizant of the fact that PTAC  
10 is another group for her to tap into. So you all may be  
11 getting an email from Paulette on this very subject. I  
12 don't want to speak for her, but I know she is interesting  
13 in taking a lead on this and doing whatever is possible  
14 and finding resources to help her in this endeavor as  
15 well. So I will offer up her name, and, again --

16 MS. BLOOMER: Okay.

17 MR. KILLEBREW: -- you may be getting an email  
18 from Paulette.

19 MS. BLOOMER: When you were having  
20 conversations with FTA at Region 6 was there sort -- was  
21 there any indication from FTA, Region 6, on what their  
22 thoughts were and how this would impact the transit  
23 providers in their region?

24 MR. KIRKLAND: Michelle, this is Kelly Kirkland  
25 again. Speaking with Peggy Crist, who is the planning

1 lead at FTA's Region 6 in Fort Worth, she said Washington  
2 FTA office was very clear that that was the correct  
3 interpretation -- that areas like Arlington would not be  
4 able to use any 5307 funds for operating.

5 MS. BLOOMER: And I guess I'm asking --

6 MR. KIRKLAND: But there's no follow up from  
7 them on what impacts it might have, no. They didn't have  
8 any of that.

9 MR. KILLEBREW: We did through a subsequent  
10 conversation did make our regional office folks know  
11 because we try to partner with them as much as possible --  
12 that this was a double whammy for those in the Metroplex.  
13 It was a very serious whammy for any of those impacted in  
14 Texas, but absolutely disastrous for four systems for  
15 sure.

16 They were not aware of our state complications  
17 in the statute, but they are now however sensitive to the  
18 fact that they may be, but they did say, Voice your  
19 opinion, Texas.

20 MR. KIRKLAND: And, Bobby and Michelle, just to  
21 add onto that -- this is Kelly Kirkland again. There is a  
22 loophole in the state statute but it only applies to  
23 capital projects. There's a provision that says if the  
24 local provider says that there's no federal money  
25 available for the project then the commission makes the

1 determination project is vitally important to public  
2 transportation in that area. But that's only for capital  
3 projects.

4 Moving to the next sections -- turn to page 9  
5 of 28. We have Section 5309, which was the old capital  
6 improvement program. It's now called Fixed Guideway  
7 Capital Investment Grants. And so far the only areas that  
8 are getting funded out of that would be the Austin,  
9 Dallas, Fort Worth, and Houston metropolitan areas because  
10 it's based upon either rail projects or HOV lane projects.

11 Section 5337 is State of Good Repair Grants,  
12 which now is going to be directly awarded to eligible  
13 agencies, which right now are only the Dallas/Fort Worth  
14 and Houston areas.

15 Turn to page 14 of 28. We have the Section  
16 5310 program which has been renamed to say Formula Grants  
17 for the Enhanced Mobility of Seniors and Individuals with  
18 Disabilities.

19 This program -- you know, it's kind of  
20 surprising, but statewide we're receiving a little bit  
21 less money than we did in this program in the prior year.

22 And there's quite a few changes here that I'd like to save  
23 toward the end of my presentation for time purposes.

24 MS. BLOOMER: Do we know why the funding is  
25 less? Or is that at the end of the presentation?

1 MR. KIRKLAND: Uh --

2 MS. BLOOMER: Are there less elderly and --  
3 older adults and --

4 MR. KIRKLAND: It's possible that there's -- to  
5 answer that question, Michelle -- this is Kelly Kirkland.  
6 The definition of individuals with disabilities was a  
7 concern from prior years because -- for example, the 2000  
8 census -- in earlier years actually gave a count of the  
9 number of disabilities. So a person could have more than  
10 one disability and it will be counted several times. We  
11 understand that the census bureau's intent was to go back  
12 and say we'll just count people here, not the number of  
13 disabilities.

14 And there's also a question about the data  
15 source because census -- the long form the census bureau  
16 uses does not look at disabilities anymore. Instead,  
17 those are counted by American Community Survey, ACS. And  
18 updated information for that survey is not expected to be  
19 available until December.

20 But, you're right. It is kind of unusual  
21 thinking because the program is not only continuing the  
22 old 5310 program, but it also includes funding from the  
23 New Freedom program. And so how in the world could it be  
24 less, but --

25 MS. BLOOMER: Yeah. It's hard --

1 MR. KILLEBREW: -- that's concerning.

2 MS. BLOOMER: -- to imagine how it could go  
3 down given the population of older adults is only  
4 increasing.

5 MR. KILLEBREW: Exactly.

6 MS. BLOOMER: And we brought another program in  
7 under it, but, yet -- so I can't imagine that the  
8 adjustment for the individuals with disabilities in the  
9 data question would have such a --

10 MR. KIRKLAND: That big a negative impact.

11 MS. BLOOMER: -- negative impact that it would  
12 make it for.

13 MR. KILLEBREW: This is Bobby. If I may, too,  
14 on those comparison when we did the 2012 number, if you're  
15 looking at the little table there, we, on purpose, put the  
16 New Freedom program in that table as well so that we'd be  
17 comparing apples to apples. So both years reflect that  
18 New Freedom component, even though in 2012 it was a  
19 separate formula program so it's apples to apples.

20 You know, 2013 is the first time that census  
21 numbers -- or in this case for this program -- the ACS  
22 data is being applied. So a lot of these formulas at the  
23 federal level is your proportionate share to the rest of  
24 the country. It doesn't mean that Texas has any fewer  
25 individuals with disabilities or fewer elderly people; it

1 may mean that we don't have as many proportionately to the  
2 rest of the country as we'd had under the previous census.

3 But I think Kelly also -- a good point he made  
4 was using the old census data and the previous calculation  
5 where people get to count -- where they counted  
6 disabilities more than once, or an individual more than  
7 once if they had multiple disabilities, in some of those  
8 larger states, you know, as you're comparing this to the  
9 whole this may have equaled things out now that they're  
10 doing it just the one count.

11 MR. KIRKLAND: The next program I'd like to  
12 talk about is the 5311, or the Rural Formula Grant program  
13 on page 17 of 28. And, as was mentioned earlier, the JARC  
14 program was rolled into this, so you're seeing somewhat of  
15 an increase in our statewide estimate of the available  
16 funds for this program. And, as before, we're going to  
17 come back to this later.

18 Next up is page 21 of 28, Section 5326, Transit  
19 Asset Management, which talks about the state setting  
20 goals, plans, targets, and report on its progress and  
21 assist our sub-recipients too with the same thing.

22 Page 24, the Public Transportation Safety  
23 Program, Section 5329. This program requires the  
24 Secretary of Transportation at the federal level to  
25 develop some guidance on this. What's kind of ironic is

1 the guidance is not actually due until 18 months after the  
2 program became effective, which should be six months  
3 before this bill expires.

4 Page 27 is Section 5339, the Bus and Bus  
5 Facilities Formula Grants. As Bobby mentioned, this  
6 program in prior federal transportation deals was a  
7 discretionary program, either discretionary to Congress --  
8 what we called earmarks -- or discretionary to FTA, and  
9 they would run a competitive program for this. It's now a  
10 formula program to large urbanized areas, small urban  
11 areas, and rural areas.

12 Okay. That is the projects in brief. Going  
13 back to the 5310 program, page 14 of 28. Several things  
14 here of particular note. One new item is how the funding  
15 is distributed. Of course, it's distributed to designated  
16 recipients, but similar to how the JARC and New Freedom  
17 programs were handled in SAFETEA-LU, it's now allocated to  
18 large urbanized areas, small urbanized areas, and the  
19 state as a whole.

20 And large urbanized areas are tasked by FTA to  
21 select a designated recipient for their urbanized area.  
22 That was something that was not clear in the legislation  
23 in MAP-21, but it was part of FTA's Federal Register  
24 notice on October 16.

25 TxDOT is still going to be responsible for

1 administering this program for small urbanized areas and  
2 rural areas of the state. Operating assistance is  
3 available, but, at a minimum, 55 percent of the funds have  
4 to go to capital projects -- and you might call these the  
5 traditional types of projects under the old 5310 program.

6 New Freedom type projects are eligible in terms  
7 of, for example, providing alternatives to transportation  
8 for people with disabilities and seniors. There's no  
9 requirement, however, that any such projects be funded out  
10 of this program.

11 And you can see have a number of items there at  
12 the bottom of page 14 where we think could be looked at  
13 because they might have an impact on this program.

14 I'd like to mention also that Eric sent out an  
15 email to the MPOs affected by this -- the large urban area  
16 MPOs -- describing this and letting them know that they  
17 would have to select a designated recipient in the near  
18 future. There is some small guidance in the statute that  
19 says that the selection of the designated recipient needs  
20 to be consistent with the planning process described in  
21 Sections 5303 and 5304 -- in other words, the planning  
22 process for metropolitan and statewide planning.

23 MR. KILLEBREW: If I may -- this is Bobby.  
24 There are a couple of things continued into this program.  
25 One is the coordinated public transportation health and

1 human service plan. The projects still have to come from  
2 that plan. The language was changed a little bit. I  
3 believe it says now -- I believe it now says must be  
4 included in the plan. The SAFETEA-LU version of that was  
5 "must be derived from." FTA has interpreted that to mean  
6 the same, so that is good news -- yeah, derived from,  
7 included in --

8 VOICE: Oh, good.

9 MR. KILLEBREW: Yeah, they're the same.  
10 Believe it or not they're synonymous. Yay, FTA, you came  
11 to your senses on one thing. Congratulations.

12 There -- the breakdown on how the funding comes  
13 through to the state of Texas is it comes in three pots  
14 now. That large pot is 60 percent, so you don't have to  
15 do the math. The next two pots are 20 percent each, so  
16 small urban's 20 percent, rural's 20 percent. There is  
17 some flexibility in funding movement between those pots.  
18 The large pot can't move down, but the small pot and the  
19 rural pot does have ability to move up. There's also  
20 flexibility to move up between the small urban and the  
21 rural pot. So some flexibility does exist under the  
22 statutory language if needed.

23 MR. GLEASON: Bobby, that last point -- this is  
24 Eric. Within the small urban/rural, you can move up or  
25 can you go both ways within that group?

1           MR. KILLEBREW: It's my understanding within  
2 the small urban and the rural you can go both ways.

3           MR. GLEASON: Okay.

4           MR. KILLEBREW: And some of the -- you know,  
5 the opportunities that we see with MAP-21, you know -- and  
6 I keep saying opportunities because they have -- MAP-21  
7 has gotten rid of some of the boutique programs, as we  
8 used to call them. We had all these programs and they  
9 were all siloed, they all had their own unique little  
10 characteristics about them and it became problematic to  
11 actually administer both at the state level and sometimes  
12 at the provider level.

13                   So with this consolidation of programs we have  
14 some opportunities. But we don't want to be blindsided by  
15 the fact that here in Texas we have our own formulas for  
16 handing out this money once it gets to us. And how should  
17 we best do that? Should we go forward as is -- the way  
18 the current formula is -- or is this something that needs  
19 to be tweaked? And that's what we're, you know, bringing  
20 before you today is these initial conversations.

21                   I would like to point out the Administrative  
22 Code that we have today on how to hand out money in this  
23 program will work. There's nothing that is broke about it  
24 that would keep us from handing out funds. It may not  
25 work the best way -- may not work the best way for

1 everybody -- but it will work.

2           May be cognizant of the fact that it does take  
3 around six months to do a rule making change. We have six  
4 months worth of money here at TxDOT right now. If we hold  
5 that money to go through a rule making process that means  
6 we're going to be six months, maybe nine months, down the  
7 road before we get to the commission to make funding  
8 awards.

9           It may be more important to hand out money this  
10 fiscal year as the rules currently exist and look forward  
11 to the future -- 2014 -- to make significant changes.  
12 That's the million that Kelly discussed that we're going to  
13 host with the MPOs later this money.

14           We've already picked our projects for 2013 for  
15 the whole state, including the large urbanized are. Those  
16 have already been vetted through a local stakeholder  
17 process. And I know some of the people on this committee  
18 are participants in those local stakeholder processes.

19           We would like to offer to the MPOs in the large  
20 area -- or whoever their designated recipient is -- our  
21 list of vetted projects. We've discussed that with FTA.  
22 They will be joining us on that webinar later on this  
23 month as well, and they also would like to see funding go  
24 out as quickly as possible and not be held up by some  
25 bureaucratic process. So we'd like to keep those things

1 in mind as we go through here.

2 I don't want to go necessarily through the  
3 formula we have here at TxDOT, but if that would be  
4 helpful to the committee members -- I know it's on your  
5 white paper that you see before you, but that is the  
6 existing formula that I talked about that would work  
7 today -- may be cumbersome now that we've got changes, but  
8 I'll leave that for the committee's discussions. And I  
9 think before we go on to the next program we might want to  
10 see if there's any discussion on this item.

11 MS. BLOOMER: This is Michelle. I think  
12 probably just due to time we probably just need to go  
13 through the three programs -- the 5310, 5311, and 5339 --  
14 and then see where we are. And we can have discussion  
15 then, or we may need to give the members time to sort of  
16 digest the information and come back with questions.

17 But I would agree on any of the programs that  
18 we definitely do not want to hold up releasing funding to  
19 any of the entities in order to try to get a better  
20 process in place. If the existing rules will work I think  
21 let's get as much money out as possible and give us time  
22 to see what we need to address and how best to do that.

23 MR. KILLEBREW: This is Bobby again. The only  
24 feedback I've gotten thus far from the community at large  
25 about this program -- because I have gotten some feedback

1 that was unsolicited, by the way, but I did get some  
2 feedback. Because the New Freedom program was rolled into  
3 this -- which again talking about some of those non-  
4 traditional providers -- under the Texas formula some of  
5 those non-traditional providers would not be eligible for  
6 these fundings -- some of the non-traditional New Freedom  
7 providers would not be eligible for funding under this  
8 program. But the projects we've picked under 5310 for  
9 2013 do fit within the scope of what we normally do for  
10 5310 funding.

11 MR. KIRKLAND: Moving to the next program,  
12 5311, Formula Grants for Rural Areas, we have some changes  
13 here. One change is that the program has actually  
14 increased in size -- the funding level's increased for  
15 Texas. And that's true even if you don't look at the JARC  
16 funds that were transferred -- or what would be an  
17 expectation of the level of JARC funds transferred over.

18 As Bobby mentioned, of course, we have a  
19 formula for allocating these funds. And on page 18, to  
20 try to do an apples-to-apples comparison of what we did  
21 with this program in 2012 with the level of funding we had  
22 available then, and if we had had the MAP-21 level and  
23 used the same process as we did in 2012, this would be the  
24 difference here.

25 The main difference, of course, is the amount

1 of funds distributed by vehicle revenue mile is quite a  
2 bit higher because the overall program is higher. Inner  
3 city bus percent -- 15 percent required by statute is a  
4 bit higher too.

5 But most of the other items are very much equal  
6 to what we did with 2012 funds. And that is based upon  
7 the -- where the funding formula works, particular the  
8 20.1 million level and then the description of how funds  
9 can be awarded by the vehicle revenue mile with an  
10 allowance for a maximum allowed amount, which is a  
11 percentage of new funds minus inner city bus and state  
12 administrative cost.

13 MS. BLOOMER: Kelly, on the one, two, three,  
14 fourth row where the 1.2 million is it says "amount will  
15 vary year to year." The amount in fiscal year 2012 is not  
16 typical.

17 MR. KIRKLAND: Yes.

18 MS. BLOOMER: Is that 1.2 higher or lower than  
19 typical?

20 MR. KIRKLAND: Higher than typical.

21 MS. BLOOMER: So what's typically prior year  
22 deobligated funds. Is there --

23 MR. KIRKLAND: Well, looking at -- for example,  
24 we're looking at the same thing for our minute order in  
25 December. And I think it was late October we got the

1 quote from our financial staff, and I think it was 157,000  
2 or 154,000 -- something like that -- total available -- is  
3 deobligated prior year funds.

4 MS. BLOOMER: And is that generally sort of  
5 the -- what we tend to refer as the crumbs -- just the  
6 little bits here and there versus, say, complete projects  
7 that don't move forward?

8 MR. KIRKLAND: Yes.

9 MS. BLOOMER: Okay.

10 MR. KILLEBREW: And this is Bobby, if I may.  
11 These are illustrative purposes only numbers. I see  
12 you've already taken some notes, members. I just want to  
13 make sure I point that out. These are illustrative only.

14 These are not meant actually have -- by any means so --

15 MS. BLOOMER: Right. No, I was just trying to  
16 get at magnitude. Because 157,000 magnitude is  
17 considerably different than 1.2 million if we're talking  
18 crumbs versus folks are planning well and spending their  
19 money well -- those are two different issues.

20 MR. KILLEBREW: Yes.

21 MS. BLOOMER: Okay.

22 MR. KIRKLAND: This program had a change at the  
23 federal level on how the funds are distributed to Texas.  
24 There was a new factor added to the federal formula -- and  
25 that's the low income populations in rural areas. And you

1 see that because the JARC program got rolled into this  
2 one. So, you know, it took on some of those  
3 characteristics.

4 You know, again, some of the questions that  
5 we're thinking about in our minds we'd ask the committee to  
6 think about as well as the funding formula -- as you look  
7 at this table and you see how the money's being  
8 distributed today by the Texas formula to our individual  
9 rural transit districts -- you know, does that need to  
10 contain some element as well for low income because JARC's  
11 now a piece of this.

12 Does it mean we need a set-aside for JARC, you  
13 know, type projects? You know, is the amount that's going  
14 to vehicle revenue mile -- is that too high? Maybe that  
15 base of 20.1 million that gets handed out based on need  
16 and performance -- maybe that's too low because this  
17 program's gotten bigger. So those are the type of  
18 questions that are running through our minds that are  
19 probably running through your mind as well.

20 Will this formula work today? Yes, this  
21 formula will work today. And we only have six months'  
22 worth of money. We don't even have \$20.1 million worth of  
23 money. So, you know, we're planning to go to the  
24 commission to hand money out as quickly as possible in  
25 this program -- it will be our December commission

1 meeting -- so that we can -- did I just say that  
2 backwards?

3 MR. GLEASON: I don't think so.

4 MR. KILLEBREW: Okay. I'm sorry. I was  
5 drawing blanks too. So to hand these funds out so that,  
6 again, we can get the money out to the transit operators  
7 because we know that they need the money as quickly as  
8 possible. Even though we only have six months we need to  
9 get it out the door.

10 And we've made an administrative decision here  
11 at TxDOT we are not taking any of our administrative money  
12 off the top of this first pot of money. We will be  
13 required to do the 15 percent for inner city bus. We  
14 cannot get around that step to our provision, but we are  
15 not going to take any TxDOT money. We'll take ours out of  
16 the last piece.

17 MR. KIRKLAND: Okay. Are there any other  
18 questions about 5311 program or -- all right. Page 27,  
19 Section 5339, Bus and Bus Facilities Formula Grants.

20 This is kind of a derivation of the 5309  
21 program except modified to be a formula program. And the  
22 formula --

23 MR. GLEASON: And not to have a lot of money.

24 MR. KIRKLAND: And not to have -- well, not to  
25 have a lot of money too -- true. As you can see on that

1 page, we have -- we're estimating that for all of federal  
2 fiscal year 2013 there will be just under 23 million  
3 awarded to urbanized areas, 200,000 population and above;  
4 about 3.7 million available for small urbanized areas;  
5 and, by statute, 1,250,000 available for statewide  
6 purposes, particularly rural.

7 And the main comment I would have on this, in  
8 the past there's been discretionary calls from FTA for  
9 these kind of programs, and Texas has been pretty  
10 successful at that -- very successful this last year in  
11 getting just under 13 million for replacing rural transit  
12 vehicles. And 1,250,000 a year for that same purpose and  
13 apparently no other programs available I think is going to  
14 be a real squeeze on rural transit districts.

15 In other words, looking at the designated life  
16 span of vehicles and their cost and how many vehicle miles  
17 were run up each year, that statewide the rural systems  
18 lost about four-and-half to \$5 million in the value of  
19 their fleet. And so this number is pretty ridiculous.  
20 It's the number every state gets for this purpose --  
21 Delaware, Rhode Island, and Texas.

22 VOICE: Same thing every year?

23 MR. KIRKLAND: Yes, they could. So there is  
24 going to be a process that TxDOT will need to develop in  
25 order to award these funds for small urban and for rural

1 areas. Large urbanized areas gets this money awarded  
2 directly to them.

3 And I don't think that we've had a request -- we  
4 don't have to set up a designated recipient for this  
5 program, do we? I don't think that was in the statute.  
6 Okay.

7 MR. UNDERWOOD: Which is so weird about this  
8 because the small urbans were eligible for the State of  
9 Good Repair on their own. As far as applicant wise they  
10 were --

11 MR. KIRKLAND: Right.

12 MR. UNDERWOOD: -- because they were direct  
13 recipients they could apply.

14 MR. KIRKLAND: And now that program has  
15 changed --

16 MR. UNDERWOOD: And that --

17 MR. KIRKLAND: -- so it only applies to fixed  
18 guideway --

19 MR. UNDERWOOD: Right. So --

20 MR. KIRKLAND: Okay.

21 MR. KILLEBREW: And this -- again, this is  
22 Bobby. I hate to keep belaboring, but this is another  
23 program where we do have something in our Administrative  
24 Code that we can get this money out the door. And, again,  
25 it might not be best and we certainly would look for the

1 committee to take a look at this program.

2 That's why we've highlighted this as one of the  
3 three because the language we have for our distribution of  
4 these funds is pretty general. It's something that we  
5 might want to have the committee weigh in about looking to  
6 see if this is the best way to do this for what we're  
7 getting now under this new program

8 MR. UNDERWOOD: Well, because this is a capital  
9 program would the money have to go out the door that  
10 quick? Could we not hold that off if they're just  
11 giving -- you've only half of this 1.2. Right?

12 MR. KIRKLAND: Actually, a little bit less than  
13 that.

14 MR. UNDERWOOD: A little bit less than that.  
15 So we're just pushing out --

16 MR. KIRKLAND: [inaudible] thousand.

17 MR. UNDERWOOD: I don't know what that would  
18 even mean for a transit agency. \$40,000 -- here you go to  
19 go buy something capital -- well, we couldn't use it. I  
20 mean, what are we supposed to do with that kind of thing.

21 Or you'll get the other half later. I don't imagine very  
22 many agencies if they're going to buy a bus or do some  
23 capital replacement are going to say, Well, I'm just going  
24 to take the PGA and set it to the side until I get the  
25 other portion of it.

1 MS. BLOOMER: You can go buy half a bus.

2 MR. UNDERWOOD: Half a bus. I'll put a down  
3 payment down or something. I mean, I don't know what that  
4 number translate into, but it's not very much at all I  
5 don't think.

6 MR. GLEASON: And -- this is Eric. I might  
7 suggest to the committee that they take -- I think the  
8 issue that's triggered by this small amount of money under  
9 State of Good Repair applications -- and I think you  
10 probably need to roll it into your conversations on the  
11 5311 program and to talk in the context of what kinds of  
12 decisions make sense to help us ensure that we can, in  
13 fact, replace the fleet as we need to -- that we can, in  
14 fact, support facility remodeling or development as it  
15 needs to.

16 The only good thing about this is that it does  
17 bring a certain amount of, if you will, certainty from one  
18 year to the next about how much money there is. There's  
19 not a lot.

20 Now, under the previous authorization it was  
21 anybody's guess from one year to the next on what you  
22 might get. But I know we had just 13 -- Brad, you on your  
23 own had -- what? -- over 4 million one time --

24 MR. UNDERWOOD: Yeah, 4.1.

25 MR. GLEASON: -- as a single urban applicant.

1 And so it's pretty stark in terms of -- unless there's some  
2 unknown federal program that they have that they're going  
3 to come up with on a discretionary basis it's pretty  
4 stark. And I think the only thing that's good about it is  
5 it squarely places the onus on us with what we've got to  
6 try and figure something out. But that's about as good as  
7 I can make it.

8 MR. UNDERWOOD: Yeah. And I think you're right  
9 about the 5311 program in that we've had the revenue mile  
10 program that we've had for the last couple of years. And  
11 it's recommended that you do capital projects with it, but  
12 it's not enforced that you have to use it for, you know,  
13 federal -- for capital projects. So maybe combining some  
14 of these -- I don't know.

15 I just don't know the push to get this money  
16 out honestly. I think it might be an official test,  
17 because we're not going to get revenue mile money usually  
18 until typically the summer time. Correct?

19 MR. GLEASON: Whenever the balance is -- MR.  
20 UNDERWOOD: On the second half. Yeah, exactly. So I  
21 think, if anything, we could push this out with that. And  
22 I just don't see the --

23 MR. GLEASON: I don't think there's an issue of  
24 waiting on this. I don't think we want to find ourselves  
25 two years from now not having done anything with it yet.

1 MR. UNDERWOOD: I agree. I do.

2 MR. GLEASON: But I think we can wait for the  
3 balance of the apportionment and consider it in the  
4 context of a larger conversation of how do we take care of  
5 our capital needs.

6 MR. UNDERWOOD: Yeah. And I don't know if  
7 that's a one meeting kind of thing in January -- if it  
8 might be a workshop kind of thing where you kind of lay  
9 all this out in an all day kind of thing to talk. I mean,  
10 these are big decisions. I don't know that we can tackle  
11 them in a meeting kind of like I -- MS.

12 DALTON:

13 MR. GLEASON: My recommendation to the  
14 committee will be when you go down that road is you  
15 consider some kind of a process -- some kind of an  
16 engagement process for the industry. The history of the  
17 revenue mile for general purposes is that we have been for  
18 several years being prescriptive about how to use the --  
19 some of the rural program funding for fleet. And what we  
20 began to hear back after about the third year of that is  
21 we began -- a growing number of people saying I don't need  
22 it for fleet anymore.

23 And the issue was, let me make my own  
24 decision -- I know what's best for my system. Let me make  
25 that decision. But the risk -- and the deal was this is

1 all you have.

2 MR. UNDERWOOD: Right.

3 MR. GLEASON: We're not going to have money any  
4 longer to give you for a fleet. We're giving it to you in  
5 revenue miles. You have to make the decision to spend it  
6 that way. And there were people who were saying, You know  
7 what, it's hard for us to do that -- hard for our boards  
8 to resist using extra money for service, so we're real  
9 anxious about that.

10 So I think we need to have a pretty good open  
11 conversation about the best way to get there. And from  
12 the state's standpoint we don't have a preference. Our  
13 interest is making sure we have strong, viable,  
14 sustainable systems -- and that's a service and a capital  
15 interest.

16 MS. BLOOMER: Right.

17 MR. GLEASON: And so however we get there is  
18 fine.

19 MR. UNDERWOOD: And I think we have a cliff  
20 coming, to be quite honest, because most of our buses were  
21 '08s, '09s.

22 MR. GLEASON: We've been at this cliff before.

23 MS. BLOOMER: And we knew this cliff was  
24 coming, you know --

25 MR. UNDERWOOD: We knew it was coming.

1 MS. BLOOMER: -- as soon as we got --

2 MR. UNDERWOOD: You know, we've talked about it  
3 for four years.

4 MS. BLOOMER: -- ARRA money.

5 MR. UNDERWOOD: Exactly.

6 MS. BLOOMER: I think what would be helpful  
7 though is to take the existing fleet -- the statewide  
8 fleet -- and determine what's necessary to keep it at a  
9 state of good repair. Because, again, back to sort of  
10 what I thought the intent was of a program called the  
11 State of Good Repair versus maybe what actually is the  
12 reality of a program with 1.2 million a year and to reach  
13 a state of good repair are two contrasting things.

14 MR. GLEASON: Well, this program is called Bus  
15 and Bus Facilities now. And so for what it's worth it's no  
16 longer officially associated with State of Good Repair.

17 Now, the flip side of it, what is still called  
18 the State of Good Repair doesn't include the rural -- you  
19 know, any small urban or rural system in Texas. So, you  
20 know --

21 MR. UNDERWOOD: Michelle, I don't disagree with  
22 you. So you're kind of thinking of a concept of looking  
23 at PTMS and going these last -- how many of this will buy  
24 this last 15 of the ones we're going to replace regardless  
25 of where they're at the system. Is that what you're

1 trying to say?

2 MS. BLOOMER: Well, I'm trying to figure out  
3 what our state fleet need is in order to maintain the  
4 vehicles at a certain --

5 MR. UNDERWOOD: Well, I think --

6 MS. BLOOMER: -- level of -- state of good  
7 repair or whatever we agree. Because if we then get to  
8 the point with the vehicle miles where we're not going to  
9 say -- because I agree. We shouldn't be telling people  
10 what to spend it on.

11 But then there are some people then that will  
12 get in a situation that they'll always put it in operating  
13 and then they'll end up on the revers side where we were  
14 eight, ten years ago where they couldn't really -- they  
15 were paying more to run the vehicles they had than if they  
16 would just replace them.

17 So I think maybe it's some larger conversation  
18 of we're not going to tell you where to spend your money  
19 but here's performance measures and X percent of your  
20 fleet has to be good, better --

21 MR. UNDERWOOD: Well --

22 MS. BLOOMER: -- only X percent can be bad and  
23 fair.

24 MR. UNDERWOOD: But that's kind of subjective  
25 too depending on your PTC that's regular.

1           MR. GLEASON: Kelly had a number earlier of  
2 four to five million, which was the average amount of the  
3 annual depreciation of a fleet. That's not a bad starting  
4 point if you just want to kind of lock in generally on a  
5 general number -- order of magnitude number. But that's  
6 just for the rural program. That's not touching the small  
7 urban program who --

8           MS. BLOOMER: Right.

9           MR. GLEASON: Those vehicles typically are more  
10 expensive and sometimes they come with a longer life span.  
11 So it's -- you know, and we can do things here to extend  
12 the life of these vehicles too. It's a really interesting  
13 and complex problem with a lot of different ways to solve  
14 that I think we have to figure out.

15          MR. UNDERWOOD: I agree.

16          MS. BLOOMER: But not today. Right?

17          MR. GLEASON: But not today.

18          MS. BLOOMER: Okay.

19          MR. UNDERWOOD: Are you sure? We can change my  
20 flight again.

21          MR. KIRKLAND: And, to conclude, I just want to  
22 mention one more thing about the 5307 program. Of course,  
23 we talked about the situation with operating in large  
24 urbanized areas.

25                 But also we have four places in the state that

1 went from small urban to large urbanized status. And the  
2 irony is that three of those four -- Brownsville, Killeen,  
3 and Laredo -- get less funding out of the 5307 large  
4 urbanized pot than they did out of the small urbanized  
5 pot.

6 And even if you go to the 5339 program and add  
7 the money they're getting directly from FTA on that they're  
8 still getting less. And, like Brownsville, for example,  
9 over 14 percent less; Killeen, 11.9; and Laredo, 10  
10 percent less than they received under last year's 5307  
11 program. The exception is Conroe/The Woodlands, which,  
12 because it made a huge jump from being a fairly small  
13 urban to being a little bit larger large urban system.

14 MS. BLOOMER: Okay. We're losing members.

15 Christina, are you still on the line?

16 MS. CRAIN: Yes, I am.

17 MS. BLOOMER: I think it's -- do you have to  
18 take him to the airport? We're losing Brad here because  
19 he has to catch his flight, and J.R.'s his taxi, so we're  
20 going to lose basically everybody but --

21 MR. SALAZAR: I never ride CARTS; I ride car  
22 when I come.

23 MS. BLOOMER: All right. Thanks, guys. All  
24 right. Does that conclude our presentation on MAP-21?

25 MR. KILLEBREW: I think we lost our quorum so

1 we'll have to officially end the PTAC meeting, but we can  
2 continue a discussion. It's just that we'll need to call  
3 the meeting to a end.

4 MR. GLEASON: If I may, Michelle, one approach  
5 the committee could choose to take is in -- is as members  
6 read through this and they have questions as individuals  
7 they could send us the questions they have.

8 MS. BLOOMER: Okay.

9 MR. GLEASON: And we could collect all the  
10 questions and begin to maybe organize them in a way that  
11 made some sense.

12 MS. BLOOMER: Okay. I think that would be  
13 helpful. And then -- but with the goal being not holding  
14 up any existing funding and getting it out maybe minus the  
15 5339 money out to the providers while we're having  
16 conversations. Okay.

17 All right, then. I think because we've lost  
18 all but two members, we will call the meeting -- we'll  
19 consider the meeting adjourned.

20 (Whereupon, at 4:00 p.m., the meeting was  
21 concluded.)

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MEETING OF: Public Transportation Advisory Committee

LOCATION: Austin, Texas

DATE: November 8, 2012

I do hereby certify that the foregoing pages,  
numbers 1 through 107, inclusive, are the true, accurate,  
and complete transcript prepared from the verbal recording  
made by electronic recording by Penny Bynum before the  
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\_\_\_\_\_  
(Transcriber) 11/12/2012  
(Date)

On the Record Reporting  
3636 Executive Ctr Dr., G-22  
Austin, Texas 78731