

TEXAS DEPARTMENT OF MOTOR VEHICLES

BOARD MEETING

Thursday,
February 7, 2019

Lone Star Room
Building 1
4000 Jackson Avenue
Austin, Texas

BOARD MEMBERS:

Raymond Palacios, Chair
Robert "Barney" Barnwell, III, Vice Chair
Luanne Caraway
Brett Graham
Kate Hardy
Gary Painter
John Prewitt
Paul Scott
Guillermo "Memo" Treviño

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P R O C E E D I N G S

1
2 MR. PALACIOS: Good morning, everyone. It's a
3 great day in Austin, Texas.

4 I want to start off by thanking Carrie Fortner
5 for this wonderful arrangement. It's great. Thank you.

6 (Applause.)

7 MR. PALACIOS: There's plenty of food left, so
8 please partake, we don't want to waste all that great
9 food. And yes, the coffee, if you have a problem staying
10 alert, just try a little of this. It's great.

11 (General laughter.)

12 MR. PALACIOS: Okay. Let's get going here.

13 Good morning. My name is Raymond Palacios, and
14 I'm pleased to open the Board meeting of the Texas
15 Department of Motor Vehicles.

16 It is 8:31 a.m., and I am now calling the Board
17 meeting for February 7, 2019 to order. I want to note for
18 the record that public notice of this meeting, containing
19 all items on the agenda, was filed with the Office of the
20 Secretary of State on January 30, 2019.

21 Before we begin today's meeting, please place
22 all cell phones and other communication devices in the
23 silent mode, and please, as a courtesy to others, do not
24 carry on side conversations or other activities in the
25 meeting room.

1 If you wish to address the board or speak on an
2 agenda item during today's meeting, please complete a
3 speaker's sheet at the registration table. Please
4 identify on the sheet the specific item you are interested
5 in commenting on and indicate if you wish to appear before
6 the board and present your comment or if you only wish to
7 have your written comment read into the record. If your
8 comment does not pertain to a specific agenda item, we
9 will take your comment during the general public comment
10 portion of the meeting.

11 In accordance with the department's
12 administrative rule, comments to the board will be limited
13 to three minutes. To assist each speaker a timer has been
14 provided. The timer light will be green for the first two
15 minutes, yellow for one, and red when your time is over.
16 Individuals cannot accumulate time from other speakers.
17 Comments should be pertinent to the issues stated on the
18 comment sheet. When addressing the board, please state
19 your name and affiliation for the record.

20 Before we begin today, I want to remind all
21 presenters of the rules of conduct at our board meetings.

22 In the department's rules Section 206.22, the board chair
23 is given authority to supervise the conduct of the
24 meetings. This includes the authority to determine when a
25 speaker is being disruptive of the meeting or is otherwise

1 violating the timing or presentation rules I just
2 discussed.

3 And now let's have a roll call.

4 Board Member Barnwell?

5 MR. BARNWELL: Present.

6 MR. PALACIOS: Board Member Caraway?

7 MS. CARAWAY: Present.

8 MR. PALACIOS: Board Member Graham?

9 MR. GRAHAM: Present.

10 MR. PALACIOS: Board Member Hardy?

11 MS. HARDY: Present.

12 MR. PALACIOS: Board Member Painter?

13 MR. PAINTER: Present.

14 MR. PALACIOS: Board Member Prewitt?

15 MR. PREWITT: Present.

16 MR. PALACIOS: Board Member Scott?

17 MR. SCOTT: Present.

18 MR. PALACIOS: Board Member Treviño?

19 MR. TREVIÑO: Here.

20 MR. PALACIOS: And let the record reflect I,
21 Raymond Palacios, am here too. We have a full quorum,
22 everyone is present and accounted for. That's great.

23 Okay. Let's, if we would, please stand and
24 honor the country and the state with the pledge of
25 allegiance.

1 (Pledges of Allegiance - U.S. and Texas were
2 recited.)

3 MR. PALACIOS: Okay. We will begin agenda item
4 3.A. Section 1001.023 of the Transportation Code set aside
5 duties of the board's chair and vice chair. One of the
6 duties of the chair is to report to the governor on the
7 state of affairs of the department. This report is in the
8 final draft and will be submitted to Governor Abbott very
9 soon. The report includes updates on agency staff,
10 budget, enterprise projects, key accomplishments and the
11 legislative agenda. The report will be distributed to
12 legislators as we meet with them and their staff. Board
13 members will be provided a hard copy once the report is
14 complete and submitted. It will be posted on the agency
15 website, both external and internal, for all access and
16 for people to read. Please reference the report whenever
17 communication is needed to others about the agency, as
18 well as information on where the report can be found. On
19 the public website at the bottom of the page it will be
20 located under Learn More and Reports and Data.

21 Okay. Agenda item 3.B. This has proven to be
22 one of the most bittersweet moments of our time here for
23 me. Board Members Kate Hardy and Luanne Caraway. A
24 little while ago just briefly Kate and I were talking, we
25 had this discussion, and I think it's safe to say that

1 when all of us were asked to serve on this board, none of
2 us had a clear understanding of exactly what it is we were
3 signing up for, and that notion continues to be reinforced
4 all the time.

5 As board members, we are tasked with giving
6 policy direction, with making decisions on rules,
7 contested cases, administrative, numerous things.
8 Sometimes we disagree amongst ourselves and it's a pretty
9 safe bet that no matter what decision we make, some
10 stakeholder, some entity or somebody will not be happy
11 with the decisions that we make, and I guess that's just
12 the way it is.

13 But I will say this, one thing that has always
14 given me complete confidence and assurance is knowing that
15 through these processes, decision-making processes,
16 whatever we do, I always knew that I had people like Kate
17 Hardy and Luanne Caraway that we could count on for their
18 high integrity, for their wisdom, for their intellect, and
19 that just gives me all the assurance in the world that
20 it's okay, whatever we do is okay because we've got these
21 two people here that are going to guide us, and it means
22 everything, and I say that with full sincerity.

23 What you have done for this board and this
24 agency is immeasurable. We will miss you tremendously.
25 And I just want to thank the two of you for the honor of

1 being able to work side by side with you. This is truly
2 the greatest part of this job is being able to work with
3 people like you. So thank you so much for your service to
4 the State of Texas and to this agency.

5 (Applause.)

6 MR. PALACIOS: Any other comments?

7 MR. BARNWELL: I think you said it all.

8 MR. GRAHAM: How do we follow that?

9 MR. PALACIOS: And they're really fun to be
10 with on top of everything else, you know. It's great.

11 So I think we had somebody.

12 MS. McRae: Good morning. Thank you for
13 allowing me to speak this morning. My name is Tammy
14 McRae. I'm the Montgomery County tax assessor-collector,
15 and I am here on behalf of the Tax Assessor-Collectors
16 Association of Texas.

17 We have a certificate of appreciation for
18 Luanne, and I'm going to try not to cry because she is a
19 dear friend and this is bittersweet for me.

20 "The Tax Assessor-Collectors Association, in
21 recognition of commitment to a standard of excellence as
22 Tax Assessor-Collector of Hays County, the Tax Assessor-
23 Collectors Association of Texas and to the Texas
24 Department of Motor Vehicles Board, hereby offers our
25 sincere appreciation to Luanne Caraway for your years of

1 service. TACA is very grateful for your service and we
2 wish you much success in your retirement.

3 "Awarded this 7th day of February 2019."

4 Thank you, Luanne.

5 MS. CARAWAY: Thank you.

6 (Applause.)

7 MR. PALACIOS: Okay. Kate, Luanne, we have a
8 few parting gifts for you. Board members, if you could
9 just join us at the bottom here for a little photo op.

10 (Pause for presentations and photos.)

11 MS. HARDY: Before we get started, Mr.
12 Chairman, I just want to thank everybody here today. It's
13 been a real honor serving on this board. As you said
14 earlier, just a tremendous opportunity. Had no idea
15 really what to expect when I came on, and it's been one of
16 the best experiences in my life and my career.

17 And working with all the board members here is,
18 again, just an honor, and working with just a phenomenal
19 agency too. A lot of things going on, very complex, and a
20 lot of great work and leadership that I'm confident that
21 great things are going to happen going forward, being led
22 by not by this board and new members that will be coming
23 on, but just by all the members of this agency as well.

24 So thank you for all your help weaning me into
25 the process. It's been a lot of fun.

1 MS. CARAWAY: And I will follow and echo what
2 Kate has said. This has been a true honor. I'll be the
3 one getting emotional. My profession has meant a lot to
4 me and having two of my cohorts here means a great deal.
5 But it has been a true honor to work with all of you and
6 the ones that have gone on from the board already, but it
7 has been a true honor.

8 And the staff, wow, what a great group of
9 people, hardworking, dedicated employees, and I appreciate
10 each and every one of you and what you have done for this
11 agency and what you will continue to do, because I'm like
12 Kate, I know great things will come out of this agency.
13 And I appreciate all the help and support that you've
14 given me, not only on the board but in my office.

15 And Jeremiah's department and what all y'all
16 do, thank you for that. I know we're not always the
17 easiest group to work with, get a little demanding
18 sometimes, but it's truly been an honor to work with you
19 and to represent our association, and I appreciate the
20 Governor's Office giving me the chance to do this and to
21 learn some things that I knew nothing about in this
22 department and how much more you do than just vehicle
23 titles and registration.

24 So thank you to the agency, thank you, Whitney,
25 for your leadership here. And Chairman, for the way you

1 lead this board, I appreciate you very much. And I
2 appreciate each and every one of you board members and
3 enjoyed working with you. So thank you and good luck to
4 everybody. Thank you.

5 (Applause.)

6 MR. PALACIOS: Thank you.

7 Ms. Brewster, we have advisory committee
8 openings, don't we?

9 MS. BREWSTER: We will soon.

10 (General laughter.)

11 MR. PALACIOS: We will.

12 Okay. With that, I will turn it over to our
13 executive director, Ms. Whitney Brewster.

14 MS. BREWSTER: Thank you, Mr. Chairman. Good
15 morning, board members.

16 At this point I would like to provide the board
17 an update on the department's implementation of Sunset
18 recommendations adopted by the Sunset Advisory Commission.

19 The Sunset Advisory Commission, just as a
20 reminder, adopted 33 recommendations, 16 of which were
21 management actions, and those were effective immediately,
22 we were to start implementation of those immediately.
23 Some of them had deadlines, some of them did not, but
24 certainly the expectation was that the agency start moving
25 forward on those management actions immediately.

1 Of the 16 management actions that were adopted,
2 the department has implemented seven of those. We are in
3 various stages of implementing the rest of those
4 recommendations but they are in the works. Two of the
5 items on today's agenda will implement two additional
6 recommendations adopted by Sunset, the first being the
7 advisory committee rules, as you referred to earlier, and
8 the rules relating to county tax assessor-collector
9 reporting of suspected fraud, or our Red Flag process for
10 notifying the department of fraudulent issues, and a
11 third, the contested case policy, we'll partially
12 implement a third recommendation adopted by Sunset.

13 So I just wanted to give that brief update,
14 because it is something very important to the department,
15 that we are making every effort to move forward to meeting
16 the requirements in the Sunset Advisory Commission
17 recommendations.

18 With that, I'll answer any questions that the
19 board members have.

20 (No response.)

21 MR. PALACIOS: Please proceed.

22 MS. BREWSTER: All right. Moving right along.

23 This is just an update. This is an item that was closed
24 out several months ago but because of timing we just have
25 not had the opportunity to publicly update the board on

1 this item, and that has to do with our FY18 operational
2 plans.

3 The agency goes through, on an annual basis,
4 the process of preparing operational plans that tie to the
5 department's strategic plans and the goals that this board
6 set so that we're translating our activities to the things
7 that this board has set as a priority for the agency. And
8 this is just a report to let you know that we have closed
9 out the FY18 report.

10 Just some of the things that were accomplished
11 through those operational plans: We've created a balanced
12 scorecard for the agency. We've developed a peer-to-peer
13 recognition program. We have implemented review gates to
14 improve our overall implementation of projects. We have
15 created the TxDMV Fund annual report. We relocated the
16 Motor Carrier Division from Bull Creek to this campus so
17 that the family is all together. We developed an
18 enterprise training and development program for the
19 agency.

20 Just a couple of other things. After the
21 implementation of eLICENSING, the Motor Vehicle Division
22 realigned its staff based on that new technology and the
23 efficiencies that we have gained. We have updated the
24 website for enhancements to salvage renewals mediation,
25 criminal offense and fitness. We have updated and

1 continue to update the Consumer Relations Division
2 knowledge management system. We've improved our
3 accessibility standards for TxDMV through our Government
4 and Strategic Communications.

5 The Vehicle Titles and Registration Division
6 drafted a county equipment guide that I believe that the
7 county tax assessor-collectors have had the opportunity to
8 review and we'll be moving forward with finalizing that
9 document in the near future.

10 All this to say there are a lot of good things
11 that are happening at the operational level that you may
12 not have visibility into but the agency is working hard in
13 terms of completing things that tie to the strategic goals
14 that this board has set.

15 And with that, Mr. Chairman, I will answer any
16 questions. That report is located on our intranet and
17 should anyone wish to see a copy of that, I'd be happy to
18 provide that to you.

19 MR. PALACIOS: Are there any questions for our
20 executive director?

21 (No response.)

22 MS. BREWSTER: All right. Thank you.

23 MR. PALACIOS: Please proceed.

24 MS. BREWSTER: At this time we would like to
25 recognize our recent retirees and employees who have

1 reached a state service milestone. You may remain
2 comfortably in your seats. There is no one here
3 physically present to accept their service awards, but we
4 do celebrate these employees and really appreciate the
5 years of service that they have brought to this agency and
6 to the State of Texas.

7 So I will turn it over to Martha Yancey, of our
8 Human Resources Division, to announce those that are
9 receiving service awards.

10 MS. YANCEY: Good morning. My name is Martha
11 Yancey, Human Resources Division.

12 And the following employees reached a state
13 service milestone but were unable to join us this morning.

14 Twenty years of state service: Rashelle
15 McClanahan, Vehicle Titles and Registration Division; Juan
16 Luna, Vehicle Titles and Registration Division; Rebecca
17 Park, Motor Carrier Division; David Clem, Information
18 Technology Services Division; Robert Martinez, Motor
19 Carrier Division.

20 And then 25 years: Lori Carr, Motor Vehicle
21 Division; Cynthia Turi, Motor Carrier Division; Joel
22 Curry, Enforcement Division; Joyce Wendler, Office of
23 General Counsel; Margaret Zapata, Vehicle Titles and
24 Registration Division.

25 And 35 years: Cecilia Chen, Vehicle Titles and

1 Registration Division.

2 And last, employees who recently retired from
3 the agency are: Cynthia Robinson, David Duncan, Pamela
4 Carter, Jonathan Catron, Roxann Feeler, Gloria Porter,
5 Debby Johnson, Christina Flores, Victor Hammack, William
6 Sneed, and Michael Mize.

7 Thank you.

8 (Applause.)

9 MS. BREWSTER: Thank you, Mr. Chairman. Just a
10 couple of other recognitions for a job well done by our
11 staff.

12 Investigator Amber Ott received the Consumer
13 Protection Partnership Award from the Federal Motor
14 Carrier Safety Administration on November 29, 2018.
15 Kenneth Rogers, division chief from Washington, D.C.,
16 traveled to Austin to present her with the award in
17 recognition of her dedication to serving and protecting
18 consumers as the lead investigator on the Presidential
19 Moving case. This was a major fraud case involving
20 household goods that held belongings hostage throughout
21 the country. Using multiple company names and
22 subcontractors, there were 900 complaints from consumers
23 across the nation.

24 Amber and her team were successful in
25 investigating and negotiating the release of those goods

1 back to their rightful owners as part of a cohesive effort
2 among multiple federal and state agencies. Racketeering
3 charges have been brought against the individuals
4 connected to the company as a result of her and her team's
5 efforts. This award is a very high honor and is a great
6 example of how TxDMV's employees truly help consumers.

7 She did not do it alone. The Enforcement
8 Division, I want to also recognize Investigators Kenneth
9 Fathery, Tyrone Berry and Kris Phillips, who worked with
10 Amber to successfully close 170 of those cases in Texas.

11 Amber is in the Dallas-Fort Worth area, she's
12 not with us, but I certainly wanted to publicly
13 acknowledge her and the team's effort on a huge win in
14 protecting consumers.

15 MR. PALACIOS: Outstanding. I guess the
16 question is who's going to play Amber when they make a
17 movie about this. That is amazing.

18 (General laughter.)

19 MS. BREWSTER: Next I want to acknowledge that
20 Investigator Mark Zimmerhanzel received the Lifetime
21 Achievement Award from the Texas Association of Vehicle
22 Theft Investigators, and he received that award in
23 Galveston in October. The Lifetime Achievement Award
24 recognizes a longtime member of the Texas Association of
25 Vehicle Theft Investigators who, during their entire

1 membership, have made contributions to the organization
2 above and beyond what is expected and whose actions have
3 demonstrably improved the organization and the fight
4 against vehicle crimes overall.

5 So a big shout out to our Enforcement folks.
6 We've got a lot of really great things happening there in
7 terms of consumer protection, so if you will join me in
8 recognizing them and showing them our appreciation for the
9 hard work that they do.

10 MR. PALACIOS: Thank you very much.

11 (Applause.)

12 MS. BREWSTER: And Mr. Chairman, that concludes
13 my remarks.

14 MR. PALACIOS: Okay. Thank you, Ms. Brewster.

15 At this time we're going to go a little out of
16 order and we're going into closed session. It is now 8:56
17 a.m. on February 7, 2019. We'll go into closed session
18 under Texas Government Code, Sections 551.071, 551.074,
19 and 551.089.

20 For those of you in the audience, I anticipate
21 being in executive session for approximately one and a
22 half hours. We'll convene in open session after that.

23 With that, we are recessed from public meeting
24 and we are now going into executive session.

25 (Whereupon, at 8:56 a.m., the meeting was

1 recessed, to reconvene this same day, Thursday, February
2 7, 2019, following conclusion of the executive session.)

3 MR. PALACIOS: Okay. It is now 11:18 a.m. and
4 the Board of the TxDMV is now back in open session, and
5 please forgive me for my inability to accurately estimate
6 time. We went over a little bit here.

7 The board will now take up item number 19.
8 Action items from the executive session, and I will
9 entertain a motion regarding the hiring of our general
10 counsel.

11 MS. HARDY: I'd like to make a motion regarding
12 the hiring of the general counsel for the Texas Department
13 of Motor Vehicles. In light of the vacancy we currently
14 have in the general counsel position, I am pleased to
15 report that we have selected a candidate to fill this
16 position, and at this time I would like to approve the
17 hiring of Ms. Tracey Beaver as the general counsel,
18 contingent on satisfying all TxDMV Human Resource
19 qualifications.

20 MR. BARNWELL: Second.

21 MR. PALACIOS: Okay. We have a motion by Board
22 Member Hardy, second by Board Member Barnwell. All in
23 favor please signify by raising your right hand.

24 (A show of hands.)

25 MR. PALACIOS: Okay. Wonderful. The motion

1 passes unanimously.

2 Okay. Let's move forward now to agenda item
3 number 5. License application denial and appeal to SOAH
4 under Occupations Code 53.021, 53.022, and under 43 Texas
5 Administrative Code 215.88.

6 MS. HARDY: Section 5?

7 MR. TREVIÑO: Chairman, where are we, what
8 section?

9 MR. PALACIOS: Number 5, agenda item number 5.

10 MR. AVITIA: Good morning, members, Ms.
11 Brewster. For the record, Daniel Avitia, director of the
12 Motor Vehicle Divisions. With me this morning is Ms.
13 Casey Nichols. She is the attorney that provided the
14 legal representation at the State Office of Administrative
15 Hearings.

16 Staff is asking the board this morning to issue
17 a final order which concurs with the administrative law
18 judge's proposal for decision which is to deny Mr.
19 Booker's application for an in-transit license. The ALJ
20 in this case concluded that based on the evidence
21 presented and considering the applicable factors for
22 licensure, Mr. Booker's application should be denied. The
23 ALJ found that the board has the authority and legal
24 grounds for denying the application due to the
25 respondent's criminal history.

1 Specifically, the ALJ determined that the
2 following factors do not weigh in favor of licensure: the
3 extent and nature of Mr. Booker's past criminal history
4 which includes a third degree felony for theft, \$20,000 to
5 \$100,000, and a second degree felony for evading motor
6 fuel taxes, as well as the lack of evidence regarding Mr.
7 Booker's rehabilitation or rehabilitative efforts.

8 The respondent, Mr. Booker, did not file
9 exceptions to the ALJ's proposal for decision contesting
10 the judge's findings of fact or conclusions of law,
11 therefore, staff believes that the ALJ's analysis of the
12 law and evidence presented in this case is certainly
13 thorough and that the conclusions of law reached in this
14 case are reasonable.

15 Again, staff requests the board issue an order
16 adopting the judge's findings of fact and conclusions of
17 law.

18 Mr. Booker did receive notice of this hearing
19 this morning via certified mail and regular mail, as well
20 as phone calls by Ms. Nichols. Mr. Booker has opted not
21 to be present this morning and stated he would not be
22 addressing the board this morning.

23 Members, that concludes my remarks. I'm happy
24 to answer any questions you may have.

25 MR. PALACIOS: Are there any questions for Mr.

1 Avitia or Ms. Nichols?

2 (No response.)

3 MR. PALACIOS: Hearing none, I will entertain a
4 motion.

5 MR. GRAHAM: Mr. Chairman, I move the board
6 adopt the ALJ's findings of fact and conclusions of law.

7 MR. PAINTER: Second.

8 MR. PALACIOS: Motion by Board Member Graham,
9 second by Board Member Painter. All in favor of the
10 motion please signify by raising your right hand.

11 (A show of hands.)

12 MR. PALACIOS: Motion passes unanimously.

13 MR. AVITIA: Members, thank you.

14 MR. PALACIOS: Thank you, Mr. Avitia and Ms.
15 Nichols.

16 Okay. Let's move on to agenda item number 6.
17 Chapter 217, Vehicle Titles and Registration. Mr. Kuntz.

18 MR. KUNTZ: Good morning. For the record,
19 Jeremiah Kuntz, director of the Vehicle Titles and
20 Registration Division.

21 The rules before you are for final adoption of
22 217.84. These rules are related to some cleanup that we
23 were doing in the salvage and non-repairable
24 administrative rules. These rules relate to when somebody
25 is coming in to apply for salvage title insurance

1 companies the different documents that they have to show.
2 One of those is proof of paid claim. We have relieved
3 them of that requirement to provide a proof, basically, a
4 check stub or something that they have paid a claim. This
5 is to help increase efficiency with them. These aren't
6 any documents that we find necessary when processing
7 salvage and non-repairable titles, and therefore, we were
8 making a change for industry to streamline that process
9 and make it more efficient.

10 We did receive comment from Copart in favor of
11 the rule change. And with that, I would ask for approval.

12 MR. PALACIOS: Are there any questions for Mr.
13 Kuntz?

14 (No response.)

15 MR. PALACIOS: Hearing none, I will entertain a
16 motion to adopt the motion -- I'll entertain a motion to
17 accept -- whatever the proper verbiage is.

18 (General laughter.)

19 MR. TREVIÑO: Mr. Chairman, I move that the
20 board approve the adoption of amendments to Section
21 217.84, as recommended by staff.

22 MS. HARDY: Second.

23 MR. PALACIOS: Motion by Board Member Treviño,
24 second by Board Member Hardy. All in favor of accepting
25 the proposal for the amendment please signify by raising

1 your right hand.

2 (A show of hands.)

3 MR. PALACIOS: Motion passes unanimously.

4 Okay. Number 7. Chapter 219,
5 Oversize/Overweight Vehicles and Loads. Ms. Swanson.

6 MS. SWANSON: Thank you, Chairman and board
7 members. For the record, Sarah Swanson, interim general
8 counsel.

9 This first item 7 before you starts on page 51
10 of your board books. This is adoption of the Chapter 219
11 rule review and an amendment to Section 219.101.

12 Just real quickly, every four years after a
13 rule is adopted a state agency must review and consider
14 for re-adoption those rules and determine whether the
15 reasons for initially adopting the rule continue to exist.

16 Following that review, the state agency will then either
17 re-adopt the chapter, re-adopt with amendments, or repeal
18 any rules that should be repealed.

19 The department published its notice of
20 intention to review Chapter 219 and the proposed amendment
21 to 219.101 on October 26, 2018. The amendment in 219.101
22 gives the department the flexibility to send notice
23 regarding an inspection or investigation of records by
24 email in addition to mail and fax. Following its review
25 of the chapter, the department determined that the reasons

1 for initially adopting these rules do continue to exist
2 and intends to re-adopt Section 219.101 with amendments
3 and re-adopt the remainder of Chapter 219 without
4 amendments.

5 No comments were received on either the notice
6 of intent to review or the proposed amendment. The
7 department did make minor changes to the proposed
8 amendment in 219.101 following the closure of the comment
9 period. That was simply keeping the word certified in
10 front of mail, instead of just regular mail, we put
11 certified back in, clarifying that the designation is for
12 the time and location of the inspection, and clarifying
13 how the department determines the address or fax number
14 for the person, it would be a means of communication that
15 the entity has provided to the department.

16 If the board adopts the rule review and
17 amendments today, staff anticipates publication of the
18 adoption in the March 1, 2019 *Register*, with an effective
19 date of March 7.

20 And with that, if there are any questions, let
21 me know.

22 MR. GRAHAM: Just for clarification, does this
23 allow for any of these methods to be used or does this
24 clarify the exact method to be used?

25 MS. SWANSON: My understanding is it allows for

1 all of the methods to be used. I think the department
2 always notifies by mail, and then a secondary method to be
3 either by email or fax, certified mail.

4 MR. GRAHAM: Okay. Restate that.

5 MS. SWANSON: So the department always notifies
6 by certified mail and then uses a secondary method.
7 Before we only had fax in the rule, this adds email as a
8 secondary method. So all three methods are available
9 means of communication.

10 MR. GRAHAM: And then certified mail being the
11 basis, the first.

12 MS. SWANSON: Correct.

13 MR. GRAHAM: Got it. Thank you.

14 MR. PALACIOS: Are there any further questions
15 for Ms. Swanson?

16 (No response.)

17 MR. PALACIOS: Hearing none, I will entertain a
18 motion to accept the adoption of the rule review.

19 MR. SCOTT: I move the board approve the re-
20 adoption of Chapter 219, the adoption of amendment to
21 Section 219.101, as recommended by staff.

22 MR. TREVIÑO: Second.

23 MR. PALACIOS: There's a motion by Board Member
24 Scott, second by Board Member Treviño. All in favor
25 please signify by raising your right hand.

1 (A show of hands.)

2 MR. PALACIOS: Motion passes unanimously.

3 Thank you, Ms. Swanson.

4 Okay. Let's move on to 7.B. Amendments to
5 Section 219.101. Ms. Thompson.

6 MS. SWANSON: Actually, that was what we just
7 covered; I took both of them, 7.A and B.

8 MR. PALACIOS: Oh, okay, that's right. Number
9 8. Chapter 206, Management. Sarah Swanson.

10 MS. SWANSON: Thank you. Again, Sarah Swanson,
11 interim general counsel.

12 We're moving on to proposal of rules. Agenda
13 item 8 is the proposal of amendments to Subchapter E of
14 Chapter 206 which is the Management chapter of our
15 administrative rules.

16 As you will recall, the Sunset Commission
17 adopted recommendation 1.7 as a management action,
18 requiring the board to establish advisory committees to
19 provide expertise for rulemaking and other issues, and to
20 adopt rules regarding standard committee structure,
21 operating criteria, including rules regarding the purpose,
22 structure and use these advisory committees, and the
23 Sunset Commission required that these rules be adopted by
24 September 1, 2019.

25 The proposed rules in your board books clarify

1 that the purpose of the advisory committees is to advise
2 and make recommendations on an issue on request from the
3 department or the board. The rules clarify that the board
4 appoints members to the advisory committee by selecting
5 from a list of potential members provided by the executive
6 director. The rules speak to the qualifications to serve
7 as a member, the composition of those committees, the
8 training requirements and the terms of service. I note
9 that the committees must comply with the Open Meetings Act
10 and accept public input, and they provide that the
11 committee will report advice and recommendations to the
12 board, and that the board must consider those
13 recommendations in a board meeting. And the rules also
14 address the use of advisory committees versus working
15 groups.

16 The proposed rules also would establish five
17 advisory committees. We previously have had two advisory
18 committees. They were the Household Goods Advisory
19 Committee and the Motor Vehicle License Advisory
20 Committee. Today we are proposing to repeal the rules
21 that established those two committees, and instead propose
22 five new advisory committees: the Motor Vehicle Industry
23 Regulation Advisory Committee, a Motor Carrier Regulation
24 Advisory Committee, a Vehicle Title and Registration
25 Advisory Committee, Consumer Protection Advisory

1 Committee, and a Customer Service Advisory Committee.

2 And with that, the department asks the board to
3 approve the proposed amendment new sections and repeals
4 for publication for public comment.

5 MR. PALACIOS: Are there any questions before
6 someone makes a motion for Ms. Swanson?

7 MR. GRAHAM: Do these committees have to be
8 established in full at the beginning, regardless of
9 whether or not anything comes up for those committees,
10 work for those committees to do?

11 MS. SWANSON: Are you asking in order to comply
12 with the September 1?

13 MR. GRAHAM: Right.

14 MS. SWANSON: What we need to do by September 1
15 is establish them by rule, which simply means what we are
16 starting our process on today. You don't have to assign
17 the members at that time, but if we adopt these rules by
18 September 1, which the timing will work that we should be
19 able to, and establish these committees, then we will have
20 met our deadline.

21 MR. GRAHAM: Okay. Thank you.

22 MR. PALACIOS: Are there any other questions?

23 MS. HARDY: I move that the board approve the
24 proposed amendments, repeals and new sections to Chapter
25 206 for publication in the *Texas Register* for public

1 comment.

2 MS. CARAWAY: Second.

3 MR. PALACIOS: We have a motion by Board Member
4 Hardy, second by Board Member Caraway. All those in favor
5 please signify by raising your right hand.

6 (A show of hands.)

7 MR. PALACIOS: Motion passes unanimously.

8 We're now into Chapter 223, Compliance and
9 Investigations Division. Ms. Swanson.

10 MS. SWANSON: Thank you. Again, Sarah Swanson,
11 interim general counsel.

12 Agenda item 9 begins on page 77 of your board
13 book. This proposal is also in response to a management
14 action adopted by the Sunset Commission. This was within
15 item 2.2 which was modified at the adoption hearing. It
16 includes a requirement that the department adopt rules to
17 formalize the department's Red Flag process, further
18 developing and implementing a clear and efficient path for
19 county tax assessor-collectors to report suspected fraud,
20 waste or abuse of the registration and title system and to
21 provide an option for a county to request action for
22 suspected fraud or abuse.

23 Our Compliance and Investigations Division has
24 developed a policy detailing this process and what we have
25 today would be a proposal of a new chapter in the

1 Administrative Code, Chapter 223, which will be dedicated
2 to rules applicable to our Compliance and Investigations
3 Division.

4 These specific rules today would outline the
5 purpose and scope of the subchapter, would define key
6 terms used in that new chapter, and would describe the
7 general process which, slightly more specifically, it
8 would describe the types of submissions that the CID will
9 accept for review. It would refer to their policy that
10 they maintain and how that policy will be made available
11 to tax assessor-collectors and posted on the department's
12 website. They would clarify that in addition to a tax
13 assessor-collector's authority to suspend or terminate a
14 tax assessor-collector's employee's or full service
15 deputy's access to the registration and title system, that
16 they may request such action by the CID. And they clarify
17 that a request for an investigation does not obligate the
18 CID to conduct such investigation or provide details of
19 that investigation.

20 With that, the department asks the board to
21 approve the proposed new chapter in the *Texas Register* for
22 public comment.

23 MR. PALACIOS: Are there any questions for Ms.
24 Swanson regarding new Chapter 223?

25 MR. PREWITT: Mr. Chairman, I would move that

1 the board approve the proposed new Chapter 223 for
2 publication in the *Texas Register* for public comment.

3 MR. TREVIÑO: Second.

4 MR. PALACIOS: Okay. That motion by Board
5 Member Prewitt, second by Board Member Treviño. All in
6 favor please signify by raising your right hand.

7 (A show of hands.)

8 MR. PALACIOS: Motion passes unanimously.

9 Thank you, Ms. Swanson, but you're not
10 finished. Chapter 208, Employment Practices.

11 MS. SWANSON: Thank you. This is agenda item
12 10. We had an adoption of a rule review just moments ago.
13 Time is up for us to review a few more chapters, so what
14 this item 10 is, which begins on page 87 of your board
15 book, this would be publication of a notice of intent to
16 review Chapter 208 of the Administrative Code. This is
17 our chapter on employment practices, it includes rules
18 related to the sick leave pool and employee training and
19 education.

20 Any proposed changes to the sections of this
21 chapter as a result of the review will be published in the
22 proposed rules section of the *Register* for an additional
23 30-day public comment period prior to final adoption.

24 And with that, the department asks the board to
25 approve publication of the proposed notice of intent to

1 review Chapter 208 in the *Texas Register* for public
2 comment.

3 MR. PALACIOS: Any questions for Ms. Swanson on
4 Chapter 208?

5 (No response.)

6 MR. PALACIOS: Hearing none, I'll entertain a
7 motion.

8 MS. CARAWAY: Chairman, I move that the board
9 approve the proposed notice of intent to review Chapter
10 208 for publication in the *Texas Register* for public
11 comment.

12 MS. HARDY: Second.

13 MR. PALACIOS: Motion by Board Member Caraway,
14 second by Board Member Hardy. All in favor please signify
15 by raising your right hand.

16 (A show of hands.)

17 MR. PALACIOS: Motion passes unanimously.
18 Thank you.

19 Please proceed.

20 MS. SWANSON: Next we have agenda item 11 which
21 begins on page 89 of your board books.

22 This is a proposed notice of intent to review
23 Chapter 209. These are our Finance related rules. We
24 have rules related to the collection of debts, payment of
25 fees for department goods and services, and acceptance of

1 donations and contributions.

2 As with the other rule reviews we are
3 proposing, any changes that would result from this review
4 would be proposed for an additional 30-day public comment
5 period prior to final adoption.

6 And with that, the department asks the board to
7 approve publication of the proposed notice of intent to
8 review Chapter 209 in the *Register* for public comment.

9 MR. PALACIOS: Are there any questions for Ms.
10 Swanson?

11 (No response.)

12 MR. PALACIOS: I'll entertain a motion to
13 accept the notice of intent.

14 MR. PAINTER: Mr. Chairman, I move that the
15 board approve the proposed notice of intent to review
16 Chapter 209 for publication in the *Texas Register* for
17 public comment.

18 MS. CARAWAY: Second.

19 MR. PALACIOS: Okay. Motion by Board Member
20 Painter, second by Board Member Caraway. All in favor
21 please signify by raising your right hand.

22 (A show of hands.)

23 MR. PALACIOS: Motion passes unanimously.

24 Okay, we're getting there.

25 MS. SWANSON: Yet another rule review. This

1 will be agenda item 12, page 91 of your board books. The
2 department is proposing to publish its intent to review
3 Chapter 210, these are rules related to purchase contracts
4 and the Historically Underutilized Business program.

5 Any proposed changes would be published in the
6 proposed rules section for an additional 30-day public
7 comment period prior to final adoption, and the department
8 asks the board to approve publication of the proposed
9 notice of intent to review Chapter 210 in the *Texas*
10 *Register* for public comment.

11 MR. PALACIOS: Any questions on this issue?

12 (No response.)

13 MR. PALACIOS: Hearing none, I'll entertain a
14 motion.

15 MR. BARNWELL: Mr. Chairman, I move that the
16 board approve the proposed notice of intent to review
17 Chapter 210 for publication in the *Texas Register* for
18 public comment.

19 MR. PAINTER: Second.

20 MR. PALACIOS: Motion by Board Member Barnwell,
21 second by Board Member Painter. All in favor please
22 signify by raising your right hand.

23 (A show of hands.)

24 MR. PALACIOS: Motion passes unanimously.

25 Okay. Let's move on now to agenda item number

1 13. Rescind resolution authorizing creation of advisory
2 committees.

3 MS. SWANSON: Thank you, Chairman. Sarah
4 Swanson, interim general counsel.

5 Item 13, which is on page 93 of your board
6 books, is a request for board approval to rescind
7 Resolution 10-017, entitled Resolution Authorizing
8 Creation of Advisory Committees, that was signed in 2010.

9 This item is tied to item 9 on the agenda, the
10 proposal of rules related to advisory committees. This
11 resolution delegated authority to the executive director
12 to appoint and convene advisory committees. The
13 Transportation Code, Section 1001.031 authorizes the board
14 to retain or establish advisory committees and authorizes
15 the board to prescribe the purposes, powers and duties of
16 advisory committees.

17 The department seeks board approval to rescind
18 this resolution as it is inconsistent with statute.

19 MR. PALACIOS: Are there any questions for Ms.
20 Swanson on this issue?

21 (No response.)

22 MR. PALACIOS: Hearing none, I'll entertain a
23 motion.

24 MR. TREVIÑO: Mr. Chairman, I move that the
25 board rescind the resolution authorizing creation of

1 advisory committees.

2 MR. BARNWELL: Second.

3 MR. PALACIOS: Okay. We have a motion by Board
4 Member Treviño, second by Board Member Barnwell. All in
5 favor please signify by raising your right hand.

6 (A show of hands.)

7 MR. PALACIOS: Motion passes unanimously.

8 Okay. Number 14. Guidance on contested cases
9 presented to the board.

10 MS. SWANSON: Thank you, Chairman. This item
11 begins on page 95 of your board books and also relates to
12 a Sunset recommendation.

13 Sunset recommendation 1.3 requires the board to
14 adopt rules and policies to establish clear standards for
15 conduct and handling of contested cases coming before the
16 board for final decisions. This recommendation in our
17 Sunset report was a statutory recommendation as opposed to
18 a management action, however, in an effort to be more
19 proactive on our Sunset implementation progress and
20 because staff agrees that such a policy will be helpful,
21 staff drafted the policy that is in your board books.

22 This policy establishes the standards for
23 conducting and handling contested cases that come before
24 you. It establishes general requirements and
25 prohibitions, including the requirements of the Open

1 Meetings Act and the prohibition on ex parte
2 communications. It outlines board options for taking
3 action on a proposal for decision. It provides
4 information on findings of fact and conclusions of law and
5 the authority to change findings of fact, conclusions of
6 law and sanctions, and it describes the process for making
7 motions that change findings or conclusions.

8 And with that, I'd be happy to answer any
9 questions.

10 MR. PALACIOS: Ms. Swanson, I want to thank you
11 for coming up with this draft, this guidance. I know
12 these cases can be complex and many times I guess the
13 final outcome of the motions that we make can be somewhat
14 confusing, so this does add a lot of clarity and it's well
15 received, so thank you very much for the time that you and
16 your staff put into preparing this document.

17 MS. SWANSON: Thank you. And I'd definitely
18 like to thank my staff as well. They worked really hard
19 on this and I think it's a good product.

20 MR. GRAHAM: I'd just like to add that I also
21 appreciate the work that y'all put in on this. I think
22 this is one of the most important, among many important
23 things, but certainly a very important task that this
24 board has that's very unique and complex, and none of us
25 are attorneys that I'm aware of.

1 Wait a minute. Are you an attorney?

2 MR. BARNWELL: I'll never admit that.

3 (General laughter.)

4 MR. GRAHAM: Well, I'll say most of us aren't
5 attorneys.

6 MR. BARNWELL: I'll take the Fifth.

7 MR. GRAHAM: Take the Fifth.

8 This will be very helpful for helping not only
9 those of us that are on the board and have been through
10 some of these get our hands around it but particularly new
11 board members when they come in to kind of understand that
12 process. So I thought it was very well done. Thank you.

13 MS. SWANSON: Thank you. And I'll just add,
14 too, that our staff is in the preliminary stages of
15 working on training to accompany the policy, so there will
16 be a lot more to come.

17 MR. PALACIOS: Thank you.

18 Well, with that, I will entertain a motion.

19 MR. SCOTT: I move the board approve the
20 recommendation of the department to approve policy TxDMV
21 guidance on contested cases presented to the board.

22 MR. PAINTER: Second.

23 MR. PALACIOS: Motion by Board Member Scott,
24 second by Board Member Painter. All in favor please
25 signify by raising your right hand.

1 (A show of hands.)

2 MR. PALACIOS: Motion passes unanimously.

3 Okay. Let's move on to agenda item number 14 -
4 - I'm sorry -- 15.

5 Great job, Sarah. Thank you.

6 MR. KUNTZ: Good morning again. For the
7 record, Jeremiah Kuntz, director of Vehicle Titles and
8 Registration Division.

9 Before you is agenda item number 15. The staff
10 is seeking board approval or denial of two license plates
11 which are being presented for My Plates. The first one is
12 Jackson State University, the second one is the University
13 of Virginia. They were published for eView. We did not
14 receive any negative comments on the plates.

15 MR. GRAHAM: They were just up there but I
16 didn't have my glasses on. Where did they go? Oh, there
17 they are. They're not on the board. Now I see. I was
18 looking in the wrong spot.

19 MR. BARNWELL: That's understandable.

20 (General laughter.)

21 MR. PALACIOS: Okay. Are there any questions
22 regarding these two plate designs?

23 (No response.)

24 MR. PALACIOS: Hearing none, I'll entertain a
25 motion to accept the plate designs.

1 MR. BARNWELL: I move we accept the plate
2 designs.

3 MR. PAINTER: Second.

4 MR. PALACIOS: All right. Motion by Board
5 Member Barnwell, second by Board Member Painter. All in
6 favor please signify by raising your right hand.

7 (A show of hands: Members Barnwell, Graham,
8 Hardy, Painter, Prewitt, Scott and Treviño.)

9 MR. PALACIOS: All opposed?

10 (A show of hands: Members Caraway and
11 Palacios.)

12 MR. PALACIOS: Okay. Motion passes seven to
13 two. Okay. Thank you.

14 Let's move on to Finance and Audit Committee
15 updates.

16 MS. CARAWAY: Chairman, I'll give a quick
17 committee update to the full board, and then I'll turn it
18 over to staff for brief presentations.

19 The committee met yesterday here at TxDMV
20 headquarters. I presided over the meeting which was also
21 attended by Members Hardy and Prewitt; Member Graham was
22 unable to attend. Also, TxDMV Chairman Palacios was
23 present for information gathering and discussion.

24 The committee considered four agenda items.
25 All of the items from the committee meeting were briefings

1 and require no action today by the full board. Staff will
2 make brief summary presentations of what was considered by
3 the committee without repeating the entire presentations,
4 and staff will be available for any questions you may
5 have.

6 Ms. Flores.

7 MR. PALACIOS: Thank you.

8 MS. FLORES: Thank you. For the record, Linda
9 Flores, chief financial officer for the Texas Department
10 of Motor Vehicles. With me today are, to my right, Sergio
11 Rey, who will be providing a short briefing on the end of
12 year reports for 2018, Renita Bankhead will be providing a
13 briefing on the first quarter financial activity for the
14 agency, and I'll wrap it up with an update on our
15 appropriations request.

16 MR. REY: Chairman, board members, Ms.
17 Brewster. For the record, Sergio Rey, assistant director
18 of accounting.

19 As Ms. Flores mentioned, the brief review of
20 the annual financial report, if you look on page 115,
21 that's where your annual financial report, or AFR, is
22 presented. It is a snapshot of the 12-month activities
23 starting September 1, 2017 to August 31, 2018. As far as
24 your balance sheet, it does reflect the strength of our
25 TxDMV Fund activity with increases in net assets and also

1 our increase in our fund balance which was around \$22
2 million.

3 All of that ties into our income statement
4 which our licensing fees and permits, which was 99 percent
5 of our revenue stream into the agency, again, all of that
6 DMV Fund and the fees as it relates to increases in
7 vehicle registration, temp permits, oversize/overweight
8 permits, and a full year of processing and handling fees.

9 Also, as it relates to expenditures, we did
10 have a decrease of expenditures because several projects
11 in 2017 closed out, like the eLICENSING project, and our
12 computer equipment refresh closed out in 2017, so those
13 type of expenditures didn't carry over into fiscal year
14 2018. In addition, we saw the winding of the RTS
15 refactoring project which also continued the reduction of
16 our professional services.

17 That is a quick snapshot of the annual
18 financial report.

19 The second report that we are required to
20 present in the fall is the annual report of nonfinancial
21 data. This is a package of eight different schedules. Of
22 note, the two significant ones which have an impact or I'd
23 like to point out today is our indirect cost schedule.
24 That one relates to the cost of our payroll cost, payroll
25 benefits, and the overhead costs that are incurred by our

1 oversight agencies. Particularly if you look at page --
2 it starts on page 162 and at the bottom you will see the
3 indirect cost as it relates to the statewide cost
4 allocation plan, SWCAP, as we commonly know it as, this
5 one has increased since our start of the agency.

6 As part of the SWCAP, what it entails is taking
7 those costs that our oversight agencies take and allocate
8 those to the different state agencies and higher education
9 institutions. Our increase has been largely on our
10 enterprise system that we have started back in 2015, the
11 CAPPS, our financial system and our HR/payroll system.
12 Three years ago we were looking at costs of \$258,000, last
13 year we had \$468,000 in costs, now coming in fiscal year
14 2019 we are tripling our costs to close to \$1.2 million,
15 which will be discussed further on as an exceptional item
16 by Ms. Flores.

17 The next schedule that I want to again focus on
18 is the professional consulting fees and legal services on
19 page 163. This details the decrease, it's the itemized
20 listing of our expenditures on the item by the same name
21 in the income statement. Again, a lot of that reflects
22 the reduction of our IT costs from projects that closed
23 out in 2017 or were winding down in fiscal year 2018.

24 And with that, that concludes my briefing. I'm
25 open for any questions that you may have on these two

1 reports.

2 MR. PALACIOS: Are there any questions for Mr.
3 Rey on these issues?

4 (No response.)

5 MR. PALACIOS: Thank you very much for your
6 presentation, Mr. Rey.

7 Now we'll move on to Ms. Flores and
8 Ms. Bankhead.

9 MS. BANKHEAD: Good morning. For the record,
10 my name is Renita Bankhead. I'm assistant chief financial
11 officer, and I'm here to present the first quarter
12 financial summary for 2019. This is a summary of the
13 department's revenue collections and expenditures for the
14 period ending November 30, 2018, and the materials related
15 to this presentation begins on page 178 of your board
16 documentation.

17 Total revenue all funds, the major take-away on
18 this is that all revenue collections were within projected
19 levels. We did have increases in oversize/overweight due
20 to the increased activity in the oil patch, and also
21 increases in vehicle registrations because of the number
22 of registered vehicles. We did have slightly lower
23 revenues for titles and that's just because last year we
24 had a spike because of the damages. So that's kind of our
25 take-away from the revenue for all funds, and that really

1 impacts Fund 6.

2 Looking at DMV Fund highlights, that begins on
3 page 183 of your materials.

4 MR. GRAHAM: Just one quick question, if I may.
5 I'm looking at 2019 actuals. I see 2018 actuals, do we
6 have 2019 budgeted? I'm just trying to get a comparison
7 of where we are in relation.

8 MS. FLORES: As far as our projections, no we
9 do not include the projections here. We do projections
10 but they're not reflected here. I can tell you that we're
11 on target to achieve all of our targets, so all of our
12 revenue collections, we are on target.

13 MR. GRAHAM: Okay. Thank you.

14 MS. BANKHEAD: Page 183, TxDMV highlights. The
15 same things that impacted our overall revenue collections
16 also impact our DMV Fund collections, oversize/overweight
17 and vehicle registrations. The one other thing that's
18 included in the DMV Fund is the processing and handling
19 fee. Those collections were slightly down from our
20 projected levels, and a factor in this drop that was
21 beginning in 2019, 30-day and one-day temporary permits
22 are not being sold online, and that's the result of
23 discovery of unauthorized use of those permits. The
24 department is in the process of implementing measures to
25 ensure that those things do not happen, so once that's

1 done, then we'll start selling those online again. We're
2 hoping that's a temporary process.

3 At the end of the first quarter the DMV Fund
4 balance was \$101 million. That includes the \$23 million
5 that was our first kind of influx, the \$23 million we
6 haven't touched that. Any unspent balances at the year-
7 end will be used to support our appropriations.

8 Moving on to expenditures, that's on page 186.

9 No surprises here. Our expenditures are pretty much
10 within our budgeted level. We spent approximately 47
11 percent of our total budget of \$194.6 million. Our major
12 obligations are salaries, ABTPA grants, contract services
13 for plate production, printing and mailing for vehicle
14 registrations. This also includes \$35 million in capital
15 budget which includes \$15.2 million in carryforward from
16 the prior year. The major pieces of that are technology
17 and that's data center consolidation contract and our
18 automation projects.

19 Finally, the adjusted budget reflects the two
20 requests that were approved by the LBB and the Governor's
21 Office for our headquarters maintenance. That was the
22 \$2.2 million of maintenance funding carried forward to '19
23 and the creation of a TxDMV headquarters maintenance and
24 repair capital project. All of that is reflected in these
25 numbers, those budgeted amounts are reflected in these

1 numbers.

2 That concludes my presentation. I'll be happy
3 to answer any questions.

4 MR. TREVIÑO: The processing and handling fee
5 transaction mix, I'm interested in the online piece, that
6 it really hasn't grown very much. Do you have any
7 comments, does staff have any comments on the mix and what
8 we're doing to kind of change the mix perhaps?

9 MS. FLORES: We continue to look at online mix.
10 I believe that there was some analysis that was done,
11 from what I understand, about how can we get more adoption
12 rates going into that. I think Ms. Brewster herself
13 probably has more information about that analysis.

14 MS. BREWSTER: Mr. Chairman, if I may?

15 MR. PALACIOS: Yes, please.

16 MS. BREWSTER: Whitney Brewster, executive
17 director.

18 Texas.gov has done a lot of research on the
19 adoption of online use for vehicle registration as well as
20 driver licensing, looking at both agencies in terms of
21 adoption, and really targeted its messaging around how do
22 we increase those numbers. They have worked with us and
23 are looking at a different angle in terms of getting the
24 word out in terms of that being available. What they
25 initially found is that it's not necessarily an issue that

1 people don't know that that it's an option but that
2 they're choosing in both instances not to utilize it. So
3 how do we overcome those that want to come in and
4 physically get it in their hands, and so the marketing
5 plan is around that. So there are efforts underway to
6 better market the program so that we can increase those
7 numbers.

8 MR. TREVIÑO: So staff is looking at it, so
9 great.

10 MS. BREWSTER: Long answer. Yes.

11 MR. TREVIÑO: So these are rear-looking
12 numbers, right, I mean, something that's happened in the
13 past. Do you have any thoughts on going forward anything
14 that you're worried about, any concerns with the budget
15 and revenue and costs? Are we in good shape going
16 forward?

17 MS. FLORES: No. We're in good shape. I will
18 say that when it comes to titles, we expect to go back to
19 our previous activity levels that we had before Hurricane
20 Harvey, so even though it's going to show a decrease,
21 we're really going back to 2017 and remaining stable at
22 those levels. So I really don't have any concerns. We
23 knew it was going to be a spike, and so it's coming back
24 down the way it did the year before.

25 MR. TREVIÑO: Thank you.

1 MR. PALACIOS: Are there any other questions?

2 (No response.)

3 MR. PALACIOS: Thank you, Ms. Flores.

4 MS. FLORES: Moving on, the next briefing
5 begins on page 189 of your briefing materials. I'm
6 providing an update on the agency's appropriation request.

7 As you know, the legislative session began at
8 the early part of January. We submitted, as a reminder, a
9 base request of \$321.5 million, exceptional items,
10 approximately five of them, for a total amount of \$19.2
11 million, along with some FTEs for consumer relations and
12 IT.

13 House Bill 1/Senate Bill 1 was distributed
14 January 14 and not only did we not receive any of our
15 exceptional items, they also reached into the base and
16 reduced that by approximately \$20.6 million. We were
17 notified by our legislative budget analyst, Thomas Galvan,
18 that if we wanted the legislature to reconsider our
19 exceptional items, we would have to resubmit those. We
20 received those instructions Monday at approximately five
21 o'clock, we had until Wednesday to do so, so we did submit
22 a revised exceptional items request asking for the first
23 set of five that we had originally asked for, we also
24 asked for some new ones.

25 We included two items for ABTPA. One was the

1 reduction of the base of \$6 million and then the second
2 one was to broaden their scope, and this is tied to a
3 Sunset recommendation. If the program itself were to
4 expand its role in title fraud, they would need additional
5 resources to accomplish that.

6 Mr. Rey briefly mentioned item number 5,
7 Statewide Cost Allocation Plan. What this is is agencies,
8 like the Comptroller, the Attorney General, are all funded
9 with general revenue. They provide support to other
10 state agencies that we use. In order to finance their
11 operations, they go out to other state agencies who are
12 not general revenue, such as the DMV who has the DMV Fund.

13 We're allocated a piece of those costs. It's tripling
14 from \$468,000 to this year \$1.2-; the projection going
15 forward into the next biennium is closer to \$1.6 million
16 a year. So in light of that cost -- and it's not
17 something that you can decline to pay, they will take the
18 money -- as part of that exceptional item request, we
19 included a Statewide Cost Allocation Plan, so that is item
20 number 5.

21 Item number 6 is another reduction to the base.
22 Our HQ facility, they reduced our request by \$5.1 million
23 so we're asking for that back. And number 7, regional
24 service center, again, that was a reduction to the base.
25 We had carved out \$500,000 for renovations and repairs in

1 our field offices, so we're asking for restoration of
2 that.

3 We did have some of our riders that we
4 requested. They did include some riders for our UB
5 authority for automation, matching funds for federal
6 grants, and our headquarters maintenance and security
7 system, and those are all capital line items, if you will,
8 so they're letting us if we don't spend in one year carry
9 forward into the next year of the biennium, so that's
10 there.

11 Senate Bill 1 and House Bill 1 are identical
12 with the exception of one item. House Bill 1 includes a
13 contingency rider to transfer the driver's license program
14 to the DMV September 1, 2021, Senate Bill 1 does not, so
15 by having that rider in one of the bills provides for the
16 discussion to occur during the legislative session. We
17 had a hearing January 31 in front of Senate Finance, they
18 were the first ones out of the gate, and there was a lot
19 of conversation that focused on driver's license even the
20 Sunset Bill has not come out yet so we haven't really seen
21 the exact recommendation that's going to be included in
22 DPS's bill pattern, but Ms. Brewster was asked a lot of
23 questions about driver's license.

24 The other thing that they focused on during
25 that hearing was the Auto Burglary and Theft Prevention

1 program. It looks like they may be getting some traction
2 to their request.

3 They did focus on a couple of our projects, the
4 RTS refactoring project, webDEALER, as well as our
5 Historically Underutilized Business percentage numbers
6 which has seen a decline since the beginning of our RTS
7 project. As the projects declined, our use of
8 subcontractors has also declined, and it's impacted our
9 HUB numbers.

10 We are scheduled for another hearing, Monday,
11 February 11, in front of House Appropriations, where Ms.
12 Brewster will have a five-minute presentation in front of
13 the committee.

14 And that concludes my presentation.

15 MR. GRAHAM: So you're going to lay out all the
16 plans of the DMV concisely in five minutes.

17 MR. PALACIOS: With time to spare.

18 MR. GRAHAM: I would like to watch that. If
19 you would, maybe get the board information on those
20 hearings, because I know we can watch them. And I was
21 going to say I want to see that in five minutes. So keep
22 us in the loop as this develops.

23 MS. FLORES: Happy to.

24 MR. GRAHAM: Thank you.

25 MR. PALACIOS: Are there any questions for Ms.

1 Flores?

2 (No response.)

3 MR. PALACIOS: Okay. Thank you very much,
4 Ms. Flores, Mr. Rey, Ms. Bankhead.

5 Let's move on now to the Internal Audit
6 Division status report.

7 MS. MENJIVAR-SUDDEATH: Good afternoon. For
8 the record, Sandra Menjivar-Suddeath, Internal Audit
9 director, and I'm presenting item 16.B which is the
10 Internal Audit Division status report, and that can be
11 found on page 196 of your board book. The Internal Audit
12 status update includes information on our two completed
13 audit engagements, our four current engagements, and our
14 four external coordination efforts.

15 The first item list on the report is the
16 employee classification and hiring process audit that was
17 completed in January 2019. The audit objective was to
18 determine whether hiring processes are sufficiently agile
19 to address current and emerging staffing needs. And I
20 apologize, the report is on page 200. We rated the
21 engagement a two which means procedures were being
22 followed by several employees but the results may not be
23 consistent, the process is not completely documented and
24 has not been sufficiently evaluated for risk.

25 We gave this rating because we had four audit

1 results related to clarifying the job classification
2 review process, monitoring background check contract
3 deliverables, reporting on conflict of interest and
4 shortening hiring time frames. We issued seven audit
5 recommendations and the Human Resource Division has
6 implemented several of them and is in the process of
7 implementing the rest. The audit was led by Derrick
8 Miller, one of our senior auditors.

9 The next item on the Internal Audit status is
10 the Lemon Law investigation and process audit, which the
11 report is on page 221 of your board book. It was also
12 completed in January. The audit's objective was to
13 determine whether the Lemon Law processes provide
14 equitable and objective resolution as well as to determine
15 whether the Lemon Law processes are achieving objectives.

16 We found that the department is achieving
17 objectives and has taken several steps to be seen as
18 equitable and objective by providing equal opportunity for
19 the consumer and manufacturer to present their case and
20 providing a cost-effective resolution to manufacturers and
21 consumers, however, additional steps can be taken.

22 We also rated this engagement as a level two
23 because we issued four audit results, including defining
24 roles and responsibilities between the Enforcement
25 Division and the Office of Administrative Hearings,

1 increasing or leveraging technology, increasing
2 communication to consumers, and identifying conflict of
3 interest. We issued a total of ten audit recommendations
4 to address these concerns, and Jason Gonzalez was the
5 senior auditor who led the engagement.

6 The next item that we published is the fiscal
7 year 2019 quarter one internal audit followup memorandum
8 which is on page 242 of your board book. We identified
9 audit recommendations that were expected to be implemented
10 or were implemented between September 1 through November
11 30, 2018. In total we reviewed nine audit recommendations
12 from four internal audit reports, with six of them having
13 a high priority and three having a low priority. Six
14 audit recommendations were fully implemented which gave us
15 an implementation rate of 67 percent. The remaining three
16 that remained open actually had been already submitted for
17 implementation review again.

18 The next items listed are current engagements
19 which include two audits and two advisory services, and
20 those advisory service agreements, as well as the
21 engagement memorandums, are on page 246 of your board
22 book.

23 The current engagements include an advisory
24 service on the enterprise project management governance
25 structure, an audit on information security risk

1 management, an audit on procurement and contract
2 management, and an advisory service on accounts
3 receivable. We anticipate these engagements to conclude
4 either in May or August of 2019.

5 And then the final item on the Internal Audit
6 status is the external audit coordination engagements.
7 The one item to note is that the State Auditor's Office is
8 concluding their audit on contract management. The report
9 has been drafted and we anticipate that it will be
10 released within a couple of weeks and you will be provided
11 a copy.

12 That concludes my status. Any questions?

13 MR. TREVIÑO: Ms. Menjivar, staff is supportive
14 and cooperative in your audits?

15 MS. MENJIVAR-SUDDEATH: Yes.

16 MR. TREVIÑO: Great.

17 MS. MENJIVAR-SUDDEATH: Even Ms. Flores.

18 MR. TREVIÑO: Even Ms. Flores. Let the record
19 show.

20 (General laughter.)

21 MR. PALACIOS: Notice she singled her out.

22 MR. TREVIÑO: I'm not quite sure.

23 MS. MENJIVAR-SUDDEATH: This is for everyone.
24 She called me boring yesterday, so the truth be known.

25 MR. TREVIÑO: There is nothing boring in what

1 you do.

2 MR. PALACIOS: An accountant calling an auditor
3 boring.

4 (General laughter.)

5 MR. TREVIÑO: And continuing with the boring
6 theme, were there any root causes or any sort of themes
7 within your audits that are broader for the department to
8 think about incorporating across your system, any root
9 causes, anything you can think of?

10 MS. MENJIVAR-SUDDEATH: You know, I think the
11 key is communication in reviewing processes. Both the
12 employee classification and hiring audit, as well as the
13 Lemon Law, it really was more about communication and
14 going in and reviewing your processes and making sure that
15 they're achieving effective.

16 MR. GRAHAM: Just to follow up on the Lemon
17 Law, my question that I had written down -- and it's been,
18 I guess, a couple of weeks since I read it, do you feel
19 like -- obviously there was some pretty significant
20 challenges there -- do you feel like staff is appropriate
21 and adequate to solve these issues?

22 MS. MENJIVAR-SUDDEATH: I think so. I think
23 that was really just communication between two divisions.
24 You know, when you have a function that is being done by
25 two separate divisions, communication becomes really key

1 in that, and so there was some communication gaps and I
2 think the audit had really helped identify those gaps and
3 now they're coordinating better to make sure that Lemon
4 Law is as effective as possible.

5 MR. GRAHAM: And so this is one of the things
6 that's reflected on our KPI measurements that we monitor,
7 and if I'm sitting here thinking -- I'm trying to
8 remember, again, it's been a couple of weeks -- I don't
9 know that this really showed up on that measurement that
10 we could identify as a board problems within this segment
11 based on those KPIs. Am I thinking correctly?

12 MS. MENJIVAR-SUDDEATH: That would be correct.

13 I don't have the KPIs in front of me, but the KPIs, I
14 believe, are more about getting cases closed by 150 days.

15 I believe that's one of the measures, I'm not sure what
16 the other ones are. So some of the coordination between
17 the two divisions would not show up there because it's
18 more focused on the output, not the outcome or the input.

19 MR. GRAHAM: Okay. Thank you.

20 MS. BREWSTER: Mr. Chairman, if I may?

21 MR. PALACIOS: Yes.

22 MS. BREWSTER: Despite the items that Sandra
23 pointed out, the Lemon Law, the Office of Administrative
24 Hearings is still able to meet many of its KPIs. So there
25 are certainly things that we need to do to improve our

1 overall communication between the two divisions so that
2 ultimately we are more efficient, however, we are still --
3 the 150-day requirement, we are surpassing that. So there
4 are certainly areas that we need to improve on, as pointed
5 out in the audit, but in terms of the KPIs and closing out
6 those cases, they are doing that.

7 MR. GRAHAM: All right. Thank you.

8 MS. BREWSTER: Yes, sir.

9 MR. PALACIOS: Are there any other questions
10 for Ms. Menjivar?

11 (No response.)

12 MR. PALACIOS: Thank you very much for your
13 presentation.

14 Okay. Moving right along, Legislative and
15 Public Affairs update. Ms. Love.

16 MS. LOVE: Good afternoon. For the record, my
17 name is Caroline Love, director of the Government and
18 Strategic Communications Division of the department, and I
19 have a briefing today on the status of the 86th
20 Legislature and impacts on the department that starts on
21 page 256 of your briefing binders.

22 I'll just note as I begin that a lot of what I
23 put together I did a week ago and things are constantly
24 changing at this point, so I'll have some verbal updates
25 that I'll provide, in addition to what you'll see in your

1 books there.

2 So as you can see from page 256, there's a lot
3 of the key dates that we have for the legislative session.

4 We are 30 days in, we have 30 days until the filing
5 deadline, and we have about 110 days until the legislature
6 adjourns sine die. Of course, the joke is these first 30
7 days it's all about building camaraderie and friendship,
8 which I think we've seen in a lot of press conferences,
9 but in those last 30 days that all gets torn apart.
10 That's a joke that I did not come up with, by the way. I
11 don't want to be attributed that.

12 (General laughter.)

13 MS. LOVE: I did want to mention that we have
14 seen approximately 2,500 bills filed so far this session.

15 Of those, there are just over 200 that we have identified
16 as having a potential impact on the department, should
17 they pass. And to date there hasn't been a whole lot of
18 legislation filed that has a significant impact on the
19 department, but we certainly are hearing of things that
20 are in the works, so I think in these next 30 days we'll
21 be seeing a lot of things come through that we'll be
22 identifying, including the filing of our Sunset
23 legislation which has not been filed yet but we hear it
24 should be happening any day. The authors, we've been
25 told, are Senator Dawn Buckingham and Representative Chris

1 Paddie, so we'll be on the lookout for those and we'll
2 certainly be working closely with those offices throughout
3 the session.

4 Of the legislation that's filed so far, there's
5 a handful of bills that create new specialty license
6 plates, because how can you not have a session without new
7 specialty license plates. Those that are being created
8 include one honoring Polish Americans in Texas, another
9 one that would create a new plate for justices of the
10 peace, and then there's another couple of bills that would
11 create an F-35 Fighter Jet specialty license plate, so
12 exciting things out there.

13 There's also some bills -- speaking of license
14 plates -- that would not require a front plate on
15 vehicles. Some of those have all been considered in the
16 past. If they maybe block a sensor in the front, you
17 might not be required to have that, or if you just don't
18 have that bracket, per se. One of the more interesting
19 ones was that if you have a manufactured suggested retail
20 price of a base vehicle for \$60,000 or more, you would not
21 be required show that front license plate. So those are
22 some of the interesting things that we've been seeing out
23 there, and we'll see how that goes. I think, as we've
24 seen in the past, there's certainly significant interest
25 in Texas of maintaining two license plates, but we'll see

1 what happens this session, so more to come on that.

2 The next pages you'll see in the presentation
3 include a listing of all those legislators who have been
4 assigned to the committees that we tend to work with most
5 closely. So that includes our Senate Transportation
6 Committee. Senator Nichols is once again the chair of
7 that committee, and there were a couple of new members on
8 that: Carol Alvarado, she was a member of the House but
9 then she was recently elected to the Senate; and then also
10 Senator Charles Schwertner, he had not been on the
11 committee before. But all the other members have served
12 on that committee previously, so thankfully not a big
13 learning curve there. I think there will be a lot of
14 familiarity with our agency and functions in that
15 committee.

16 There's also the list of those members
17 appointed to Senate Finance, which obviously we do work
18 with closely as it comes to our budget. And then we also
19 tend to have things go through the Senate Business and
20 Commerce Committee, and that chairman is Senator Kelly
21 Hancock, and he's been chairman of that committee in the
22 past, and then Senator Nichols is vice chair of that
23 committee and he's served on that committee previously as
24 well.

25 On the House side we have a lot of new faces.

1 On the House Transportation Committee, Representative
2 Terry Canales was appointed chairman of that committee and
3 he has never served on transportation before. In fact, of
4 that 13-member committee, only four of those legislators
5 that you see there have actually served on that committee
6 in the past, so there are a lot of new faces on that
7 committee.

8 The House Appropriations Committee is certainly
9 the largest committee that the House has, and just earlier
10 this week -- and it's not noted in your briefing
11 materials -- the Subcommittee on Articles 6, 7 and 8, and
12 our budget is included in Article 7, that committee was
13 announced. Representative Toni Rose is chair of that
14 subcommittee; Cecil Bell, who served on Appropriations and
15 our subcommittee in the past, is vice chair of that
16 committee. And then the other members include:
17 Representative Ina Minjarez who was on House
18 Transportation in the past; Representative Sergio Munoz
19 who was also on our subcommittee in the past; and then a
20 couple of new members, Representative Reggie Smith, he's a
21 freshman this session; and then Representative Steve Toth,
22 who was recently reelected, he had served in the House in
23 the past; and then Representative Terry Wilson, this is
24 his second term in the House. And so we have a couple of
25 new faces in Appropriations to work with as well.

1 And then, of course, the Licensing and
2 Administrative Procedures Committee is another committee
3 that we tend to work with frequently when it comes to any
4 kind of dealer licensing issues or anything like that.

5 We also have some hearings that are either past
6 or upcoming. Ms. Flores mentioned that we did have Senate
7 Finance last week. And then after the announcement of the
8 Appropriations subcommittees, Chair Toni Rose announced
9 and posted for our subcommittee hearing with that group on
10 this coming Monday morning at 7:30 a.m. That's a great
11 way to start the week. Right? So we're preparing to
12 present out budget requests in that hearing.

13 And then we also had the House Transportation
14 Committee reached out and they're likely going to hold
15 their organizational hearing next Wednesday, so we're
16 preparing for that as well. They'll like to hear from the
17 Department of Transportation and us, just kind of a
18 general overview of the agency and any kind of issues that
19 we see that we need to work through during the session.

20 And that kind of provides the bulk of what I
21 had to offer for today. The board recommended items for
22 the 86th Legislature, they're working through the
23 legislative drafting process. We should have something
24 more on that soon in terms of when they'll be filed. But
25 I'm definitely happy to answer any questions that you may

1 have. I know I'm standing between you and adjournment.

2 MR. PALACIOS: Thank you very much, Ms. Love,
3 for your insight and information. That's very, very
4 useful.

5 Okay. Let's move along. She's right.

6 Is there anything else, Ms. Swanson?

7 MS. SWANSON: No.

8 MR. PALACIOS: Okay. Before we adjourn, I
9 would like to acknowledge and commend Ms. Swanson for the
10 time that she has spent as our general counsel. She
11 stepped up with very, very little notice, and I will say
12 you've done a magnificent job. You've exceeded our
13 expectations and just want to thank you for everything
14 that you've done.

15 MR. BARNWELL: Absolutely.

16 (Applause.)

17 MR. PALACIOS: You've been a great pleasure to
18 work with.

19 I will say, as well, again, thank you, Kate and
20 Luanne. We will miss you tremendously and we hope that
21 you come back and see us, and wish you nothing but the
22 best going forward. God bless the two of you. Thank you.

23 With that, we have no public comment. Correct?

24 MS. SWANSON: Correct.

25 MR. PALACIOS: Okay. Great. Well, then I will

1 entertain a motion to adjourn the meeting.

2 MR. BARNWELL: So moved.

3 MR. PALACIOS: Second?

4 MR. SCOTT: Second.

5 MR. PALACIOS: All in favor?

6 (A show of hands.)

7 MR. PALACIOS: Meeting adjourned. Thank you.

8 (Whereupon, at 12:23 p.m., the meeting was
9 adjourned.)

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C E R T I F I C A T E

MEETING OF: TxDMV Board
LOCATION: Austin, Texas
DATE: February 7, 2019

I do hereby certify that the foregoing pages, numbers 1 through 70, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy H. King before the Texas Department of Motor Vehicles.

DATE: February 14, 2019

/s/ Nancy H. King
(Transcriber)

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