

TEXAS DEPARTMENT OF MOTOR VEHICLES

BOARD MEETING

8:30 a.m.  
Thursday,  
May 2, 2019

Lone Star Room  
Building 1  
4000 Jackson Avenue  
Austin, Texas

BOARD MEMBERS:

Guillermo "Memo" Treviño, Chair  
Charles Bacarisse  
Stacey Gillman  
Brett Graham  
Tammy McRae (absent)  
Gary Painter  
John M. Prewitt  
Paul R. Scott  
Shelley Washburn

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P R O C E E D I N G S

1  
2 MR. TREVIÑO: Good morning, ladies and  
3 gentlemen. My name is Guillermo "Memo" Treviño, and I am  
4 pleased to open the Board meeting of the Texas Department  
5 of Motor Vehicles. It is -- I can't read the clock.  
6 Let's --

7 FEMALE VOICE: 8:34.

8 MR. TREVIÑO: 8:34. It is 8:34 a.m., and I'm  
9 now calling the Board meeting for May 2, 2019, to order.  
10 I want to note for the record that the public notice of  
11 this meeting containing all items on the agenda was filed  
12 with the Office of Secretary of State on April 23, 2019.

13 Before we begin today's meeting, please place  
14 all cell phones and other communication devices in the  
15 silent mode and please, as a courtesy to others, do not  
16 carry on side conversations or other activities in the  
17 meeting room.

18 If you wish to address the Board or speak on an  
19 agenda item during today's meeting, please complete a  
20 speaker's sheet at the registration table. Please  
21 identify on the sheet the specific item you are interested  
22 in commenting on, and indicate if you wish to appear  
23 before the Board and present your comment, or if you only  
24 wish to have your comment read into the record.

25 If your comment does not pertain to a specific

1 agenda item, we will take your comment during the general  
2 public comment portion of the meeting. In accordance with  
3 Department administrative rule, comments to the Board will  
4 be limited to three minutes.

5 To assist each speaker, a timer has been  
6 provided. The timer light will be green for the first two  
7 minutes, yellow for one minute and then red when your time  
8 is over. Individuals cannot accumulate time from other  
9 speakers.

10 Comments should be pertinent to the issues  
11 stated on the comment sheet. When addressing the Board,  
12 please state your name and affiliation for the record.  
13 Before we begin today, I'd like to remind all presenters  
14 and those in attendance of the rules of conduct at our  
15 Board meetings.

16 In the Department's rules, Section 206.22, the  
17 Board Chair is given authority to supervise the conduct of  
18 meetings. This includes the authority to determine when a  
19 speaker is being disruptive of the meeting or is otherwise  
20 violating the timing or presentation rules I just  
21 discussed.

22 Okay? And now I'd like to roll call -- have a  
23 roll call for Board members. Board member Bacarisse?

24 MR. BACARISSE: Here.

25 MR. TREVIÑO: Board member Gillman?

1 MS. GILLMAN: Here.

2 MR. TREVIÑO: Board member Graham?

3 MR. GRAHAM: Here.

4 MR. TREVIÑO: Board member Painter?

5 MR. PAINTER: Here.

6 MR. TREVIÑO: Board member Prewitt?

7 MR. PREWITT: Here.

8 MR. TREVIÑO: Board member Scott?

9 MR. SCOTT: Here.

10 MR. TREVIÑO: Board member Washburn?

11 MS. WASHBURN: Here.

12 MR. TREVIÑO: Good. And let the record reflect  
13 that I'm Memo Treviño, and I'm here today. We have a  
14 quorum. Also let the record reflect that member McRae is  
15 absent today, and we look forward to seeing her at the  
16 next meeting.

17 Please all -- okay. Let's all please stand in  
18 honor of our country with the pledges of allegiance.

19 (Whereupon, the U.S. and Texas pledges were  
20 recited.)

21 MR. TREVIÑO: Okay. All right. We'll begin  
22 with Agenda Item 3-A. On March 26, 2019, Governor Abbott  
23 appointed Charles Bacarisse of Houston as a public  
24 representative, Stacey Gillman of Houston as a franchised  
25 auto dealer representative, Tammy McRae of Conroe as a tax

1     assessor-collector representative, and Shelley Washburn of  
2     Houston as a vehicle manufacturer distribution industry  
3     representative.

4             The terms for members Bacarisse, Gillman, and  
5     McRae expire on February 1, 2025, and the term for member  
6     Washburn expires on February 1, 2021. The Governor also  
7     named me as Chair of the Board. The new members have  
8     received Senate confirmation and they have fulfilled the  
9     required training.

10            Also, they have completed all required  
11     paperwork, have been duly sworn into office, and have  
12     received their commission from the Texas Secretary of  
13     State. You can read more about our new Board members on  
14     our Department website under the "About Us" section, and I  
15     would encourage everyone to take a quick look at that.

16            It's a very diverse Board with some excellent  
17     credentials and we're very lucky to have them. I commend  
18     the Governor for his selection in these very, very  
19     distinguished representatives. I look forward to working  
20     with them.

21            Please join me in welcoming our new Board  
22     members.

23            (Applause.)

24            MR. TREVIÑO: The State of Texas has high  
25     expectations. Okay. Now, so this is a great meeting



1 because we are welcoming some fantastic Board members, so  
2 it's very exciting, but I'm telling you, it's also very  
3 sad, because we will now to move Agenda Item 3-B.

4 I want to take this opportunity to thank  
5 outgoing members Raymond Palacios, the former Chairman of  
6 this Board, Barney Barnwell, whose terms ended with the  
7 new appointments. Mr. Palacios served on the Board since  
8 August 2011 and was appointed Chair in August 2016.

9 Mr. Barnwell served on the Board since June  
10 2012. Both Raymond and Barney were actively engaged in  
11 many important issues throughout their time on the Board  
12 and they will be missed. And I'm a little disappointed  
13 that we couldn't encapsulate their record and also  
14 their -- what they've given to the State of Texas in this  
15 short paragraph, because the time, the energy, what they  
16 have put into this for the citizens of Texas, you would  
17 need a volume, 3-, 400 pages long to kind of detail what  
18 they've been able to give to all the citizens of the State  
19 of Texas.

20 I can't thank them enough for their reasoned  
21 approach to problems, but also for their good fellowship.

22 It's really a sad thing for me to say goodbye, but I  
23 thank them, and I know that they will be of service in  
24 other areas to our state, to our great state.

25 Okay. So we will now -- should we honor them?

1 FEMALE VOICE: Let's do it.

2 MR. TREVIÑO: Do we honor them?

3 FEMALE VOICE: Yes.

4 MR. TREVIÑO: Let's honor them --

5 FEMALE VOICE: Yes.

6 MR. TREVIÑO: -- because that's appropriate.

7 That's the fun part of the meeting. Okay. Let's do that.

8 (Pause for presentations and photos.)

9 MR. BARNWELL: I'm been wanting to say, Memo --

10 MR. TREVIÑO: Yes, sir, Barney. What? Please.

11 MR. BARNWELL: Everybody, I'm going to leave  
12 now.

13 MR. TREVIÑO: Stay, stay, stay.

14 MR. BARNWELL: Some of you may want to come  
15 along with me, because I'm going back to Houston. I want  
16 to say what an honor it's been to know the staff and meet  
17 you and see the commitment and dedication all of you have.

18 The Board members I got to know because we were in  
19 meetings and talking about the issues of the day and  
20 different things.

21 So I know their commitment, but I just wanted  
22 to tell you, thank you for your commitment and dedication  
23 to this great Department that we have here, and I know the  
24 future is going to be even brighter within your continued  
25 hard work.

1                   And the Board, congratulations to you. Memo,  
2 Charles, Brett, Stacey, Paul, and Shelley, and you over  
3 there, John Prewitt, thank you all for your commitment and  
4 your service, and we'll -- with that, we'll shuffle off  
5 into the sunset.

6                   MR. TREVIÑO: Here, here. Well said, well  
7 said, well said. Mr. Chairman, please.

8                   MR. PALACIOS: I promise I will be brief. I --  
9 when I first signed up for this assignment back in 2011, I  
10 had no idea what DMV did. I just thought we did drivers'  
11 licenses and license plates.

12                   (General laughter.)

13                   MR. PALACIOS: But that's become -- but as --  
14 immediately I got an appreciation for how complex this  
15 organization is. I will leave here with a tremendous  
16 degree of respect and appreciation for everything that  
17 y'all do.

18                   I -- honestly, I -- sometimes government  
19 workers don't get all the credit they deserve, but I will  
20 tell you this. I want to thank you, all of you, for the  
21 commitment and the dedication that you provide the state  
22 of Texas.

23                   Texas is better served because of everything  
24 that you do and it has been an honor and a privilege to  
25 work with you. And so thank you very much for all the

1 support you've given me. What I'll miss most, honestly,  
2 is the camaraderie of the people that I've got to meet,  
3 including the Board members.

4           Congratulations to the new Board members.

5           MS. GILLMAN: Thank you.

6           MR. PALACIOS: I will just give you one word of  
7 advice here, and this is serious. In the Marine Corps,  
8 Jeremiah and Sheriff, you know, there's a motto, lead,  
9 follow, or get the heck out of the way, something like  
10 that.

11           You were appointed by the Governor, and the  
12 Legislature gives you directives. You only have one  
13 choice. You lead. Lead this agency. Do not relinquish  
14 that authority or allow it to be usurped. With that, I'll  
15 leave.

16           MR. TREVIÑO: Here, here. Thank you very much.  
17           Yeah. I think it was very appropriate for them to  
18 recognize staff, but also, you know, having a strong board  
19 chair like Chairman Palacios and a good Board member like  
20 Barney -- this agency is in a good state, has good  
21 controls, and that is a testament to their time and  
22 service and leadership on this Board, and it is a very sad  
23 day for me personally.

24           I can't speak for the Board. I will never  
25 speak for the Board without their permission, so I can

1 only speak for myself, but I will miss them, their  
2 leadership, their counsel and their friendship greatly.  
3 But we'll still see each other, I hope.

4 Mr. Chairman, Barney, thanks again, thanks  
5 again. Okay. All right. Everybody take a deep breath.  
6 All right. Okay. We have a lot of new faces today, and  
7 even though Tracey has been here for a while, it is our  
8 great pleasure to move to Agenda Item 3-C regarding our  
9 new general counsel.

10 At the February 7 Board meeting, the Board  
11 approved the hiring of Tracey Beaver as the general  
12 counsel. Tracey's first official day was February 25.  
13 Tracey joined us from the Texas Department of Insurance,  
14 where she served in positions including assistant general  
15 counsel and director in their Legal and General Counsel  
16 Divisions.

17 With that, please join me in giving her a warm  
18 welcome.

19 (Applause.)

20 MR. TREVIÑO: Tracey, it's great to have you  
21 here. Okay. All right.

22 Now, we also have some recognitions as well.  
23 Yes, sir?

24 MR. GRAHAM: Mr. Chairman --

25 MR. TREVIÑO: Yes, sir.

1 MR. GRAHAM: -- real briefly, I'd just like to  
2 say, thank you to Sarah for her interim work --

3 MR. TREVIÑO: Here, here.

4 MR. GRAHAM: -- in the interim and the amazing,  
5 absolutely amazing job that she did and represented us  
6 well and worked with us, the Board, in a great way. So  
7 thank you, Sarah. I just wanted to --

8 MR. TREVIÑO: Here, here. Here, here.

9 (Applause.)

10 MR. TREVIÑO: Here, here. Thanks a lot, member  
11 Graham, for reminding of us of that. She was -- did a  
12 great job in the interim and we're very glad that she's  
13 still here, because we're --

14 MR. GRAHAM: Amen.

15 MR. TREVIÑO: Okay. So now we're going to also  
16 recognize -- this is exactly the kind of thing that, you  
17 know, member Graham is great at doing, so he's -- we're  
18 recognizing him right now, as Texas DMV Board member was  
19 honored last month with the "Okay to Say" Leadership Award  
20 during the Community Behavioral Health Conference in  
21 Denison.

22 The award is presented to individuals who show  
23 an exemplary commitment to raising awareness about mental  
24 health and encouraging to talk openly about it. Okay to  
25 Say is an award-winning public health awareness campaign

1 initiated by the Meadows Mental Health Policy Institute,  
2 which is a non-partisan policy research and development  
3 organization that strives to improve mental health  
4 services all over Texas.

5 Brett is a former board chairman of the Texoma  
6 Health Foundation and he was honored for his work to  
7 establish the first Community Behavioral Health Conference  
8 in 2017, and he was also a part of the team that created  
9 the framework for the Texoma Behavioral Health Leadership  
10 Team, a monumental step in the direction of change for the  
11 Texoma community.

12 Brett's tireless energy and devotion to the  
13 people of Texoma has played a major role in the shift in  
14 Texoma's culture by creating and embracing a place for  
15 mental health and well-being. Please join me in a round  
16 for member Graham.

17 (Applause.)

18 MR. GRAHAM: Let me -- yeah -- let me just  
19 say --

20 MR. TREVIÑO: Sure. Go ahead.

21 MR. GRAHAM: -- that, you know, we all -- and  
22 we all know people who -- or personally, family, that  
23 suffer in some form or fashion from a mental health  
24 challenge, whether it's a one-time thing, whether it's a  
25 lifelong struggle, and yet, you know, we don't want to

1 talk about it.

2 We don't want anybody to know, and you know, if  
3 you get sick and you've got to go to the hospital, and you  
4 need to have surgery, that's okay, but if you have a  
5 mental health challenge, you know, it's taboo. And so  
6 this is really important.

7 It was important to me, to -- you know, I'm a  
8 truck guy. I'm in the truck industry, you know. We're  
9 supposed to be super tough. We're, you know, tough guys  
10 and so it seemed like I was the perfect person to step up  
11 and lead the charge and say, you know what?

12 It is okay to say, you know, I'm having  
13 struggles or I'm having a problem. And so it was a real  
14 honor to be able to do that. It was -- the timing was  
15 amazing. I was in the right place in the right time with  
16 the right people, and our community is better off because  
17 of the work of everyone, not just me.

18 I just was the one standing at the front. So  
19 anyway, it's okay to say, so don't forget that.

20 (Applause.)

21 MR. TREVIÑO: Well said, well said. And the  
22 state of Texas is better for having you here, and this is  
23 the type of selfless public leadership that this Board  
24 represents, and I just want to thank you for doing that.

25 MR. GRAHAM: Thank you, thank you.



1 MR. TREVIÑO: Well said, Brett. Okay. And  
2 also, along the same lines, Sheriff Painter, Texas DMV  
3 Board member Gary Painter was elected president of the  
4 Western States Sheriffs Association last month. WSSA is  
5 comprised of sheriffs and their command staff from  
6 17 states.

7 In the western half of the U.S., with WSSA --  
8 I'm sorry -- excuse me. In the western half of the U.S.,  
9 WSSA was formed in 1993 in an effort to allow sheriffs to  
10 assist each other in fulfilling their duties and  
11 obligations related to law enforcement in their respective  
12 counties.

13 In addition to his duties with the Midland  
14 County Sheriffs Office, WSSA, and the Texas DMV Board,  
15 Sheriff Painter is also a past president of the Sheriffs  
16 Association of Texas with a lifetime membership, and he  
17 serves on the Legislative and Technology committees.

18 He was appointed to the Texas DMV Board by  
19 Governor Abbott after serving seven years on the Texas  
20 Commission of Jail Standards. Please join me in a round  
21 of applause for Sheriff Painter.

22 (Applause.)

23 MR. GRAHAM: Sheriff, quick question. We were  
24 talking last night about maybe going to New Mexico and  
25 hanging out with Raymond Palacios and riding around,

1 shooting guns, having fun. If we get in trouble, does  
2 that -- that means that now your reach extends west.  
3 Right? So --

4 MR. PAINTER: I know some sheriffs in New  
5 Mexico. They'll give you a good bed.

6 MR. GRAHAM: All right. Hey, John, we're in  
7 business, buddy.

8 MR. TREVIÑO: Okay. Let that be noted in the  
9 public record. Okay. Yeah. Well, great. How do you  
10 follow that? Okay. So congratulations, Sheriff Painter.

11 MR. PAINTER: Thank you. Appreciate it.

12 MR. TREVIÑO: All right. Okay. So next, as a  
13 result of our recent change in Board members and Chair, we  
14 are going to make some changes in the committee  
15 assignments. Finance and Audit Committee is currently  
16 chaired by Brett Graham.

17 He will continue to serve in that capacity.  
18 Brett, if you are still willing to serve in --

19 MR. GRAHAM: Absolutely. Be glad to.

20 MR. TREVIÑO: Great. Thank you very much. And  
21 members will consist of Charles Bacarisse, Stacey Gillman,  
22 and John Prewitt, if you are so inclined to serve.

23 MR. BACARISSE: I am.

24 MR. TREVIÑO: Great. Legislative and Public  
25 Affairs will be headed by Gary Painter, if you will serve

1 in that capacity as chair, and members Tammy McRae, Paul  
2 Scott, and Shelley Washburn. Projects and Operations, the  
3 Projects and Operations Committee will consist of John  
4 Prewitt.

5 John, if you're okay with that?

6 MR. PREWITT: Yes, sir.

7 MR. TREVIÑO: Great. And members Tammy McRae,  
8 Paul Scott, and Shelley Washburn. We're looking for some  
9 active leadership in these areas, and I know that they  
10 already have plans for their committees to meet and to  
11 look at some specific objectives for each one of those.

12 So thank you very much for serving. Okay. We  
13 will now move to Agenda -- so we're good with that.

14 MS. BREWSTER: Yes, sir.

15 MR. TREVIÑO: Are you ready? So we'll move to  
16 Agenda Item 4, and I will turn it over to our executive  
17 director, Whitney Brewster.

18 MS. BREWSTER: Thank you, Mr. Chairman. Good  
19 morning, Board members. At this point, I would like to  
20 update the Board on a major initiative going on in the  
21 Agency, which is the Sunset process. In front of you, you  
22 should see a document that looks like this.

23 This is a dashboard of the Agency's current  
24 standing with management recommendations. The Sunset  
25 Advisory Commission adopted 33 recommendations, 16 of

1 which were management actions, and management actions were  
2 effective immediately upon the vote of the Sunset Advisory  
3 Commission on August 29.

4 So the Agency has been moving forward with  
5 implementing those, because the effective date was  
6 immediate. The statutory recommendations are in our  
7 Sunset bill that is making its way through the legislative  
8 process, and our Government and Strategic Communications  
9 Division director, Caroline Love, will give the Board an  
10 update on that during her legislative presentation.

11 At our last Board meeting in February, I  
12 reported that the Department had implemented seven of the  
13 management actions. I'm please to report that we, as of  
14 today -- we have implemented an additional item, and that  
15 is the completion of the study on alternative registration  
16 technology required by House Bill 1959 which was in the  
17 85th Legislature.

18 And I'll be talking about that in more detail  
19 shortly. This leaves eight management actions remaining  
20 for full implementation, all of which are currently in  
21 progress. You will be seeing a couple of these items  
22 coming up in the June Board meeting.

23 So there -- we are set to check off a couple  
24 more here in the very near future, but we're making great  
25 progress, and just wanted to make sure that the Board was

1 kept up to date, because this is such a big thing for the  
2 Agency.

3 With that, I'd be happy to answer any  
4 questions.

5 MR. TREVIÑO: So would you say you are on the  
6 original time line? Are you guys behind? Are you ahead?  
7 Or about where you wanted to be at this point?

8 MS. BREWSTER: I think we're -- I actually  
9 think that we're ahead in many ways. Some of these things  
10 require Board action --

11 MR. TREVIÑO: Sure. Of course.

12 MS. BREWSTER: -- and so they need to be set  
13 for a Board meeting, which I think we're definitely on  
14 time with all of the items that had a date specific. Some  
15 of them did not have a date specific, but some of them  
16 did, and we are on target for all of those.

17 MR. TREVIÑO: Great. Okay. Any other  
18 questions?

19 (No response.)

20 MS. BREWSTER: All right. Moving on to Item B,  
21 House Bill 1959, as I just referenced, from the 85th  
22 Legislature, required the Agency to conduct a study to  
23 assess alternative technologies for registering commercial  
24 motor vehicles, to look at the replacement of license  
25 plates, permits, and other existing documentation and

1 registration methods used in Texas.

2 That -- the bill, HB 1959, indicated that we  
3 were to do this study by December 1, 2021. However, as a  
4 management recommendation by Sunset, there was the  
5 recommendation for the Agency to complete that study  
6 earlier.

7 And I just wanted to report that we did turn  
8 that in on time. The accelerated due date was March 31,  
9 2019. We were able to submit that early. We contracted  
10 with Texas State University and -- to complete the study  
11 and then to develop a pilot plan for testing these  
12 technologies and the feasibility of them on Texas  
13 roadways.

14 Four alternative technologies with the  
15 potential to replace some of the required commercial motor  
16 vehicle documentation were identified and analyzed:  
17 automated license plate readers, radio frequency  
18 identification transmitters, connected license plates, and  
19 electronic registration cards.

20 The legislation, HB 1959, also required us to  
21 look at the creation of a possible pilot, which according  
22 to the legislation, would be due by December 1, 2022.  
23 Phase 1 -- the proposed pilot had two phases. Phase 1  
24 would be an off-road testing process to determine  
25 legibility for both -- to the human eye as well as

1 license-plate readers in ideal conditions.

2 It also would include a brief survey to  
3 identify the usefulness of connected plates for law  
4 enforcement, and finally, a marketability survey to  
5 identify how likely motor carriers would be to adopt  
6 connected plates.

7 Phase 2 would use real-life, on-road testing on  
8 a regional basis, and the pilot plan suggested the use of  
9 I-45 between Dallas and Houston. The regional on-road  
10 test was designed to further understand law enforcement  
11 officers' use of the technology and the ability of way  
12 stations, the automatic license plate readers, to read  
13 connected license plates, and also a test of toll  
14 stations' automatic license plate readers as well.

15 Both phases of the proposed pilot study would  
16 be completed for an estimated \$300,000, according to Texas  
17 State, and that concludes my update on that item. There  
18 is a piece of legislation that is going through the  
19 Legislature right now to fully implement digital license  
20 plates, also called connected license plates in the study,  
21 and Caroline Love will go into more detail about the  
22 status of that bill here shortly in her presentation, but  
23 I just wanted to let the Board know that that study is  
24 complete.

25 It's been submitted to the Legislature in a

1 timely fashion, and it is posted on the TxDMV's website  
2 for review.

3 MR. TREVIÑO: Great.

4 MS. BREWSTER: Is there --

5 MR. TREVIÑO: Any questions on that?

6 MS. BREWSTER: All right.

7 MR. TREVIÑO: All right.

8 MS. BREWSTER: At this time, we would like to  
9 recognize our recent retirees and employees who have  
10 reached a State service milestone. We celebrate these  
11 employees as a show of our appreciation for their years of  
12 service to the citizens of Texas.

13 Martha Yancey with our Human Resources Division  
14 will read the service announcements. Chairman Treviño and  
15 Board members, if you will again arise and join me at the  
16 front of the dais to recognize these employees, I would  
17 appreciate it.

18 MS. YANCEY: Good morning. I'm Martha Yancey,  
19 Human Resources Division, and Ms. Brewster and -- she  
20 forgot something. And what I was going to say was, I'd  
21 like you and Chairman Treviño in the center if possible  
22 for the pictures.

23 Thank you. Okay. Here we go. The following  
24 employees have reached 20 years of State service. First  
25 of all, we have Kenneth Fatheree. Here he comes. Oh,



1 thank you. Kenneth is in the Enforcement Division and has  
2 been an investigator for TxDMV since 2009.

3 He conducts investigations on motor carriers  
4 and assists in serving and protecting both citizens and  
5 industries against dishonest practices. Recently, he was  
6 instrumental in assisting in one of the Department's  
7 largest consumer protection cases against a moving  
8 company.

9 The results of this case assisted federal law  
10 enforcement agencies to indict several individual with  
11 moving fraud and racketeering charges. Kenneth also  
12 trains moving companies on compliance, and he trains law  
13 enforcement how to recognize unlicensed motor carriers.

14 Kenneth is an avid outdoorsman. He also a  
15 State-registered beekeeper and thinks he's immune to bee  
16 stings. Congratulations on 20 years, Kenneth.

17 (Applause.)

18 MS. YANCEY: And next, we have Janie Bustos,  
19 Juanita Bustos, who goes by Janie. Come on up. Janie  
20 began her career with Vehicle Titles and Registration  
21 Division in 1999 and transferred to the Department of  
22 Motor Vehicles in November 2009.

23 She has worked in all areas of the San Antonio  
24 Regional Service Center learning each task and becoming  
25 very proficient in everything she does. She is now a lead

1 and serves as a trainer for the new hires, a lead expert  
2 for IRP, and assigned and reassigned numbers.

3 She was part of the RTS re-factoring efforts  
4 and has served -- and served three months testing the new  
5 RTS system in Austin. She has plans to retire at the end  
6 of August. We are so thankful to have Janie as part of  
7 our team for the last 20 years.

8 Congratulations, Janie.

9 (Applause.)

10 MS. YANCEY: And the following employees have  
11 reached a State service milestone, but were unable to join  
12 us this morning. Twenty years, Lee Gradney, Motor Carrier  
13 Division. Thirty years, Alice Carmona, Office of  
14 Administrative Hearings.

15 Thirty-five years, Alicia Beck, Motor Carrier  
16 Division. And last, Carl Cave from Motor Carrier  
17 Division, recently retired from the Agency. Thank you.

18 (Applause.) (Pause.)

19 MR. TREVIÑO: All right. Executive Director  
20 Brewster, are you done with your report?

21 MS. BREWSTER: Yes, sir. Thank you very much.

22 MR. TREVIÑO: Thank you very much for the  
23 succinct and great presentation. So now, moving right  
24 along, we are going into closed session. It is now 9:05  
25 a.m. on May 2, 2019. We will go into closed session under

1 Texas Government Code, Sections 551.071, 551.074 and  
2 551.089.

3 For those of you in the audience, I anticipate  
4 being in the executive session for approximately 30  
5 minutes. Tracey, do you agree with that? About 30  
6 minutes, and we will reconvene in open session after that.

7 With that, we are recessed from the public meeting, and  
8 we are going into executive session.

9 Thank you.

10 (Whereupon, at 9:05 a.m., there was an  
11 executive session.)

12 (9:35 a.m.)

13 MR. TREVIÑO: Ladies and gentlemen, we -- it is  
14 approximately 9:35 a.m., and the Board of the Texas DMV is  
15 back in open session. There are no actions arising from  
16 the executive session that the Board must act upon in open  
17 session pursuant to Section 551.102 of the Texas  
18 Government Code.

19 Okay. So now, we're moving into Agenda Item  
20 No. 6, contested cases. Daniel Avitia and Robert Rice  
21 will now address Agenda Item No. 6, contested case.  
22 Gentlemen, good morning.

23 MR. AVITIA: Chairman, members, Ms. Brewster,  
24 good morning. For the record, Daniel Avitia, director of  
25 the Motor Vehicle Division. With me this morning is Mr.

1 Rob Rice. Mr. Rice is an attorney with the Enforcement  
2 Division and provided the legal support at the State  
3 Office of Administrative Hearings on this matter.

4 Agenda Item 6, which can be found on page 5 of  
5 your Board books, is a contested case regarding the Texas  
6 Department of Motor Vehicles versus the Barnett Motor  
7 Company, Inc., dba Barnett Motors. Staff is asking the  
8 Board this morning to issue a final order which concurs  
9 with the Administrative Law Judge's proposal for decision  
10 to deny renewal and revoke Mr. Barnett Motors -- I'm  
11 sorry -- to revoke Barnett Motors Company's general  
12 distinguishing number, or GDN, license.

13 The ALJ in this case concluded that, based on  
14 the evidence presented and considering the applicable  
15 factors for licensure, this application should be denied.

16 The ALJ found that the Board has the authority and legal  
17 grounds for denying the application due to the  
18 respondent's criminal history, which includes a conviction  
19 for a sexual crime committed while on a test drive with a  
20 female customer.

21 Specifically, the ALJ found the following  
22 factors do not weigh in favor of licensure for Mr.  
23 Barnett. The nature of Mr. Barnett's past criminal  
24 history and direct relationship to the duties and  
25 responsibilities of a license holder and the lack of

1 evidence presented by Mr. Barnett regarding his  
2 rehabilitative efforts.

3 The respondent, Mr. Barnett, did not file  
4 exceptions to the ALJ's proposal for decision contesting  
5 the Judge's findings of fact or conclusions of law. Staff  
6 believes the ALJ's analysis of the law and the evidence  
7 presented in this case is thorough and that the  
8 conclusions of law reached in this case are reasonable and  
9 filed exceptions only to correct the respondent's name.

10 The ALJ subsequently issued an exceptions  
11 letter correcting the respondent's name. Therefore, staff  
12 again asks that the Board issue an order adopting the  
13 Judge's corrected finding of fact and conclusions of law  
14 and the Judge's recommendation, which is to revoke Barnett  
15 Company's GDN license.

16 The owner, Mr. Barnett, did receive notice of  
17 this meeting this morning, and has opted not to be present  
18 for this matter or to address the Board. Members, this  
19 concludes my remarks. I'm happy to answer any questions  
20 you may have.

21 MR. TREVIÑO: We'll now open up to questions  
22 from members of the Board.

23 MR. GRAHAM: Do we need a motion first or --

24 MR. TREVIÑO: No. We can ask questions, I  
25 believe, of --

1 MR. GRAHAM: Okay.

2 MR. TREVIÑO: -- staff --

3 MR. GRAHAM: Okay.

4 MR. TREVIÑO: -- and then after the motion,  
5 then we can discuss the motion, I believe, of staff.

6 MS. BREWSTER: Yes.

7 MR. TREVIÑO: Correct if I'm correct -- if I'm  
8 incorrect.

9 MR. GRAHAM: Okay. Yeah. Just a couple of  
10 questions. First of all, I support the decision. It's an  
11 unfortunate situation, and it's -- as a franchise dealer,  
12 I believe it's critical that we uphold the reputation and  
13 the requirements that are set for our dealers, and so I  
14 think that's really important.

15 It's always unfortunate in situations like this  
16 where there is an existing business, or you know,  
17 employees that are impacted, and so really, my question,  
18 my only question is, does someone else in the family have  
19 the ability to apply for the GDN to continue the  
20 operation?

21 I know it's not really relevant to this  
22 decision. I just -- does that happen? I mean, for the  
23 employees impacted, is that possible?

24 MR. AVITIA: It depends on the nature of the  
25 crime and the specific situation. I don't want to make a

1 hypothetical statement --

2 MR. GRAHAM: Sure.

3 MR. AVITIA: -- certainly. I believe in this  
4 case Mr. Barnett simply will not be in business any  
5 further. He did have options and opted not to choose  
6 those options.

7 MR. GRAHAM: Okay. All right. Thank you.

8 MR. TREVIÑO: Great question, member Graham.  
9 So unless there's any further discussion, I would like to  
10 entertain a motion.

11 MR. PREWITT: Mr. Chairman, I'd move that the  
12 Board enter a final order adopting findings of facts and  
13 conclusions of law as stated in the proposal for a  
14 decision, and ordering the penalties and sanctions  
15 recommended by the Administrative Law Judge.

16 MR. TREVIÑO: Great. We have a motion from  
17 member Prewitt. Do we have a second?

18 MR. PAINTER: Second.

19 MR. TREVIÑO: All in favor?

20 (A chorus of ayes.)

21 MR. TREVIÑO: Okay. So let the record show --

22 FEMALE VOICE: Was that -- if everybody could  
23 raise their hand when they say aye?

24 (A show of hands: Members Bacarisse, Gillman,  
25 Graham, Painter, Prewitt, Scott, Treviño, Washburn.)

1 FEMALE VOICE: Thank you.

2 MR. TREVIÑO: Okay. So okay. And so that -- I  
3 believe that's a unanimous decision. Is that correct?

4 MALE VOICE: Yes.

5 MR. TREVIÑO: Okay. The vote is unanimous.  
6 Thank you very much. Barbara Jordan and Heather Pierce  
7 will now address Agenda Item No. 7, another contested  
8 case.

9 MS. BEAVER: Mr. Chairman, actually before they  
10 start, this is Tracey Beaver, general counsel. I just  
11 wanted to let the Board that Ms. Jordan and Ms. Pierce are  
12 going to start, and then Mr. Waggoner will give his  
13 presentation.

14 They've been given ten minutes to present their  
15 information, and they're going to make sure their comments  
16 don't go into information outside of the record. If a  
17 question from the Board is asked, the speaker will tell  
18 you whether or not it's in the record, since you wouldn't  
19 be able to use any information outside of the record  
20 anyway.

21 MR. TREVIÑO: Okay. So do we have a public  
22 comment from Mr. Waggoner. Is that correct? Is that --

23 MR. WAGGONER: Yes.

24 MR. TREVIÑO: Great. Okay. So we start with  
25 public comment. Is that -- a comment from Mr. Waggoner?



1 What is the --

2 MS. BEAVER: Actually, we start with the  
3 Department. So --

4 MR. TREVIÑO: Okay. Great.

5 MS. BEAVER: -- Ms. Jordan, do you need to use  
6 my --

7 MR. TREVIÑO: Ms. Jordan?

8 MS. JORDAN: Hello.

9 MR. TREVIÑO: How are you?

10 MS. JORDAN: Just fine.

11 MR. TREVIÑO: Good morning. Okay.

12 MS. JORDAN: Okay. So the action item before  
13 you is consideration and approval of a final order in  
14 contested case styled Department of Motor Vehicles versus  
15 Dorsha Motors of Texas. So the hearing was held on July  
16 23, 2018. The PFD was issued in September, and the ALJ  
17 found six of the 12 violations pled.

18 This case was initially noticed for a Board  
19 meeting earlier in the year, but was continued at the  
20 request of the respondent, and so he did receive proper  
21 notice of the hearing today and obviously is here to  
22 respond to the allegations.

23 So the -- we did recommend some changes to the  
24 PFD. If you look in your Board book starting on page 30,  
25 you can see the violations that were substantiated are

1 related to attaching a buyer's temporary tag to a motor  
2 vehicle. It did not have a valid report of inspection.

3 Offering for sale a motor vehicle that did not  
4 display the FTC's Buyers Guide. Failing to remove and  
5 properly dispose of Texas license plates or registration  
6 insignia. And failing to have the dealer or a bona fide  
7 employee present at the dealer's location during business  
8 hours.

9 So anyway, I can walk through the changes in  
10 the final order or to the PFD in the final order. They  
11 are actually procedural in nature. They don't necessarily  
12 relate to the findings, other than they relate to the  
13 authority under which the Board can issue sanctions or  
14 penalties against the respondents.

15 So for example, in the -- in conclusion of law  
16 No. 4, it was originally written by the ALJ that the staff  
17 has the burden to prove by a preponderance of the evidence  
18 that respondent committed the alleged violations, that the  
19 sanctions it recommended were appropriate.

20 However, the authority cited by the ALJ does  
21 not require the staff to prove that the sanctions that it  
22 recommended were appropriate. It only refers to the  
23 burden of proof the staff has, which is why we recommend a  
24 change to that conclusion of law.

25 The rest of the conclusions of law relate to

1 the fact that the Board has two statutes under which it  
2 can recommend sanctions. The statute in the  
3 Transportation Code has a ceiling of \$1,000 per  
4 violations, and the statute in the Occupations Code has a  
5 ceiling of \$10,000 per violation.

6 The ALJ only cited to the Transportation Code  
7 in the PFD, and so the conclusions of law were amended to  
8 include both citations. This is important because, even  
9 though we're not recommending a penalty that goes above  
10 the Transportation Code, we don't want to set a precedent  
11 for that proposition.

12 The Board has authority under both codes, and  
13 both codes should be cited whenever an ALJ is discussing  
14 our sanctioning authority. And then finally, we did  
15 recommend a higher penalty than the ALJ. The ALJ  
16 recommended a civil penalty totaling \$1,200 based on four  
17 violations.

18 However, the ALJ found six violations and based  
19 on evidence in the record, the amount proposed doesn't  
20 meet the -- would you say -- the guidelines or the policy  
21 and practice of the Enforcement Division. And so the  
22 penalty recommended by the Enforcement Division is \$6,000,  
23 or \$1,000 per violation, which is lower than recommended  
24 by the affidavit entered in the record, based on the fact  
25 that not all of the violations were substantiated by the

1 ALJ.

2           However, it is in line with the factors that  
3 the Enforcement Division considers when assessing or  
4 charging a civil penalty against a respondent. And I will  
5 yield the rest of my time for rebuttal, and I can answer  
6 any questions that you might have about the changes to the  
7 PFD.

8           MR. TREVIÑO: Great. Any questions from the  
9 members at this point?

10           (No response.)

11           MR. TREVIÑO: So next, I guess we'll hear from  
12 Mr. Waggoner? Mr. Waggoner, good morning. Welcome.

13           MR. WAGGONER: Yes. How are you doing today?

14           MR. TREVIÑO: Great. Thank you. Thank you for  
15 being here today.

16           MR. WAGGONER: Yeah.

17           MR. TREVIÑO: And Mr. Waggoner, before you  
18 start, and just be aware there is a timer and I believe  
19 we're assessing 10 minutes. Correct? Right.

20           MR. WAGGONER: Okay.

21           MR. TREVIÑO: Thank you very much.

22           MR. WAGGONER: I actually came down today to  
23 defend myself somewhat. I went to -- we had an ALJ go  
24 over everything before. It was supposed to be  
25 13 violations. He went through and found six, and if you

1 look at the violations, what they are, the ALJ stated  
2 that, you know, he didn't see that I pose a threat to the  
3 public.

4 I see that, you know, they're asking for my  
5 license to be revoked, and you know, these fines to be,  
6 you know, astronomical, and to me, it doesn't make any  
7 sense. Like I said, the ALJ recommended \$1,200 based off  
8 of six violations that was in the report, and 13 of them  
9 wasn't -- you know, he didn't fine me on 13.

10 The violations that I received were, I would  
11 say, from like 2015 up until present, but I got all of  
12 them at once. Like, I didn't know I was getting any of  
13 these violations. In order to correct them, if I would  
14 have knew -- you know, this was one of my violations, I  
15 could have corrected it, you know, going forward, but I  
16 got a packet about this thick with violations.

17 So I'm trying to go through, trying to figure  
18 out what's going on, but you know, I feel like the  
19 Administrative Law Judge was fair in his judgment and I  
20 feel like he used a lot of common sense. He looked at  
21 what the violations were, you know, what I was doing and  
22 what I wasn't doing, and he made his ruling.

23 I was kind of confused when I had to come back  
24 here, this again. It just didn't make any sense to me.  
25 So that's it.

1 MR. TREVIÑO: Great. Are you done with your --

2 MR. WAGGONER: Yes. I'm done.

3 MR. TREVIÑO: -- comments?

4 MR. WAGGONER: Yes.

5 MR. TREVIÑO: Great. Well, thank you very  
6 much, Mr. Waggoner. Is there a discussion now? Does any  
7 of the members of the Board have any questions for Mr.  
8 Waggoner?

9 (No response.)

10 MR. TREVIÑO: So with that --

11 MR. BACARISSE: I just have a -- since I'm new,  
12 I have a --

13 MR. TREVIÑO: Sure, Charles.

14 MR. BACARISSE: -- sorry.

15 MR. TREVIÑO: Yes, sir.

16 MR. BACARISSE: I have --

17 MR. TREVIÑO: Member Bacarisse, question. I  
18 know it's kind of hard sometimes, but --

19 MR. BACARISSE: I have a general question,  
20 since I'm new to the Board. When a business is notified  
21 that there are issues and as he was mentioning, some of  
22 them go back several years, but then he was notified of  
23 them all at once, technically, how does that work, with --  
24 I don't know who I'm addressing this to, necessarily,  
25 perhaps our counsel staff.

1           You know, how do we go about deciding when --  
2 what's the timing of when people are noticed when they've  
3 had violations, multiple, single, you know, just help me  
4 understand how that works, how the process works.

5           MS. JORDAN: You want to hear about the  
6 enforcement process?

7           MR. BACARISSE: Sure.

8           MS. JORDAN: Okay. We're a complaint-based  
9 division. So we receive complaints through our web portal  
10 or through one of our partners. We open an investigation,  
11 and then we have an investigator who collects the evidence  
12 and will write up potential findings.

13           It's referred to an attorney. And the first  
14 step in the enforcement process is a notice of Department  
15 decision that lays out for the first time, from the  
16 respondent's perspective, the violations, and so it should  
17 be a plain-language description of the conduct that  
18 constituted a violation and then a reference to the  
19 portion of our statutes and rules that were violated, and  
20 then the respondent has 26 days to request a hearing, as  
21 is noted in this case.

22           After that, the respondents and the Department  
23 can engage in negotiations to try to settle the matter,  
24 but if we're not able to reach an agreement, the case is  
25 docketed at the State Office of Administrative Hearings.

1 MR. BACARISSE: It goes to SOAH. Right.

2 MS. JORDAN: Right.

3 MR. BACARISSE: Just curious to know as well,  
4 is there a statute of limitations on when a member of the  
5 public can make a claim? I mean, do they have to make a  
6 claim in a certain amount of years or time, or could it be  
7 from something happened to me five years ago at a dealer  
8 and I'm just now making a complaint?

9 I mean, how does that work?

10 MS. JORDAN: I'm not aware of a statute of  
11 limitations. However, there is a fixed amount of time  
12 that a dealer is required to keep records --

13 MR. BACARISSE: Okay.

14 MS. JORDAN: -- which is a practical  
15 limitation --

16 MR. BACARISSE: Sure.

17 MS. JORDAN: -- on when we could investigate a  
18 complaint.

19 MR. BACARISSE: And what is that period  
20 typically?

21 MS. JORDAN: Like, I want to say four years-  
22 ish.

23 MR. BACARISSE: Okay. Right. Thank you.  
24 That's for my education.

25 MR. TREVIÑO: Thank you very much, Mr.



1 Bacarisse. Mr. Graham, one more question though. I've  
2 got another. Ms. Washburn, could you explain to Mr.  
3 Waggoner why he's back here reviewing this case? So he  
4 says he wasn't sure why he's here.

5 Could you explain to him the rules governing  
6 our responsibility to review this case?

7 MS. JORDAN: Yes. Mr. Waggoner spoke with Ms.  
8 Pierce and myself --

9 MR. TREVIÑO: Great.

10 MS. JORDAN: -- and I understand his  
11 frustration --

12 MR. TREVIÑO: Sure.

13 MS. JORDAN: -- because when you go in front of  
14 a judge, you think maybe you're going to get all of the  
15 issues settled at the hearing, but administrative  
16 procedure is a little different, and we do have the second  
17 part of the case, which is the assessment of any penalties  
18 or sanctions, which is, by law, the purview of the Board.

19 So yeah. So I understand the frustration on  
20 the part of a respondent to have to come to a second  
21 hearing, but that's administrative procedure, and we've  
22 done our best to educate the respondent on that.

23 MR. TREVIÑO: Great. I just wanted to make  
24 sure that the record is clear, and Mr. Washburn, we  
25 really -- it's by statute and by law that we have to do

1 this. It's not something that we enjoy doing by any  
2 stretch of the imagination.

3 I wanted to make sure that you're aware of  
4 that. So okay. All right. Do we have any other  
5 questions or --

6 MR. GRAHAM: I do.

7 MR. TREVIÑO: Go ahead, member Graham.

8 MR. GRAHAM: So following up on a previous  
9 question, from the time that you -- the Department  
10 received the complaint, were all of the complaints --  
11 well, actually, I think I know that answer. There was a  
12 complaint or two filed with the Agency.

13 It began an investigation, and then in the  
14 course of the investigation the 12 or 13, or however many  
15 complaints there were, were found during the -- how long  
16 did that investigation take? How many -- how long was  
17 that?

18 MS. JORDAN: So that's certainly a complicated  
19 question in that there's several issues there. There's,  
20 first of all, that each -- that the allegations in this  
21 particular case came from more than one investigation. So  
22 the time line is extended because several investigations  
23 were collecting, and then one notice went out talking  
24 about the violations found in multiple investigations.

25 But essentially, if -- the other complicating

1 factor is that, at the time this case was investigated,  
2 the Enforcement Division had a backlog of investigations  
3 to be completed, and so the time line of investigations  
4 were -- was elongated because of the -- of -- each  
5 investigator had more cases than they could timely  
6 complete.

7 But my understanding is -- yeah. We don't  
8 actually have the information here. We can find it for  
9 you. When the complaints were received. But in this  
10 particular case, the notice was sent in -- well, it was  
11 amended, but the notice was initially sent in October  
12 2017.

13 The case went to hearing in the summer of 2018.

14 MR. GRAHAM: Okay. So the investigative part  
15 was probably six months or a few months?

16 MS. JORDAN: Some of the violations go back to  
17 2015, which tells me that there was a period -- most of  
18 these investigations -- or most of these allegations  
19 were -- had dates of violation in 2017, but there was one  
20 older case.

21 That went back to 2015. But the majority of  
22 the allegations cited in the notice of Department decision  
23 happened in the spring and summer of 2017. And so spring  
24 and summer of 2017 are the main violation dates. There  
25 obviously was an older investigation that had an older

1 date of violation.

2 The notice was sent out in the fall of 2017,  
3 and then the hearing proceeded a year later in 2018.

4 MR. GRAHAM: Okay. Is it unusual in an  
5 enforcement case to have, you know, half of the --  
6 whatever you officially call a violation turned over or  
7 reversed?

8 MS. JORDAN: It really depends on the ALJ, how  
9 the evidence is presented, how they perceive the  
10 witnesses, how they perceive the evidence, but in my  
11 experience trying cases, it is not unusual for the ALJ to  
12 only find some of the violations that were alleged.

13 MR. GRAHAM: Because that's a big swing, from  
14 loss of your business and \$25,000 to 1,200, is like this,  
15 and so I'm just trying to get my head around how we  
16 started here and got there, and so anyway, that's a big  
17 deal.

18 Yeah. Okay. Thank you.

19 MR. TREVIÑO: All right. Does any of the  
20 members have any further questions or comments?

21 MR. SCOTT: Yes. So the ALJ's recommendation,  
22 bottom line, is that what?

23 MS. JORDAN: \$1,200.

24 MR. SCOTT: Total?

25 MS. JORDAN: Yes.

1 MR. SCOTT: And forfeiture --

2 MS. JORDAN: We did not change any of the ALJ's  
3 recommendations when it came to which violations to cite.

4 MR. SCOTT: Right.

5 MS. JORDAN: The only portion of the -- other  
6 than the changes that we recommended from the standpoint  
7 of the authority that enables us to assess penalties and  
8 sanctions, the only change we made was to raise the  
9 penalty from \$1,200 to \$6,000, and that is -- so the same  
10 six violations found by the ALJ.

11 It's the same findings of fact and conclusions  
12 of law as found by the ALJ. It's just the -- as a matter  
13 of law, the ALJ is merely making a recommendation to the  
14 Board, and the ALJ does not have the -- or chose not to  
15 consider the evidence before him that talked about what  
16 the appropriate sanction would be from the standpoint of  
17 other cases and other investigations where similar  
18 violations were found, and so essentially, what we would  
19 argue is that \$6,000 is more in line with where we would  
20 expect to end up with a respondent with whom or for whom  
21 or against whom we charged those six violations.

22 And so that's what the difference is when it  
23 comes down to the substantive matter of the PFD and the  
24 changes that the staff was recommending.

25 MR. SCOTT: So there's a difference between the

1 fine -- there's - in neither case are there sanctions on  
2 the license?

3 MS. JORDAN: Well, we're not recommending  
4 revocation. I know that was part of the initial case,  
5 where there were 12 alleged violations and the initial  
6 sanction and penalty. Right now, based on the findings of  
7 fact and conclusions of law found by the ALJ and the six  
8 violations that we're discussing, we're talking about what  
9 is the appropriate penalty for those six violations, and  
10 it's -- there is -- I just want to make sure that we all  
11 understand that it's not about whether respondent is a  
12 threat to the public.

13 The sanctions are about what is the appropriate  
14 fine for failing to -- let's see here. Let's go through  
15 the allegations today. We have displaying buyers'  
16 temporary tags on vehicles when they did not have a valid  
17 inspection, failing to display an FTC Buyer's Guide on a  
18 vehicle, failing to remove a registration sticker plate  
19 from a vehicle when it was offered for sale, and then  
20 failing to have an owner or a bona fide employee present  
21 at the dealership during its posted business hours.

22 MR. SCOTT: Okay. So they extended the  
23 sanctions, as -- there's no action --

24 MS. JORDAN: Penalty.

25 MR. SCOTT: -- there's no --

1 MS. JORDAN: Yeah.

2 MR. SCOTT: -- action on the license or --

3 MS. JORDAN: Right. So a sanction would be  
4 revocation --

5 MR. SCOTT: Okay.

6 MS. JORDAN: -- or denial of an applicant.

7 MR. SCOTT: Right.

8 MS. JORDAN: A penalty is an assessment of --  
9 essentially a fine.

10 MR. SCOTT: Okay. Thank you.

11 MS. JORDAN: Yes, sir.

12 MR. TREVIÑO: And there's no suggestion that  
13 Mr. Waggoner is a danger to the public. Right?

14 MS. JORDAN: Definitely not one of the findings  
15 in the PFD.

16 MR. TREVIÑO: Very good. And the penalties fit  
17 into the internal Department matrix. Is that what you're  
18 suggesting? That there is precedent for these penalties  
19 based on other cases that we have opined on?

20 MS. JORDAN: I would -- what I would say is  
21 that the penalties recommended by staff do, in our  
22 estimation, fit into the -- you know, where this case  
23 would fall on the spectrum, whereas the \$1,200 recommended  
24 by the ALJ is not something that we would find for a case  
25 like this without some accompanying mitigating factors,

1 and the Judge didn't find any mitigating factors in this  
2 case.

3 MR. TREVIÑO: I see. Okay. Is there any  
4 further discussion, any further questions?

5 (No response.)

6 MR. TREVIÑO: With that, I would entertain a  
7 motion from members of the Board.

8 MR. GRAHAM: I'll make a run at it.

9 MR. TREVIÑO: All right. Give it a shot, and  
10 if you need a moment to talk with counsel --

11 MR. GRAHAM: I think I've got it.

12 MR. TREVIÑO: You've got it?

13 MR. GRAHAM: Yeah. I mean, I recognize and  
14 certainly understand that -- you know, the importance of  
15 making sure what is expressed, what my motion is must be  
16 done so clearly so as not to set future precedent. I  
17 understand that in this case what the ALJ has recommended  
18 most likely does not line up with what we as a department  
19 or an agency apply for violations.

20 I -- and so my intent of this motion is not to  
21 disregard those existing penalties. Rather, it is to  
22 recognize that this was a rather unique case in which  
23 there were -- half of the violations were deemed to  
24 actually not apply.

25 I am sure -- I am certain that this gentleman,



1 Mr. Waggoner, understands the importance of following  
2 every detail now. So with that and with that background,  
3 I'll make a motion to adopt the findings of fact and  
4 conclusions of law stated in the proposal for decision and  
5 order the penalties recommended by the Administrative Law  
6 Judge, with the intent to not disregard this Agency's  
7 existing penalties.

8 MR. TREVIÑO: Great. And would -- so okay.  
9 Good.

10 MR. PREWITT: So do you need a second?

11 MR. TREVIÑO: Do we need a second for this?

12 MR. PREWITT: Yes.

13 MR. TREVIÑO: Do we need a second?

14 MR. PREWITT: I'll second that.

15 MR. TREVIÑO: Got a second. Okay. Now,  
16 discussion? Member Scott, did you have a comment or  
17 question or --

18 MR. SCOTT: I would like to make a different  
19 motion.

20 MS. BEAVER: At this time you can ask if the  
21 person who did the second would like to withdraw or you  
22 can amend the original motion.

23 MR. TREVIÑO: Okay. Amend the motion. So  
24 we -- would the member like to amend it, and I guess we  
25 need a second for that or something, or he just says he's

1 okay with amending it?

2 MS. BEAVER: You can withdraw the second and  
3 then propose a new motion, an amended motion, if you'd  
4 like.

5 MR. TREVIÑO: Member Prewitt?

6 MR. PREWITT: I'd like to recess for a moment.

7 MR. TREVIÑO: For?

8 MR. PREWITT: For some discussion about --

9 MR. TREVIÑO: Well, member Scott can discuss --  
10 anybody can discuss individually with legal counsel --

11 MR. PREWITT: Okay.

12 MR. TREVIÑO: -- but we cannot adjourn and  
13 discuss as a Board. Everything has to be discussed here.

14 MR. PREWITT: I will withdraw the motion.

15 MR. TREVIÑO: We have a motion to withdraw --  
16 or member Prewitt withdraws his motion. Is that -- do we  
17 need a second for that?

18 MS. WASHBURN: Second.

19 MR. TREVIÑO: We have a second, someone?

20 MS. WASHBURN: Second.

21 MR. TREVIÑO: We've got a second. Okay. So we  
22 vote on that? Is that correct on that, that piece, the  
23 withdrawal or --

24 MS. BEAVER: No. Then you just go ahead  
25 and --there's a motion --

1 MR. TREVIÑO: We've got a --

2 MS. BEAVER: -- and there was a second.

3 MR. TREVIÑO: -- second.

4 MS. BEAVER: The second was withdrawn.

5 MR. TREVIÑO: Right.

6 MS. BEAVER: -- and so then somebody could do

7 an amended --

8 FEMALE VOICE: -- then the motion dies.

9 MS. BEAVER: -- the motion dies.

10 MR. GRAHAM: Yeah. The motion dies.

11 MS. BEAVER: There's no second.

12 MR. TREVIÑO: Okay. The motion dies.

13 MS. BEAVER: And you can do a new motion.

14 MR. TREVIÑO: Okay. We -- the motion dies.

15 MR. GRAHAM: Motion is dead.

16 MR. TREVIÑO: The motion is dead. Okay. We're

17 starting with a clean slate here. And now, member Scott,

18 I think you have a different motion. Is that correct?

19 MR. SCOTT: I move that the Board enter staff's

20 proposed final order which modifies the PFD by amending

21 conclusion of law 4 because the ALJ did not properly

22 interpret the Department's rules, amending conclusions of

23 law 11, 16, and 18 because the ALJ misapplied the law, and

24 deleting conclusions of law 19 and 23 because the ALJ

25 misapplied the law.

1           The Board is the decision-maker concerning  
2 penalties and the ALJ failed to cite the Board's  
3 authority. The ALJ limited our ability to assess  
4 appropriate penalties. The penalties in the PFD are too  
5 low to be effective. The ALJ recommended a penalty  
6 totaling \$1,200 for four violations.

7           However, the ALJ did not assess any penalties  
8 for two violations. The penalties of \$1,000 per violation  
9 are appropriate for -- to deter future violations.

10           MR. TREVIÑO: Okay. So we have a motion,  
11 member Scott. Okay. And so we need a second for that?

12           MALE VOICE: Uh-huh.

13           MR. TREVIÑO: Do we have a second?

14           MR. PAINTER: Second.

15           MR. TREVIÑO: We've got a second. Discussion?

16           MR. BACARISSE: Just a question again from the  
17 newbie. Member Scott's motion -- I'm asking counsel --  
18 really takes into consideration the area of law that we  
19 have operated under as a Board that the ALJ ignored in  
20 their finding.

21           Is that correct? I mean, they were making a  
22 finding under one section of law and ignoring another that  
23 this Board has purview under, and we don't want to lose  
24 that purview. Is that -- am I reading this correctly?

25           MS. BEAVER: Tracey Beaver, general counsel.

1 Yes. The staff's proposed final order did recommend  
2 correcting the ALJ's conclusions of law because they  
3 misapplied the law in that they didn't include a section  
4 that would permit the Board to have additional penalty  
5 authority.

6 MR. BACARISSE: Right. Thank you.

7 MR. TREVIÑO: Great. And so the motion from  
8 member Scott is to make certain that we do not give up any  
9 of that authority to set the fines as we see fit based on  
10 precedent, but it's to assess the full amount of the fines  
11 based on the staff's recommendation. Is that correct?

12 MR. SCOTT: Yes.

13 MR. TREVIÑO: Which essentially is a \$6,000  
14 fine.

15 MR. SCOTT: Yes. That's correct. That's my  
16 motion.

17 MR. TREVIÑO: Okay. And we have a second from  
18 member Painter.

19 MR. PAINTER: Yes, sir.

20 MR. TREVIÑO: Any further discussion on this?

21 (No response.)

22 MR. TREVIÑO: Okay. We have a motion and a  
23 second, so all in favor -- we have a motion from the  
24 Board, second from a Board member. Any further  
25 discussion?

1 (No response.)

2 MR. TREVIÑO: Hearing none, I call for a vote.

3 All those in favor please signify by raising your hand.

4 All those opposed, same sign.

5 (A show of hands: Members Bacarisse, Graham,  
6 Painter, Prewitt, Scott, Washburn.)

7 MR. TREVIÑO: So in favor, we have one, two,  
8 three, four members, five members? No. One, two, three,  
9 four members, five members? We have five members.

10 MS. BREWSTER: It's six.

11 MR. TREVIÑO: Six members?

12 MS. BREWSTER: Yes.

13 MR. TREVIÑO: And opposed?

14 (A show of hands: Members Gillman and  
15 Treviño.)

16 MR. TREVIÑO: Two members. Okay. So the  
17 motion passes six-two, and so that's it. That's the  
18 decision of the Board. Okay. Mr. Waggoner, thank you  
19 very much. Thank you, Counsel and staff.

20 MALE VOICE: That's very unusual.

21 MR. TREVIÑO: Okay. All right. We will now  
22 move to Agenda Item 8, finance and audit. I will turn it  
23 over to Sandra Menjivar-Suddeath, Linda Flores, and Renita  
24 Bankhead.

25 MS. MENJIVAR-SUDDEATH: Good morning, Board

1 members. For the record, Sandra Menjivar-Suddeath,  
2 Internal Audit director, and I'm presenting Item 8-A,  
3 which begins on page 87 of your Board book, and it's the  
4 Internal Audit Division status update.

5 This is a briefing item only, so there's --  
6 we're only providing information. The Board does not need  
7 to take any action. For some background information, the  
8 Internal Audit Division status update is provided at each  
9 Board meeting, and gives information on the activities of  
10 the Internal Audit Division.

11 The status always includes an update on the  
12 annual internal -- on the progress towards the Internal  
13 Audit Plan, which is the Agency Division's work plan for  
14 the year. It may include information on external  
15 coordination efforts, such as external audits that the  
16 Division is facilitating or coordinating, as well as any  
17 divisional updates.

18 The May update includes the annual audit plan  
19 status. The external coordination efforts and divisional  
20 updates, which are all found on page 89 of your Board  
21 book, as well as in the presentation, if you want to  
22 follow along.

23 From a summary perspective, the Division is  
24 currently working on eight internal engagements. Two  
25 engagements are in the reporting phase, which means we've

1 done all the testing. Right now, we're just working with  
2 the divisions on writing the results and providing the  
3 results to management for responses.

4 Three engagements are in field work, which  
5 means we're actually doing the testing and actually trying  
6 to answer the audit objective. Three engagements are in  
7 planning, which means we're trying to get an understanding  
8 of the process information so we can answer the objective  
9 of the engagement.

10 In addition, we have three external  
11 coordination efforts that we have actually been working on  
12 over the past few months, and we have three divisional  
13 updates on things that the staff are participating on. So  
14 for the reporting engagements that are in the reporting  
15 phase, the first one is the Enterprise Project Management  
16 Advisory Service.

17 So an advisory service is a little bit  
18 different than an audit. The nature and the scope of the  
19 advisory service is actually decided upon before we get  
20 into the project with the requesting division. So in this  
21 case, the Information Technology Services Division  
22 requested that we look at our governance project process,  
23 and the governance project process is used for large  
24 enterprise projects.

25 For example, when we are -- when we re-factored



1 the Registration and Titling System, also known as RTS,  
2 this governance process was used to manage and facilitate  
3 the project and achieve outcomes. So the goal of the  
4 objective was evaluate the project management governance  
5 process.

6 In addition, Internal Technology Services  
7 requested that we evaluate the roles and responsibility in  
8 that governance process, as well as identify potential  
9 governance models that could be used to supplement the one  
10 we're doing now.

11 We are in the reporting phase. We actually  
12 received comments back from the division last night, and  
13 so we will be sending it off to Ms. Brewster for her  
14 review before we release it to the Board, and then the  
15 Board will probably receive it mid-May for review.

16 In addition, we are working on the information  
17 security risk management audit. This audit is  
18 evaluating -- excuse me -- the objective of the audit was  
19 to determine whether the Department had sufficient  
20 processes in place to monitor and identify information  
21 security threats.

22 We have been working with the divisions on  
23 getting responses for any issues that we identified in the  
24 audit, and we -- and it has been sent to Ms. Brewster and  
25 Ms. Mellott for review. This is a confidential audit

1 which means that this audit will not be presented in the  
2 public meeting due to its nature.

3 We also anticipate that being sent to the Board  
4 in the next couple of weeks.

5 MR. TREVIÑO: Great. Ms. Menjivar-Suddeath, do  
6 you have access to internal audits from other State  
7 agencies, in terms of sort of a horizontal look at  
8 information technology similar to what you're doing in  
9 other agencies?

10 MS. MENJIVAR-SUDDEATH: No, because most of the  
11 information technology audits are all confidential.

12 MR. TREVIÑO: Uh-huh.

13 MS. MENJIVAR-SUDDEATH: If -- we can look at  
14 their audit plans and obtain information on what they're  
15 doing, but because of the nature, usually those aren't  
16 released publicly.

17 MR. TREVIÑO: Right.

18 MS. MENJIVAR-SUDDEATH: We can look at and see  
19 what's on their plan, and so we do do that when we look  
20 at -- when we're planning for audit year, we look at what  
21 other agencies are doing related to information security  
22 or information technology, what they have on their plan,  
23 so that way, we can evaluate if we're sufficiently looking  
24 at the same things as well.

25 MR. TREVIÑO: Great. Thank you.

1 MS. MENJIVAR-SUDDEATH: Uh-huh. For the field  
2 work engagements, we are looking at our procurement and  
3 contract management. This audit is to evaluate those  
4 processes. We anticipate the report will be released in  
5 August.

6 We're also doing an accounts receivable and  
7 advisory service. This was requested, actually, from the  
8 Finance and Administrative Services Division, as well as  
9 Ms. Brewster, to evaluate our accounts receivable function  
10 of the Department.

11 We bill for certain things in the Department,  
12 and so we want to make sure that we have sufficient  
13 processes to ensure that that's an appropriate process and  
14 we have controls in place for that. We also anticipate  
15 that being released by August 2019.

16 And finally, we are doing a fiscal year 2019  
17 internal audit follow-up. We're required by our standards  
18 to follow up on the implementation status of all audit  
19 recommendations. At the end of the year, we provide a  
20 status on the external and internal recommendations, but  
21 throughout the year, we're continuously monitoring the  
22 internal audit recommendations.

23 For the second quarter, which was December 1,  
24 2018, through February 28, 2019, we reviewed 20 internal  
25 audit recommendations, and the Department had implemented

1 80 percent of them. So for those who are not familiar  
2 with implementation rates, that's actually significantly  
3 high.

4 Most agencies usually are about 60, 50 percent.

5 So the fact that the Agency is about 80 percent and  
6 pretty much tracks towards that, is a good thing. It  
7 shows a good ability to address concerns that are  
8 identified. This chart gives you the information related  
9 to where the audit recommendations came from.

10 The 20 audit recommendations came from 11 audit  
11 reports. They're categorized between the ones that were  
12 closed, the ones that were started, and then the different  
13 priority levels, and that information is also in your  
14 Board book on page 91.

15 From this chart, the most important thing to  
16 note is that 16 were closed, four were open. Those four  
17 that stayed open, we've been working with management to  
18 address, and we do anticipate that they'll be closing in  
19 the next few months.

20 In addition, you can tell we issued two audits  
21 in the past few months, employee classification and Lemon  
22 Law investigation, and they've already -- the divisions  
23 have already started working on addressing most of those  
24 issues, and they've already closed many of them.

25 And then on the planning phase, we --

1 MR. TREVIÑO: So coming back to that, you would  
2 characterize staff as being responsive to Internal Audit's  
3 recommendations?

4 MS. MENJIVAR-SUDDEATH: Yes.

5 MR. TREVIÑO: Great. Good. And those charts  
6 are also excellent. Great work, great work.

7 MS. MENJIVAR-SUDDEATH: On the planning phase,  
8 we've kicked off two -- well, three engagements. The  
9 first is the Compliance and Investigations Division. So  
10 in the past legislative sessions, we requested an  
11 exceptional item for Compliance and Investigations to set  
12 up that unit to deal with fraud.

13 So this is -- this audit is now evaluating  
14 whether we actually achieved our desired outcomes with  
15 that. We literally just kicked it off yesterday, so we do  
16 anticipate, though, having that released by August 2019.  
17 And then we have a payment card industry compliance audit.

18 So we accept credit cards for some of our items  
19 that we -- like permits, things to that regard. Because  
20 of that, we are required to follow PCI, the Payment Card  
21 Industry Standards. So this division evaluates our  
22 compliance with that.

23 We take aspects of the PCI compliance  
24 requirements -- there's 12 in total -- and evaluate one  
25 each year. For this year, we're evaluating their --

1 whether their -- whether we have systems in place to  
2 ensure that we're protected against malware as well as  
3 we're keeping up with our anti-virus protection.

4 And then finally, we are preparing for next  
5 year with our internal audit plan. At this point, we're  
6 only gathering information on potential risk. The next  
7 step will be the evaluation of that risk. We will come  
8 back to this Board in August and request approval on the  
9 high-risk areas we see, and that will be the work plan for  
10 next year.

11 And then on the external coordination side, the  
12 State Auditor's Office in February completed an audit on  
13 contract management. They reviewed two specific  
14 contracts, and they found overall compliance with the  
15 contracts.

16 However, they did issue nine recommendations  
17 related to revenue collection, subcontracting  
18 requirements, third-party agreements, and required  
19 reporting that we have to provide to the Legislative  
20 Budget Board.

21 The divisions impacted by this audit were the  
22 Finance and Administrative Division, Office of General  
23 Counsel, and Vehicle Titles and Registration. All three  
24 divisions are working on addressing those recommendations,  
25 and we anticipate full implementation by November 30,

1 2019.

2 The Texas Comptroller of Public Accounts has  
3 begun an audit on us as well, on reviewing our promotional  
4 items. That is a specific type of code that we have in  
5 our system, things that we buy, DMV cups, things to that  
6 regard.

7 They're evaluating our compliance with  
8 statutory requirements as well as our processes for  
9 ensuring that those things were properly paid. This is a  
10 desk audit, which means they -- we are just providing them  
11 information and they will get back to us whenever they see  
12 fit on the results of the audit.

13 And finally, the fiscal year 2019 quarter two  
14 coordination investigation letter. So we send a letter to  
15 the State Auditor's Office every quarter on any efforts  
16 that we're doing on internal fraud, waste and abuse, as  
17 well as providing a response on any hotline complaints  
18 that we receive from them.

19 In February, we submitted the letter to the  
20 State Auditor's Office. We provided an update on  
21 14 complaints, as well as nine internal fraud, waste and  
22 abuse allegations. And finally, the divisional update --

23 MS. WASHBURN: I have a quick question. Sorry  
24 about that. On the last one. So the external audits --  
25 so promotional items --

1 MS. MENJIVAR-SUDDEATH: Uh-huh.

2 MS. WASHBURN: -- why pick that? I mean, is  
3 there something that caused that?

4 MS. MENJIVAR-SUDDEATH: No.

5 MS. WASHBURN: Okay.

6 MS. MENJIVAR-SUDDEATH: We haven't done  
7 anything that would cause it at this point. It's -- each  
8 agency has their own risk appetite. They choose --

9 MS. WASHBURN: Yeah.

10 MS. MENJIVAR-SUDDEATH: -- what they think is  
11 concerning.

12 MS. WASHBURN: Uh-huh.

13 MS. MENJIVAR-SUDDEATH: The -- I believe the  
14 notice of intent said that they had done some data  
15 analysis, and they found that our number for promotional  
16 items was a little -- was potentially high --

17 MS. WASHBURN: Okay.

18 MS. MENJIVAR-SUDDEATH: -- and so they wanted  
19 to come in and evaluate it, but unfortunately, with any  
20 external audits, we don't receive notification of that  
21 audit or what they consider high risk until --

22 MS. WASHBURN: Right.

23 MS. MENJIVAR-SUDDEATH: -- we receive the  
24 entrance conference notice.

25 MS. WASHBURN: Okay.



1 MR. TREVIÑO: But all agencies were reviewed on  
2 this issue, weren't they? It wasn't specific to us, was  
3 it?

4 MS. MENJIVAR-SUDDEATH: Yeah. No. Most  
5 agencies are reviewed on a regular basis by the  
6 Comptroller on these items.

7 MS. WASHBURN: Okay.

8 MR. TREVIÑO: Thank you.

9 MS. MENJIVAR-SUDDEATH: Uh-huh. And finally,  
10 Division update. So our Division participates in  
11 organizations that actually we have to be part of per our  
12 standards. The first one is the Internal Audit Leadership  
13 Development Program.

14 So Derrick Miller, who is sitting over there --  
15 he's one of our senior auditors -- was accepted into the  
16 Internal Audit Leadership Development Program, which  
17 basically prepares him to -- it's for the next generation  
18 of internal auditors.

19 It gives them leadership abilities, prepares  
20 them for potentially being a manager or a director in  
21 another State agency. It's groomed just for State  
22 agencies, and last week, he got the pleasure of pretending  
23 to present in front of a board of other internal audit  
24 directors. So --

25 MR. TREVIÑO: That's great. I think that

1 deserves a round of applause. Derrick, well done.

2 (Applause.)

3 MR. TREVIÑO: Moving the ball forward.

4 MS. MENJIVAR-SUDDEATH: Yeah. And then Jacob  
5 Geray is one of our internal auditors. He was actually  
6 asked to participate with the Government Accountability  
7 Office. They actually set one of our standards. I'm  
8 reviewing their website from end user perspective to  
9 ensure it's meeting the needs of all end users, including  
10 auditors.

11 And then finally, I was nominated and told to  
12 serve on the Institute of Internal Auditors, Austin  
13 chapter. So the Institute of Internal Auditors is our  
14 other board that sets our standards, and we have a local  
15 chapter, and we participate in that, and I was requested  
16 to be a secretary for them.

17 So I will be doing that for the next year.

18 MR. TREVIÑO: Great job, great job.

19 (Applause.)

20 MS. MENJIVAR-SUDDEATH: And finally, the most  
21 exciting thing about my update is that May is Internal  
22 Audit Month. So --

23 MR. TREVIÑO: Of course it is. Why, of course  
24 it is.

25 MS. MENJIVAR-SUDDEATH: -- hug your auditor.

1 Tell them how great they are. But we will be doing some  
2 activities in the Department to celebrate Internal Audit  
3 Month, including having, you know, open house next week,  
4 where we invite staff to come in and meet with us and talk  
5 to us, and just get to know us.

6 MR. TREVIÑO: So just remember, that if there's  
7 any parties associated with Internal Auditor Month, you  
8 still have to be here on time the next day. I just want  
9 to stress --

10 MR. GRAHAM: Wait a minute, wait a minute.  
11 There's -- no one knows about Internal Audit Month.

12 MS. MENJIVAR-SUDDEATH: Well, we actually got a  
13 proclamation from the Governor. So someone knew.

14 MR. GRAHAM: Somebody.

15 MS. MENJIVAR-SUDDEATH: Somebody knew  
16 something.

17 MR. TREVIÑO: Proclamation --

18 MR. GRAHAM: That was his joke, not mine.

19 MR. TREVIÑO: And there we go, there we go.

20 MS. MENJIVAR-SUDDEATH: But don't worry. I've  
21 been giving really bad auditor jokes for the last month.

22 MR. TREVIÑO: Okay.

23 MS. MENJIVAR-SUDDEATH: Ms. Brewster can attest  
24 to that.

25 MR. TREVIÑO: So you can submit those in

1 writing in the public record later. The internal audit  
2 jokes. Anyone interested, please say so. Please.

3 MS. MENJIVAR-SUDDEATH: Yeah. And so that  
4 concludes my update. Is there anything, any questions?

5 MR. TREVIÑO: Any other questions?

6 (No response.)

7 MR. TREVIÑO: It's a great report. So you feel  
8 you have sufficient resources to maintain the safety and  
9 soundness of this organization?

10 MS. MENJIVAR-SUDDEATH: Yes.

11 MR. TREVIÑO: And management has been  
12 responsive in your findings?

13 MS. MENJIVAR-SUDDEATH: Yes. And --

14 MR. TREVIÑO: Great.

15 MS. MENJIVAR-SUDDEATH: -- just for the new  
16 Board members, I will say that this is probably the best  
17 partnership I've ever had with an executive team. They  
18 see us as a strategic partner, which is how it should be,  
19 and so we work very collaboratively to make sure that the  
20 Agency is achieving its objectives, and I wish other  
21 internal audit functions and other State agencies would  
22 take this model.

23 MR. TREVIÑO: Duly noted and I think that's a  
24 very progressive way to look at the Agency and thank you  
25 very much for your service. It's not simply being

1 accounting. It's actually making the enterprise stronger.

2 So thank you very much.

3 MS. MENJIVAR-SUDDEATH: Thank you.

4 MR. GRAHAM: Mr. Chairman, I might just add  
5 that I believe the Finance and Audit Committee will look  
6 at August, maybe, for the next -- for a Board -- I mean, a  
7 committee meeting.

8 MR. TREVIÑO: Yeah.

9 MR. GRAHAM: Yeah.

10 MR. TREVIÑO: And I would like to commend  
11 member Graham for all his hard work in that committee as  
12 well, doing that. So thank you very much. Okay. We will  
13 move to Ms. Flores' report. Is that correct? Great

14 MS. FLORES: This is Item No. -- Agenda Item  
15 No. 8-B, and it begins on page 130 of your Board book.  
16 For the record, my name is Linda Flores. I'm the chief  
17 financial officer for the Agency. We do not have a  
18 presentation, but I would ask you to consider and take  
19 action on this Board item.

20 We are requesting your approval to modify the  
21 contract approval procedures document. This document, the  
22 last time it was revised, was in November.

23 MR. TREVIÑO: Ms. Flores, can I -- sorry to  
24 interrupt you, but do you know what page we're on in the  
25 Board --

1 MS. FLORES: Page 130 --

2 MR. TREVIÑO: 130. Thank you very much.

3 MS. FLORES: -- of your Board book.

4 MR. TREVIÑO: Sorry to interrupt you.

5 MR. GRAHAM: It's 131 on mine.

6 MR. TREVIÑO: Okay. So between 130 and 131.

7 MS. FLORES: Sorry.

8 MR. TREVIÑO: Thank you. Great.

9 MS. FLORES: The contract approval procedures  
10 document lays out what will brought to the Board for  
11 approval as well as other routine contracts that the  
12 Agency, in collaboration with Ms. Brewster, will execute  
13 throughout the year.

14 The last time this was modified was November  
15 2016. You will see on -- within the 132 page of the Board  
16 book a red line of the changes that we're proposing. They  
17 are basically date and a signature block for the new  
18 Chair, but the other item I would point you to is an  
19 exclusion from Board consideration, and that has to do  
20 with security services.

21 This Agency, for the last 10 years, has been  
22 reliant on TXDOT for providing routine services. We are  
23 slowly but surely taking over those functions and  
24 establishing our own contracts, but because this will be a  
25 routine kind of contract, we will be working with external

1 parties such as the Comptroller's Office, the Texas  
2 Industries for the Blind and Handicapped, TIBH, to procure  
3 some of those services.

4 We do anticipate that we'll -- it will be a  
5 large dollar value, in excess of \$100,000, but it will be  
6 a routine contract that we will process from year to year.

7 We are asking that that particular contract be excluded  
8 from Board consideration.

9 And that concludes my changes. I'm happy to  
10 address any questions.

11 MR. TREVIÑO: Great. Okay. Any discussion?  
12 Anybody have any questions for Ms. Flores?

13 (No response.)

14 MR. TREVIÑO: Hearing none, I would entertain a  
15 motion.

16 MS. WASHBURN: I move to approve the contract  
17 approval procedures as presented today and rescind the  
18 prior contract approval procedures dated November 3, 2016.

19 MR. TREVIÑO: Correct.

20 MR. BACARISSE: Second.

21 MR. TREVIÑO: We have a motion from member  
22 Washburn, a second from member Bacarisse. Any further  
23 discussion?

24 (No response.)

25 MR. TREVIÑO: Hearing none, I call for the

1 vote. All those in favor, please signify by raising your  
2 hand.

3 (A show of hands: Members Bacarisse, Gillman,  
4 Graham, Painter, Prewitt, Scott, Treviño, Washburn.)

5 MR. TREVIÑO: All those opposed, same sign.

6 (No response.)

7 MR. TREVIÑO: Unanimous? Okay. Let the record  
8 that it's a unanimous decision, and Ms. Flores, you have  
9 your approval.

10 MS. FLORES: Thank you.

11 MR. TREVIÑO: Okay. So do you -- would you  
12 like to continue?

13 MS. FLORES: Would you like me to go on?

14 MR. TREVIÑO: Yes, please.

15 MS. FLORES: Sure. Item -- Agenda Item 8-C.  
16 And with me, to my right, is Ms. Renita Bankhead. She is  
17 the assistant chief financial officer, and she'll be  
18 presenting the second quarterly report to the Board.

19 MS. BANKHEAD: Good morning, everyone.

20 MR. TREVIÑO: Good morning.

21 MS. BANKHEAD: I'm Renita Bankhead.

22 MALE VOICE: Good morning.

23 MS. BANKHEAD: Okay. I think you can hear me.

24 MR. TREVIÑO: Yeah.

25 MS. BANKHEAD: Okay. These materials start on



1 page 136 of your materials, this presentation. This is a  
2 briefing item. We are not requesting any Board action.  
3 So for the benefit of the new Board members, the State  
4 fiscal year begins on September 1, 2018, with the second  
5 quarter ending February 28, 2019.

6 The finance staff provides a year-to-date  
7 summary of revenue collections and expenditures at the end  
8 of each quarter. This summary is a little different than  
9 an annual financial report which includes your financial  
10 statement and balance sheets and income statements.

11 So this is a little different than that. It's  
12 kind of a snapshot of our position at the end of a  
13 quarter. Page 138 of your materials -- TxDMV revenue  
14 collections are deposited into three funds, State Highway  
15 Fund, General Revenue, and the TxDMV Fund.

16 The total revenue collections for all funds at  
17 the end of the second quarter was \$889.1 million, an  
18 increase of 3.9 over the same period last year. Vehicle  
19 registrations and oversize and overweight permitting fees,  
20 particularly in Fund 0006, constitutes the majority of  
21 the revenues collected.

22 Moving on to page 144 of your materials. The  
23 Department is supported by the -- by Texas DMV fund  
24 revenues, with the exception of the Automobile Burglary  
25 and Theft Prevention Authority, ABTPA, and that's

1 supported by fees deposited in the General Revenue.

2 The graph on the right of our visual here shows  
3 that our revenue collections through February more than  
4 cover our Department expenditures for the same period.  
5 The revenue collections shown on this graph, they do not  
6 include our beginning fund balance.

7 We started the year with a balance of \$85.7  
8 million. If you include that beginning fund balance, plus  
9 the revenues we collected, less expenditures, we will end  
10 at February 28 with \$108 million fund balance. Any fund  
11 balances that we have at the end of the fiscal year, they  
12 remain in the TxDMV Fund, and they're used to fund future  
13 appropriations.

14 Moving on to page 146, this graph -- this  
15 visual, at the top, it shows the difference between 18 and  
16 19. That's the top box to the left. Actual and -- FY '18  
17 actuals and FY '19 actuals, a comparison. The bottom box  
18 shows FY '19 projections compared to FY '19 actuals for  
19 collections through February 28.

20 So we are -- overall, our collections are  
21 higher than our projections and where we were last year.  
22 We had a few little blips. Number one was the title  
23 revenue. Our actuals for '19 are higher than '18, but  
24 that's because we had an uptick in '18 because of the  
25 hurricane.

1           Our biggest performer is oversize and  
2 overweight permitting. It's over what we collected in  
3 '18, and it also exceeds our projections, and that's  
4 because of the strong performance in the oil and gas  
5 industry. Our miscellaneous revenues continue to exceed  
6 FY'18 collections and projections and this is due to the  
7 increase in the interest rates during that period plus  
8 those interest rates being applied to a higher fund  
9 balance.

10           The largest component of the DMV fund revenues  
11 are related to collections for the process and handling  
12 fees, and even though our collections are a little bit  
13 down from our actuals in '18, we are anticipating that we  
14 will meet our projections by the end of the fiscal year.

15           Let's move on to our budget highlights. That  
16 begins on page 50 -- 150. Sorry. The total operating  
17 budget for the Department as of February 28, 2019, was  
18 194.7 million. The year-to-date obligations total  
19 110 million, which includes \$55.5 million in expenditures,  
20 6 million in online service fees for Texas.gov, and that's  
21 related to online vehicle registration payments, and  
22 \$49.1 million in encumbrances, and the State uses  
23 encumbrance budgeting.

24           That means that we set aside purchases. Once  
25 we process a purchase requisition, the funds are set aside

1 in the budget as an obligation. So we call those  
2 encumbrances. At mid-year, our obligations are within  
3 expected level.

4 We don't have any real surprises as far as our  
5 expenditures are concerned. Most of our expenditures are  
6 in those major categories that you see there: salary-  
7 related items to support 705 filled positions; the grants,  
8 those are ABTPA grants to local entities; professional  
9 fees related to capital projects, which we'll talk about  
10 in just a second; and contract services related to our  
11 core mission for plate production, printing and mailing of  
12 registration materials and titles.

13 The budget staff recently completed our mid-  
14 year review in which available balances were identified  
15 within Division budgets and those balances were  
16 reallocated to fund one-time purchases within the  
17 Division.

18 Finally, our capital budget. That's on  
19 page 151 of your material. The capital budget -- the  
20 Legislature specifically appropriates funds to agencies in  
21 a capital budget, and those funds are for capital  
22 acquisitions, construction projects, IT infrastructure and  
23 software services.

24 So our -- the TxDMV capital budget is  
25 \$35.1 million, and the obligations so far for that are

1 5.6 million in technology projects, and encumbrances of  
2 12.5 also in technology and the DMV Automation Project.  
3 The majority of the capital budget is allocated to  
4 technology projects, specifically the contract with the  
5 Department of Information Resources for data center  
6 consolidation services, and that's management of hardware  
7 and software applications and technology services.

8 We have a contract with the Department of  
9 Information Resources for that. The Automation Project  
10 consists of initiatives to automate Department services,  
11 which includes, as I think Sandra mentioned earlier, the  
12 final phase of the project to refactor the Registration  
13 and Title System, RTS Refactoring.

14 Note that our Automation Projects are funded  
15 from an automation fee of 50 cents assessed as part of the  
16 process and handling fees for each vehicle registration.  
17 Other capital projects -- that's the final -- the little,  
18 tiny box down there to the right, far right -- is \$4.2  
19 million, and most of that is allocated for maintenance of  
20 Department headquarters.

21 We are still in the planning phases for many of  
22 those projects, so we have not had any expenditures. Also  
23 included in this category is funding for a security and  
24 badging system, which we're still working through, and  
25 vehicles.

1                   We have purchased 13 new vehicles this year.  
2                   So that concludes my presentation. I'm happy to answer  
3                   any questions.

4                   MR. TREVIÑO: Great. Is there any comments or  
5                   questions from the members?

6                   (No response.)

7                   MR. TREVIÑO: I have one, Ms. Bankhead or Ms.  
8                   Flores. In the process and handling fee, the online  
9                   portion of it doesn't seem to be responding very well.  
10                  Any thoughts on why it's not -- if you look in every other  
11                  sector, every other industry, online adoption is, you  
12                  know, growing significantly.

13                  Any thoughts?

14                  MS. BANKHEAD: I'm going to try to --

15                  MS. BREWSTER: If I may --

16                  MR. TREVIÑO: Staff --

17                  MS. BREWSTER: -- Whitney Brewster, executive  
18                  director. Texas.gov has looked at that, and they are  
19                  continuing to look at that, both for our Agency as well as  
20                  other agencies, specifically DPS for renewal of driver  
21                  licensing online, to determine why there isn't greater  
22                  participation in online usage.

23                  They are preparing a more aggressive campaign  
24                  coming up here in the next several months to hopefully  
25                  address that, and we internally as an Agency are also

1 looking to work with them in concert to do another online  
2 push here at the Agency to hopefully move that forward.

3 But I will tell you, the initial results from  
4 Texas.gov on why people are not participating was not due  
5 to awareness, that folks were aware. They really wanted  
6 to be able to go in and tangibly get that document by  
7 going into an office.

8 And so we have our work cut out to address  
9 that, and to really promote online usage and address any  
10 concerns from the public from going online to seek  
11 services through us. We need to be able to explain to  
12 them that they can do it securely, safely, and their  
13 information will be protected.

14 MR. TREVIÑO: Great. Okay.

15 MS. BREWSTER: But I'm happy to provide an  
16 update --

17 MR. TREVIÑO: Yeah. I think it would be  
18 useful.

19 MS. BREWSTER: -- the Board, as we move  
20 forward.

21 MR. TREVIÑO: That's an important piece.

22 MS. BREWSTER: I agree.

23 MR. TREVIÑO: Yeah. So yeah. Great. We need  
24 to get some more background on that when available. So --

25 MS. BREWSTER: Absolutely.

1 MR. TREVIÑO: -- all right. Any other  
2 questions?

3 (No response.)

4 MR. TREVIÑO: Good. Do you think -- so  
5 especially the overweight portion of our -- overweight and  
6 oversize -- does the trend -- do you feel that it's going  
7 to continue? What are the indications?

8 MR. ARCHER: For the record, Jimmy Archer,  
9 director, Motor Carrier Division. Mr. Treviño, it looks  
10 like it will continue. I mentioned yesterday in the  
11 training that if we stay on the current pace we're on now,  
12 we should issue approximately over 850,000 permits this  
13 year, oversize/overweight permits.

14 MR. TREVIÑO: Excellent.

15 MR. ARCHER: Last year, we issued 809,113  
16 permits. The year before that, we issued around 700,000.

17 So the trend is going on. I don't see any indication  
18 right now that it's going to go the other way, but it's  
19 the economy.

20 MR. TREVIÑO: It's really difficult to tell as  
21 far as the economy goes. The only reason I raise the  
22 question is, are you able to keep up with the work,  
23 because that's a significant increase, and that's a lot  
24 more work in your area.

25 MR. ARCHER: Yes, sir. I mean, it's a



1 challenge, but we're able to keep up.

2 MR. TREVIÑO: Great, great, Mr. Archer. Thank  
3 you very much. Thank you for your hard for the citizens  
4 of Texas.

5 MR. ARCHER: Thank you, sir.

6 MR. TREVIÑO: Okay. Any other questions?

7 (No response.)

8 MR. TREVIÑO: All right.

9 MS. FLORES: All right. Our next agenda item  
10 is a briefing item only. It is Item 8-D, and the actual  
11 material should begin on page -- I'm sorry -- 161 of your  
12 Board book.

13 MR. TREVIÑO: 161.

14 MS. FLORES: This is an update of where the  
15 Agency is in the legislative appropriations request  
16 process. So for the sake of the new Board members, I will  
17 just kind of give a real quick background on the Agency's  
18 appropriations request.

19 We compiled and submitted an appropriations  
20 request last summer, in August. It was deliberated by the  
21 Legislative Budget Board and what was the outcome was  
22 titled, House Bill 1, and that was introduced in January.

23 Since then, that house bill has moved over to the Senate.

24 The Senate tacked on its own amendments, and  
25 now it is called Committee Substitute for House Bill 1.

1 The two versions between the House and the Senate  
2 approvals are different, and this table kind of shows you  
3 a comparison between the two versions.

4 The introduced version was a base request of  
5 300.9 million for the two years for the 2021 biennium.  
6 Neither -- the introduced version did not approve any of  
7 the Agency's exceptional items. An exceptional item is  
8 something that the Agency currently does not contain in  
9 its appropriations.

10 So anything beyond and above that is considered  
11 exceptional. We had a total of nine items -- actually, it  
12 was seven. So when the introduced version came out, we  
13 were given an opportunity to revise our exceptional items,  
14 and we did that.

15 We came up with seven exceptional items. There  
16 was a new item that was included in the exceptional item  
17 request. We have a list of narrative included on page  
18 163, if you're interested in seeing what those exceptional  
19 items specifically were.

20 But the House bill committee substitute -- what  
21 was approved by the House is 314.5 million. They approved  
22 all of the Agency's exceptional items that were funded by  
23 the TxDMV Fund. So because we do support ourselves, they  
24 took that into consideration.

25 There were two exceptional item for the Auto

1 Burglary and Theft Prevention program that were not  
2 recommended. Those were pushed off into something called  
3 Article 9, and it's items that are not funded, but it  
4 leaves room for continued discussion.

5 The Senate version only approved so many  
6 exceptional items. They did not include the approval for  
7 the HQ maintenance item that we had to the tune of  
8 \$5.1 million. They did not include either of the Auto  
9 Burglary and Theft Prevention exceptional items.

10 And they partially funded two of our  
11 exceptional items related to IT and to the consumer  
12 relations request. So they are still in play. I will  
13 tell you that. They have named the conferees.

14 I believe they're meeting without informing  
15 agencies, because if nothing else, this Legislature has to  
16 approve a general appropriations act by the end of -- May  
17 27, which is what we called sine die, the end of the  
18 session.

19 They have to have an appropriations bill  
20 passed. So the conferees have been named. We do believe  
21 they're meeting. We have gotten a couple of questions in  
22 this last week regarding the HQ exceptional item and the  
23 consumer relations exceptional item.

24 We provided that. So we do believe that, you  
25 know, some of our requests will make it all the way

1 through. For those items that are in Article 9 -- I'm  
2 sorry -- 11 -- that is considered a wish list for the  
3 State of Texas, and that wish list is very, very long.

4 So what comes out of there remains to be seen.

5 So I'm happy to answer any questions. That's my  
6 briefing.

7 MR. TREVIÑO: Great. Any other --

8 MR. GRAHAM: Question.

9 MR. TREVIÑO: Member Graham?

10 MR. GRAHAM: So when -- I'm specifically  
11 looking at the Senate version, what came out of --  
12 basically came out of committee or --

13 MS. FLORES: Yes, sir.

14 MR. GRAHAM: -- right. And so are any of you  
15 involved in the discussions of -- with the committee as to  
16 how they came to that conclusion?

17 MS. FLORES: So the reason I say we know  
18 they're meeting but they're not letting us know that  
19 they're meeting is that they do not engage the agencies  
20 when they're deliberating agencies' appropriations  
21 requests.

22 The House is more transparent than the Senate,  
23 I will say. When the House was deliberating, they have  
24 work groups for each article. We were noticed that they  
25 were meeting. So we would show up. We're not allowed to

1 talk.

2 Our legislative budget analyst is -- you know,  
3 it's one of those protocols that you have to follow. The  
4 Legislative Budget Board analyst is at the table with the  
5 work group members, composed of the House members. If  
6 they have a question that our analyst cannot answer, the  
7 Agency representative is sitting in behind with some  
8 little card -- index cards, and you write the answer.

9 You give it to your analyst, and they proceed  
10 to inform the rest of the work group. The Senate, on the  
11 other hand, does not notice -- does not provide notice of  
12 their meetings, but we do know they're meeting.  
13 Otherwise, they wouldn't be able to come out with a bill  
14 at the end of May.

15 So it's just a different protocol, if you will.

16 MR. GRAHAM: I was just curious if you were  
17 able to glean any logic, when they don't -- you know, for  
18 instance, infrastructure. It's a pretty relevant  
19 discussion right now for DMV, ensuring that our  
20 infrastructure is prepared and ready for anything they may  
21 throw at us, and so I was just curious if you were,  
22 like -- you know, had any background on their logic for  
23 how they -- and it may be that they just kind of start  
24 with something, and there's not a lot of thought put --

25 MS. FLORES: I will -- I'm looking at --

1 MR. GRAHAM: -- into the deliberation.

2 MS. FLORES: -- Caroline, because I know she's  
3 going to give you an update on the legislative process  
4 but --

5 MR. GRAHAM: We can wait for that, I guess.

6 MS. FLORES: Yes, sir. But I do know we did  
7 ask our analyst, Thomas Galvan from the Legislative Budget  
8 Board, why the Senate would have removed the HQ item  
9 specifically, and I believe Matthew Miller from Caroline's  
10 shop also may be aware.

11 But the Agency right now in its bill pattern --  
12 in its proposed bill pattern does include a rider to allow  
13 the Agency to carry forward unspent dollars from that  
14 particular line item into the next biennium. So they are  
15 aware that we can carry forward dollars from now until  
16 then.

17 Based on our expenditures, we're not really  
18 hitting those expenditures, you know, right now, so we're  
19 not using up that money, so we will have that ability,  
20 hopefully, to carry forward unspent dollars. They could  
21 be thinking that -- well, the Agency has this ability.

22 Why should we give them more money when we have  
23 this carryforward authority? So that might be a  
24 rationale. The fact that they are asking questions and  
25 sending them to Caroline and having us respond is a good

1 sign.

2 It means that the discussion is occurring.

3 MR. GRAHAM: Sure.

4 MS. FLORES: So it's still in play, if you  
5 will.

6 MR. GRAHAM: Okay. Thank you.

7 MR. SCOTT: Can I ask a question?

8 MR. TREVIÑO: Yes, member Scott.

9 MR. SCOTT: The carryforward -- so you have the  
10 infrastructure, the maintenance for the headquarters  
11 building --

12 MS. FLORES: Uh-huh.

13 MR. SCOTT: -- \$5 million, and it's out of the  
14 Senate. Right? So are we able to fund that from  
15 carryover at some point or --

16 MS. FLORES: Quite honestly, we have a list  
17 that's at least \$10 million long --

18 MR. SCOTT: Right.

19 MS. FLORES: -- of different renovations and  
20 repairs. That 5.1 million was to renovate two floors in  
21 this building, 2-1/2 million per floor. It also included  
22 swing space, because we would have to move folks out.  
23 We'd have to rent something in Austin, and it's expensive  
24 real estate.

25 So if we don't receive that money, then we will

1 continue on the path to replace the roof in Building 5.  
2 We'll renovate the executive suite. We'll do some other  
3 things that we have on our list now. We just won't go  
4 that extra step of actually starting to renovate this  
5 building.

6 MR. SCOTT: But the money that's carried  
7 forward from one budget year to the next year, it is  
8 available to do --

9 MS. FLORES: Yes, sir.

10 MR. SCOTT: Okay. Thank you.

11 MS. FLORES: Yes, sir.

12 MR. TREVIÑO: Any other questions for Ms.  
13 Flores?

14 (No response.)

15 MR. TREVIÑO: So we don't set our budget. We  
16 are the will -- our budget is set by the Legislature,  
17 and -- but I do -- but how we spend our money is what our  
18 Department decides, and I would like to commend staff and  
19 also Ms. Flores for very detailed financials and running a  
20 tight ship.

21 So thank you very much.

22 MR. GRAHAM: It's nice to be over revenues and  
23 under budget.

24 MR. TREVIÑO: Yeah, yeah, yes, it is. Good  
25 value for the citizens of Texas. Okay. All right. Our



1 next agenda item -- okay -- is -- we move to Item 9, the  
2 new specialty plate design. Let's get that one here.  
3 Jeremiah Kuntz, we're heading into specialty plates  
4 designs.

5 Okay. Always exciting. Never know what you're  
6 going to have. So --

7 MR. KUNTZ: Good morning, members. For the  
8 record, Jeremiah Kuntz, director, Vehicle Titles and  
9 Registration Division. We're going to be discussing the  
10 specialty plate designs that you see before you on the  
11 board.

12 Before we do that, I did want, for the benefit  
13 of the new members, to kind of go over a little bit of our  
14 specialty plate programs. So you'll just a more broad  
15 understanding of our program. Currently, there are  
16 essentially three ways that a license plate comes into the  
17 market, if you will.

18 First is a statutory change. A bill is laid  
19 out by the Legislature creating a license plate and  
20 putting it in the statute. Many of our specialty plates  
21 that have specific restrictions on them, like the  
22 military, different organizations that you must have some  
23 kind of status in order qualify for those plates, are put  
24 in the statute.

25 The other types of plates that are generally in

1 statute are plates where the fees are waived, again,  
2 military, other different types of plates where there's no  
3 fee charged for the actual specialty plate itself, or have  
4 to go into statute in order for those fees to be waived.

5 If not, there is a specialty plate fee in  
6 addition to registration that is charged for somebody to  
7 obtain one of those license plates. The Department also  
8 has authority to have plate sponsors from other State  
9 agency organization or the Department itself.

10 So the Department or another State agency can  
11 sponsor a specialty license plate. Those fees are set in  
12 statute. It's a \$30 license plate fee. Twenty-two of  
13 those dollars go to the sponsoring State agency for  
14 appropriation to whatever the intended purpose of those  
15 funds are.

16 The Agency receives \$8 for the administrative  
17 overhead of issuing those license plates. The last set of  
18 license plates, if you will, are those that are brought  
19 forward by our specialty plate marketing vendor.

20 Currently, that is known as My Plates, and they can bring  
21 forward license plates before the Board for adoption and  
22 approval, and you will see primarily those designs coming  
23 before you.

24 Those are the most common that you'll be  
25 seeing. We have quite a few different license plate

1 options. We have 478 license plate design options. There  
2 are 180 military and disabled veteran license plate  
3 options. There are 50 license plate options with  
4 restricted use or restricted distribution.

5 There are 128 state specialty license plates,  
6 and 120 vendor license plates, which is the My Plates  
7 program.

8 MR. TREVIÑO: Jeremiah --

9 MR. KUNTZ: You will see --

10 MR. TREVIÑO: -- what is the total of the  
11 license plates then? All --

12 MR. KUNTZ: 178.

13 MR. TREVIÑO: No. The entire universe of  
14 different license plates, not just the specialty plates,  
15 all the other ones.

16 MR. KUNTZ: So that has everything in it.

17 MR. TREVIÑO: Okay. Great. Okay.

18 MR. KUNTZ: That's all, statute --

19 MR. TREVIÑO: Great. Okay. Covers all of  
20 them.

21 MR. KUNTZ: -- that's, you know, all the  
22 statutory plates, My Plates. Everything is 478 --

23 MR. TREVIÑO: Great.

24 MR. KUNTZ: -- and that's the various  
25 backgrounds. We have 478 various backgrounds.

1 MR. TREVIÑO: Is that unique to Texas?

2 MR. KUNTZ: Say that again?

3 MR. TREVIÑO: Is that unique to Texas or would  
4 you say all 50 states have a similar sort of program?

5 MR. KUNTZ: We, I would say, are pretty unique  
6 in Texas, that I believe we lead the way on the number of  
7 license plate options.

8 MR. TREVIÑO: Texas leads the way. Okay. All  
9 right.

10 MR. KUNTZ: You will see in your Board book  
11 this pamphlet that create. We actually create this every  
12 time the Board gets together to just give you a snapshot  
13 of different things within the program. So you can see  
14 the top five registered My Plates plates are all with the  
15 black background design.

16 The highest-registered one is the Large Star  
17 White and Black, and that has 44,936 registrations for  
18 that license plate design. You can see over in the  
19 military, the Meritorious Service, the highest Meritorious  
20 Service is the -- I mean, the highest one is Meritorious  
21 Service Medal with 9,521.

22 These that you're seeing over here on the right  
23 have various -- they have registration waived for those  
24 license plates as -- in addition to the plate fee itself,  
25 which is why they have a pretty high number of applicants

1 that come in for those license plates.

2 You also see the three license plates that will  
3 be brought to market in April, and this kind of brings me  
4 to a little bit of our process. After you approve these  
5 plates, there is still a process that those plates go  
6 through in order -- before they actually come to market.

7 In our contract with My Plates, they must pre-  
8 sell 200 of those license plate designs before they  
9 actually are made available to the market to receive on  
10 their vehicles. So the Jackson State University and the  
11 Houston Community College, those license plates were  
12 brought forward by My Plates.

13 So they had to get their 200 minimum orders  
14 before they could be brought forward. The Bighorn Sheep  
15 does not have to. It's a State agency-sponsored plate,  
16 and we don't have the same requirement for them to reach  
17 200 minimum threshold.

18 This particular State agency-sponsored plate is  
19 in statute with the Parks and Wildlife, and they are able  
20 to bring license plates for various wildlife-themed  
21 license plates. As you will see up here, we will be  
22 taking one of those up for consideration today.

23 With all of that, if there are any questions  
24 about our specialty plate program, I'd be more than happy  
25 to answer those.

1 MR. TREVIÑO: Does anybody have any questions  
2 or --

3 MS. GILLMAN: I have a question.

4 MR. TREVIÑO: Sure, member Gillman.

5 MS. GILLMAN: Are you looking to keep the same  
6 number or reduce? Is it -- do you have an objective?

7 MR. KUNTZ: As far as the number of designs,  
8 no, we don't have any kind of objective on, you know,  
9 limiting the number of background designs or trying to get  
10 to a certain number of them. Basically, what we have is  
11 organizations that come forward that either want to raise  
12 money for their organization or for a cause, or they may  
13 be just -- you know, with My Plates, that actually has a  
14 revenue-generating function to it, in that it derives  
15 money from the sale of those plates for the General  
16 Revenue Fund.

17 Our objective with that plate program is to  
18 generate funds for the General Revenue account, and  
19 it's -- we don't have an objective on the number of  
20 license plates that are brought forward. The reason we've  
21 got a 200-plate minimum threshold for that particular  
22 program is to not have a bunch of plates in the catalog  
23 that are not selling.

24 If they're not selling, we do remove them from  
25 the catalog. So if they do not maintain 200 registered

1 license plates, then we actually peel those out of the  
2 program and make them no longer available.

3 MR. TREVIÑO: Great.

4 MS. GILLMAN: The last question. How much is a  
5 specialty plate?

6 MR. KUNTZ: They vary. So depending on how  
7 those plates are purchased -- and we'll get you a  
8 breakdown of those My Plates fees -- there are  
9 discounts -- generally about \$150 for a My Plates plate.  
10 The statutory plates are 30, but then there's also fees if  
11 you want to personalize those license plates.

12 And those fees go up as you do personalizations  
13 or different things to your license plate. But then we  
14 also have, I guess, discounts, if you will, for a multi-  
15 year purchase. So the way that the fee structure is laid  
16 out in our administrative rule -- if somebody pre-  
17 purchases a plate for a five-year term, they're going to  
18 get a discount on their per-year plate cost for purchasing  
19 that all up front.

20 And we'll get you all of the schedule of fees  
21 and how those break down.

22 MR. GRAHAM: How are we coming on the Board  
23 plates?

24 MR. TREVIÑO: Board plates?

25 MR. GRAHAM: Yeah. Shouldn't the Board

1 governing plates have Board plates.

2 MR. TREVIÑO: Hm. Well, I think the --

3 MR. GRAHAM: I don't know. I brought it up  
4 about two years ago, and I never brought it up again. I  
5 just I'd throw that out there.

6 MALE VOICE: I guess only if we get 200  
7 members --

8 MR. TREVIÑO: Can we discuss that on the plate  
9 subcommittee, and Ms. Gillman -- member Gillman can head  
10 that up.

11 MR. GRAHAM: Plate subcommittee.

12 MR. TREVIÑO: For the moment, I think we'll  
13 just --

14 MALE VOICE: Just paint a big target on your  
15 car.

16 MR. TREVIÑO: Yes. Careful what you wish for.  
17 So Jeremiah -- another question, Mr. -- member Scott?

18 MR. SCOTT: So like the Mavericks plate, the  
19 one on the left is the current one --

20 MR. KUNTZ: Yes.

21 MR. SCOTT: -- and the one on the right is  
22 being proposed?

23 MR. KUNTZ: Yeah.

24 MR. SCOTT: So now, and how does that -- I  
25 mean, who proposes that? What --



1           MR. KUNTZ: Yeah. So let me go into that. One  
2 of the things that we do see, and as I was kind of laying  
3 these out, I was going -- I wanted to give you all kind of  
4 background --

5           MR. SCOTT: Okay.

6           MR. KUNTZ: -- and I can definitely move into  
7 these plates. So before you, what you have are three  
8 different license plates. Two of these license plates are  
9 redesigns and one is a new plate that's being brought to  
10 market.

11           So the license plate at the top, the Checkered  
12 Flag plate, is a new license plate. It is being brought  
13 before you from My Plates. So it is a new design that is  
14 not currently available in the market. The other two --  
15 I'll take the Mavericks first.

16           The Mavericks have redesigned their logo, and  
17 so that is a My Plates plate design. They, in working  
18 with My Plates, have requested that their new logo and new  
19 marketing be placed on that license plate, and so in order  
20 to accommodate that, we are bringing the design back  
21 before you for consideration.

22           That would not be a new offering to the market.

23           It's just a redesign. So the old design would go away.  
24 The new redesign would be what's available to the public.

25           So we will discontinue the old designs. The two on the

1 left will actually go away and they'll be replaced with  
2 the new designs.

3 We will not recall those from the market. So  
4 if you already had the Mavericks plate that had the old  
5 logo on it, we will not force you to turn those in. You  
6 can continue to use that license plate, but you can get a  
7 replacement if you would like to get a replacement to get  
8 to the new plate design.

9 Our replacement fees are \$6.50 at a county  
10 office. So they would have to pay their replacement plate  
11 fee in order to go in and get a new plate with the new  
12 design on it. The plate on the bottom is sponsored by the  
13 Texas Parks and Wildlife.

14 It is the Save the Texas Ocelot plate, and the  
15 license plate on the left is the old license plate design.

16 It is more of an artwork caricature. The new license  
17 plate design has more of a, you know, actual image of an  
18 ocelot on it.

19 They are hoping to generate more interest with  
20 their license plate sales with the newer design.

21 MR. TREVIÑO: Great. Thank you very much, Mr.  
22 Kuntz. Any other questions or discussion, thoughts on the  
23 plates?

24 (No response.)

25 MR. TREVIÑO: Would the committee -- or the

1 Board like to take all three as one possibly? Okay. So  
2 unless there's any further discussion, I'd like to  
3 entertain a motion to approve -- or to take or to reject  
4 all three? Do you have a -- do we have a motion?

5 Now, someone has to make a motion.

6 MR. PREWITT: I'll make a motion --

7 MR. TREVIÑO: Great. Okay.

8 MR. PREWITT: -- to approve all three plates.

9 So --

10 MR. TREVIÑO: Great. We have a motion from  
11 Board member Prewitt and a second from Board member  
12 Gillman.

13 MS. BEAVER: I'm sorry. This is general  
14 counsel Tracey Beaver.

15 MR. TREVIÑO: Yes?

16 MS. BEAVER: If you wouldn't mind, I don't know  
17 if the court reporter could quite hear that.

18 MR. PREWITT: I make a motion that we accept  
19 all three plate designs, as presented by staff.

20 MR. TREVIÑO: Great.

21 MS. GILLMAN: I second.

22 MR. TREVIÑO: Great. Thank you for clarifying  
23 that, member Prewitt. Counsel, is that -- can we move  
24 forward? Great. So we have a motion from member Prewitt  
25 and a second from Board member Gillman. Any further

1 discussion?

2 (No response.)

3 MR. TREVIÑO: Hearing none, I call for the  
4 vote. All those in favor, please signify by raising your  
5 hand.

6 (A show of hands: Members Bacarisse, Gillman,  
7 Graham, Painter, Prewitt, Scott, Treviño, Washburn.)

8 MR. TREVIÑO: Okay. All those opposed, same  
9 sign?

10 (No response.)

11 MR. TREVIÑO: Let the record reflect that there  
12 are -- it's an unanimous vote. Great. Cool. And the  
13 motion carries. Thank you very much, Mr. Kuntz. Okay.  
14 We will now move on to Agenda Item No. 10, and an 86th  
15 Legislative Session update from Ms. Caroline Love.

16 MS. LOVE: Good morning.

17 MR. TREVIÑO: Good morning.

18 MS. LOVE: Again, my name is Caroline Love,  
19 director of the Government and Strategic Communications  
20 Division, and I have a briefing for you all today about  
21 the status of the 86th Legislative Session as it relates  
22 to the Department.

23 And this starts on page 170 of your briefing  
24 materials. Following the general update that I have about  
25 the session, I'll talk about the status of the Board

1 recommendations and because there are several new faces in  
2 front of me now that were not here when the Board adopted  
3 those back in October, I'll try to go into detail, but  
4 feel free to ask any questions at any time.

5           So I'll start by saying there's 25 days left,  
6 not that anybody's counting. You know, there's a lot  
7 that's going to happen in these next 25 days, and that  
8 also means that there are a lot of deadlines that are very  
9 much looming before the Legislature right now, including  
10 one week from today is the last day for the House Chamber  
11 to consider House bills on the general or major State  
12 calendar on second reading, and the next day, Friday,  
13 would be the same for those bills on third reading.

14           And so that deadline is definitely one of the  
15 biggest ones that the Legislature faces, and there will be  
16 a lot of long nights, I'm sure, ahead, and it will be very  
17 interesting to see how the next week goes. And then  
18 following that, on May 21, that is the last day for the  
19 House to consider Senate bills on second reading on the  
20 House floor, and so that's another significant deadline.

21           Pretty much by that point, there will be -- all  
22 the bills that are in flight will have been considered by  
23 the -- both chambers in the Legislature. So after the  
24 Legislature adjourns on -- for sine die on May 27, the  
25 next big deadline after that is June 16, which is the day

1 which the Governor has the deadline that he has to sign,  
2 veto or allow legislation to go into law without  
3 signature, and so obviously, that's a significant one,  
4 including with the budget he has line-item veto authority.

5 So that always is an interesting thing to  
6 monitor as well. So we'll be keeping an eye on that. And  
7 then of course, generally the effective date of most  
8 legislation passed by the Legislature is September 1,  
9 2019, and sometimes there are extensions based on the  
10 things that happen in the bills and the requirements of  
11 agencies.

12 So by and large, September 1 is that day. My  
13 Division and staff have been continuing to monitor the  
14 legislative session through committee hearings that are  
15 watched and attended, and we coordinate the participation  
16 for the Department at those as well.

17 We've been a resource witness for several bills  
18 as they continue to work their way through the session.  
19 And also we do get asked a lot of questions from  
20 legislators and staff, and attend several meetings as  
21 well.

22 So we help coordinate all those efforts. And  
23 then we also hold weekly briefings with our executive team  
24 as well to make sure everyone is up to speed on what's  
25 happening. And there's some just general statistics here

1 about the number of bills that were filed this session,  
2 which is just under 7,300, and of those, we have  
3 identified almost 600 that would have an impact to the  
4 Department.

5 So we're kind of continuing to watch all of  
6 those and see what ends up making it through to the  
7 Governor's desk or not, and then may be not even from  
8 there. We'll see. At any rate, I wanted to move into a  
9 status update of the Department's Sunset legislation.

10 As you all are aware, our Department has been  
11 in existence for almost 10 years now, and this is our  
12 first Sunset review, and so it's a very important and  
13 helpful process that we've been through on this. As Ms.  
14 Brewster mentioned earlier, there were several management  
15 recommendations that were made by Sunset staff, which  
16 we've worked on -- we've been working to implement, but  
17 there were also several statutory recommendations.

18 So the biggest statutory recommendation in  
19 Senate Bill 604 by Buckingham is to extend the Agency  
20 until 2031, and that's the longest extension any agency  
21 can get, of 12 years. So that is a great aspect of the  
22 bill, and so therefore, it is very good.

23 Other than that, there were -- yesterday, the  
24 House Transportation Committee voted the bill out of the  
25 committee. So next it will go for House floor debate and

1 it's already been through the Senate. The House did make  
2 some changes and I just got the substitute this morning.

3 But as we've looked through it, there were a  
4 few changes that I'll note. One of them was, the Senate  
5 had added a provision requiring that the chair of this  
6 Board be a public-appointed member. And the House  
7 committee substitute has removed that requirement.

8 And then, additionally, there were -- there was  
9 a recommendation by Sunset staff to remove the provision  
10 in law that allows auto dealers to have an advertising  
11 infraction and get a warning, and instead, if there was an  
12 infraction, there would be for our enforcement staff to  
13 assess an administrative fee.

14 That -- the Sunset staff recommended repealing  
15 that warning provisions, but it was removed in the House  
16 substitute, so that would -- what's currently in place  
17 would remain. Additionally, Sunset staff recommended that  
18 the shows and exhibitions requirements be repealed from  
19 statute.

20 So essentially, for a manufacturer to put  
21 vehicles out at -- on display in a mall or auto shows,  
22 things like that, there is a requirement currently that  
23 they file that information with the Department, but the  
24 committee substitute that was voted out of the House  
25 repeals that provision, which means that requirement stays



1 in place.

2 I hope I'm not confusing you too much, but  
3 please stop me if there is anything. And then the last  
4 major change in the committee substitute from -- as it was  
5 passed from the Senate adds some requirements about an  
6 alternatively-fueled vehicle study that is to be  
7 accomplished by the Department during this interim.

8 And that was not an original Sunset  
9 recommendation, but it was added on the Senate floor, and  
10 it said that we would partner with the Department of  
11 Transportation and work with a third party to look at what  
12 would be an equitable fee to assess on alternatively-  
13 fueled vehicles so that they can make up for what they're  
14 not paying in the motor vehicle fuels tax.

15 And so the House committee substitute for our  
16 Sunset bill says that, in addition to working with TXDOT,  
17 DMV shall work with the Public Utility Commission and the  
18 Texas Commission on Environmental Quality and the Texas  
19 Department of Public Safety to conduct this study.

20 So it will be a big team effort, if it remains  
21 that way through the session. So that is the status of  
22 the bill currently, and it is anticipated that we are  
23 going to -- or the -- I'm sorry -- that the House will  
24 have both this bill and any other Sunset legislation that  
25 is yet to pass the House Chamber for consideration on

1 May 14, which is one week ahead of that Senate bill  
2 deadline, to consider all Senate bills on second reading.

3 One thing of note is, what's happening  
4 currently with the House is, as of last Thursday, they are  
5 not completing their calendars that they post, which means  
6 that bills that did not get heard keep getting added to  
7 each supplemental calendar for that day.

8 So the calendar is building, and it will likely  
9 continue to build until May 9, of the House bills. I  
10 would anticipate the same type of thing will happen as  
11 Senate bills start needing to meet that May 21 deadline.

12 So while May 14 is the anticipated calendar  
13 date for Sunset legislation, it may get pushed -- is the  
14 only thing. But the other interesting note of that -- is  
15 because all the House bills will have died by May 14, that  
16 maybe didn't get considered on second and third reading.

17 If those -- any of those bills have a tie-in to  
18 be eligible as an amendment to any Sunset bills, that is a  
19 definite likelihood. So that will make that day very  
20 interesting for sure. The other Sunset bill that is of  
21 interest is Senate Bill 616 which is the Department of  
22 Public Safety's Sunset legislation.

23 And how that relates to our Department is,  
24 there is a requirement in that bill for the -- for DPS to  
25 work with DMV and the county tax assessor-collectors in

1 looking at how a transfer of that driver license program  
2 could occur.

3 And so that would have the study due by  
4 September 2020 to the Legislature, and the Legislature  
5 would come in 2021 and make the determination of how that  
6 function would transfer. Are there any questions about  
7 the Sunset legislation before I continue?

8 MR. TREVIÑO: Members? Anyone? Yeah.

9 MR. SCOTT: Yes.

10 MR. TREVIÑO: Member Scott?

11 MR. SCOTT: Could you summarize the difference  
12 between Senate Bill 616 and House Bill 11? They've both  
13 addressed the driver's license transfer. One says a study  
14 by September 2020, and the other says a direct -- so --

15 MS. LOVE: That's correct.

16 MR. SCOTT: -- what's going on there?

17 MS. LOVE: Yes. So House Bill 11 was the next  
18 bill I had planned to talk about. It is a stand-alone  
19 bill that does a direct transfer of the driver license  
20 program from DPS to the Department of Motor Vehicles, and  
21 that would happen with a study to occur this interim to  
22 determine how that transfer would occur, but the transfer  
23 would be effective January 1, 2021.

24 So before the next Legislature comes in, that  
25 transfer would have happened. House Bill 11 did make it

1 over to the Senate. It was referred to Senate  
2 Transportation but has not yet received a hearing. So  
3 it's limbo at the moment.

4 MR. SCOTT: So the conflict there is between  
5 the -- one, it says a study by 2020. The other one says,  
6 we're not -- we're just going to --

7 MS. LOVE: The other one --

8 MR. SCOTT: -- do it by January 2021. Right?

9 MS. LOVE: Yes.

10 MR. SCOTT: Okay.

11 MS. LOVE: That's it. And additionally, just  
12 to supplement Jeremiah's presentation about how specialty  
13 license plate exist in Texas, our State Legislature wants  
14 to make sure we remain number one in the number of  
15 specialty license plates that are offered.

16 And so there are 14 bills that are currently  
17 working their way through the legislative process and if  
18 they all pass, we would have 19 new specialty plates, so  
19 we're just shy of 500.

20 MR. SCOTT: So there's two ways to have a  
21 specialty license plate. Right? One is by statute, by  
22 the Legislature, and the other one is action that the  
23 Agency takes. Right?

24 MS. LOVE: There's three. So the one is --  
25 there is statutory creation. There is also creation by a

1 sponsor for -- of a State agency. And then the third one  
2 is through the My Plates program. So yes.

3 MR. SCOTT: Thank you.

4 MS. LOVE: And then of course there's several  
5 other bills that have been introduced that are currently  
6 working their way through the process. Interestingly,  
7 every session, the Legislature has at least one bill -- I  
8 believe this time there are about four -- that would say  
9 that you are not required to have a front license plate.

10 Current statute says that you have to both a  
11 front and a rear license plate, and every session, they  
12 seem to not go anywhere, and none of those bills are  
13 moving forward. So we -- at the end of the session, we'll  
14 likely still be required to have two license plates, in  
15 the front and the back.

16 But there is a very interesting bill, as Ms.  
17 Brewster mentioned earlier as well, about the creation of  
18 digital license plates. And so House Bill 1711 is a bill  
19 that would allow for any individual to, instead of having  
20 your back plate be a metal plate as we issue currently,  
21 you could get a digital plate.

22 And the study that was required by House Bill  
23 1959 from the last session had us look at how to test the  
24 viability of several alternatively fueled -- or I'm  
25 sorry -- I'm thinking of my electric car -- alternative

1 registration options for vehicles, and one of those  
2 included the availability of a digital license plate.

3 And so the next step of that study, as Ms.  
4 Brewster mentioned, was for us to move forward with a  
5 pilot on how that would work functionally on the road.  
6 One of the things that came up yesterday -- the Senate  
7 Transportation Committee considered House Bill 1711 in  
8 committee, and there were several witness remarks that  
9 were made on the bill, and one of them was from the Texas  
10 Sheriffs Association. And they commented on how they have  
11 a concern about the readability of these plates with their  
12 license plate readers and other tolling entities that use  
13 cameras to read the plates for their operability and  
14 transactions are also looking at that to see how those  
15 digital plates would be viewed through the cameras.

16 That is part of the pilot that we were going to  
17 be studying, but it obviously has not started yet, so we  
18 don't know exactly what that looks like, but that bill,  
19 House Bill 1711, was left pending, and we're continuing to  
20 work with the committee however they need to provide  
21 information on that.

22 MR. SCOTT: Great.

23 MR. TREVIÑO: Okay. Any other questions for  
24 Ms. Love?

25 MS. GILLMAN: I have one.

1 MR. TREVIÑO: Member Gillman?

2 MS. GILLMAN: Caroline, do you have a  
3 preference for this Agency of -- if they were going to  
4 adopt or bring in driver's license. The -- do you have a  
5 time frame or a preference of how a transition would  
6 happen, and is that being encouraged right now over in the  
7 Legislature?

8 MS. LOVE: As State agencies, we're here to do  
9 whatever they decide. You know, the way it was commented  
10 on as Senate Bill 616 was moving its way through the  
11 process was that legislators are interested in ensuring  
12 that there's a methodical study and process for any kind  
13 of transfer.

14 They're concerned about making a quick  
15 decision, and so it seems as though the Senate Bill 616  
16 language may be what prevails in the end, but of course,  
17 we have 25 days to see what really does happen. So --

18 MS. GILLMAN: Good.

19 MR. TREVIÑO: Any other questions for Ms. Love?

20 MS. LOVE: I do have an update on the Board-  
21 recommended items as well. I'm sorry. Am I going on too  
22 long?

23 MR. TREVIÑO: No, no. You're -- do what you  
24 need to do. That's what we're here for. Go right ahead.  
25 Good job.

1 MS. LOVE: Okay.

2 MR. TREVIÑO: Great work.

3 MS. LOVE: So as I mentioned before, this Board  
4 considered recommendations from staff regarding  
5 opportunities to create efficiencies in processes and  
6 procedures, and that is something that we started about --  
7 just over a year ago.

8 We started looking at it internally, and then  
9 we went forward to the stakeholder groups that would be  
10 impacted by those recommendations to get their feedback  
11 and thoughts about any of those changes, and as you can  
12 see on this slide, we went to several stakeholder groups  
13 to get that feedback.

14 Those recommendations were presented to the  
15 Board at their October 4 Board meeting and adopted at that  
16 point, and which -- at which point they became  
17 recommendations to the 86th Legislature. And so on this  
18 next slide, you can see these recommendations, and I'll  
19 run through the legislation that's been filed, as well as  
20 the status of each of them.

21 So House Bill 2835 by Representative Canales  
22 who is the Chair of the House Transportation Committee  
23 would allow for an extended registration for those  
24 registrations that expire, and if their county office  
25 happens to be closed for an extended period of time during



1 that expiration, you would be given an additional 30 days,  
2 and the desire there was that, when you run into  
3 situations like we did with Hurricane Harvey, and several  
4 counties have to close their offices for several days  
5 because of the recovery from the floods and things like  
6 that, that the customers that were impacted would have the  
7 opportunity to have that extra time to get their  
8 registration renewed if they couldn't get it renewed  
9 otherwise.

10 And that legislation is -- it passed out of the  
11 House committee and it has not yet been set for House  
12 calendar, so we're watching to see when that might occur.

13 Additionally, House Bill 2112 by Ed Thompson who is on  
14 the House Transportation Committee has a lot of provisions  
15 as it relates to determining flood vehicles and how those  
16 salvaged titles are processed and things like that.

17 That legislation is set for the House local  
18 calendar tomorrow. So it is moving forward pretty well.  
19 And there was -- House Bill 4304 by Representative Clardy  
20 addressed the Auto Burglary and Theft Prevention  
21 Authority's opportunity to expand.

22 You know, some of their scope -- but -- and  
23 then also about their ability for their funds to have --  
24 the funds be increased from what they are currently.  
25 That's actually being addressed through the budget

1 process, so that legislation is not being pursued further  
2 at this time.

3 House Bill 2620 by Armando Martinez who is the  
4 vice chair of the House Transportation Committee has  
5 several motor carrier-related updates. And there are some  
6 federal statutes that have changed as it relates to  
7 oversize and overweight permitting, weight tolerances, and  
8 so this legislation would bring Texas code up to what the  
9 federal codes are.

10 And then in addition, the Motor Carrier  
11 Division would be able to require an escort flagger as  
12 part of issuing an oversize/overweight permit. Currently,  
13 that's not something that we can require. So it would be  
14 a helpful safety measure to have that.

15 That legislation has passed out of the House  
16 committee and is awaiting placement on the House calendar.

17 House Bill 2834 by Representative Canales is also passed  
18 out of the House Transportation Committee and awaiting the  
19 calendar.

20 And it would exempt any investigations that we  
21 have going on with our Enforcement Division from Public  
22 Information Act requests, until that case is concluded.  
23 So it's protecting the participants in any of those  
24 investigations until the case is concluded, and other  
25 State agencies have this type of exemption as well.

1           And then House Bill 3842 by Tracy King which is  
2 also -- has a companion bill of Senate Bill 2052 by  
3 Senator Juan Chuy Hinojosa. That legislation clarifies  
4 the location by which a dealer can sell vehicles.  
5 Currently, the law is apparently not clear for some  
6 people.

7           So that bill is on the House local calendar for  
8 tomorrow and is moving through well. And in the Senate,  
9 it was placed on the Senate local calendar, but they  
10 pulled it to wait for that House Bill to come over and let  
11 that one move through.

12           And then we also have House Bill 3988 by  
13 Representative John Raney that says when a Lemon Law order  
14 is issued by the Department, that we don't have to do a  
15 separate notification to have the payment of the losing  
16 party be issued, which would be the manufacturer, so it  
17 just takes an administrative step out of the process and  
18 makes it easier, and that one's also set for the House  
19 local calendar tomorrow.

20           And there was a recommendation by the Board to  
21 look at restructuring the title dispute process.  
22 Currently, the tax assessor-collectors will have a hearing  
23 if there's an individual that does dispute any issuance of  
24 a title, whether they feel like they should have it or  
25 someone else, or the classification of the title.

1           And so that process is not necessarily  
2 consistently used around the state, so we were hoping to  
3 modify it, and we've been working with the tax assessor-  
4 collectors on a solution for it, but it was a little late  
5 for anything to be filed.

6           We were hoping that it might be something that  
7 could be eligible for adding to the Sunset legislation,  
8 but as I mentioned earlier, there is a concern about a  
9 broad array of amendments that could be eligible for our  
10 Sunset legislation.

11           So the more we can keep it clean, the better it  
12 might be. So if that does not end up passing this  
13 session, we'll continue to look at that throughout the  
14 interim, and likely come forward with another  
15 recommendation for the next legislative session.

16           MR. TREVIÑO: Great. Thank you.

17           MS. LOVE: So that does conclude --

18           MR. TREVIÑO: Wow.

19           MS. LOVE: -- my remarks.

20           MR. TREVIÑO: Thank you for a very thorough  
21 recap of our Legislature. And so -- staff correct me on  
22 this -- we serve at -- the Department serves at the  
23 pleasure of the Governor and approved by the  
24 Legislature -- or the Senate, and the rules that govern  
25 our authority, the statutes, are written by the

1 Legislature and approved by the Governor.

2 So we await the will of the Legislature to --  
3 so we can implement these things going forward. So --

4 MS. LOVE: That's beautifully said, and I'm  
5 going to memorialize it and laminate it so I can use it  
6 for future reference.

7 MR. TREVIÑO: Okay. All right. Fair enough,  
8 fair enough. But thank you very much for a very thorough  
9 presentation. Okay. All right. So next order of  
10 business -- we move to Agenda Item No. 11, Vice Chair  
11 election.

12 Do I have any nominations?

13 MR. PAINTER: Mr. Chair, I nominate Charles  
14 Bacarisse as the Vice Chairman.

15 MR. TREVIÑO: We have a motion. Do we have a  
16 second?

17 MS. WASHBURN: Second.

18 MR. TREVIÑO: Second --

19 MS. WASHBURN: Yes.

20 MR. TREVIÑO: -- from member Washburn. We have  
21 a motion for Board member Painter and a second from Board  
22 member Washburn. Any further discussion?

23 (No response.)

24 MR. TREVIÑO: Hearing none, I call for the  
25 vote. All those in favor signify by raising your hand.

1 (A show of hands: Members Gillman, Graham,  
2 Painter, Prewitt, Treviño, Washburn.)

3 MR. BACARISSE: I'm abstaining.

4 MR. TREVIÑO: Okay. So we have one, two,  
5 three, four, five, six. Six votes. All those opposed?

6 (A show of hands: Member Scott.)

7 MR. TREVIÑO: One. Six to one. Let the record  
8 show that motion carries. Right? Good. I want to make  
9 confirmation. Thank you very much and welcome Chairman --

10 MR. BACARISSE: Thank you.

11 MR. TREVIÑO: -- Vice Chairman Bacarisse.

12 MR. BACARISSE: Thank you.

13 MR. TREVIÑO: Yes, sir.

14 MR. BACARISSE: Thank you.

15 MR. TREVIÑO: Okay. We move on to Agenda Item  
16 No. 12. We will now to move to Agenda Item 12.

17 Transportation Code, 1001.023(b)(9), requires the Board  
18 Chair appoint a number of the Board to act in the absence  
19 of the Chair and the Vice Chair.

20 Therefore, I would like to ask member Graham to  
21 serve in this capacity, if he is so willing to serve.

22 MR. GRAHAM: I think that the -- excuse me --

23 MR. TREVIÑO: Sure.

24 MR. GRAHAM: -- the kind of -- the concern  
25 regarding industry, until the Legislature flushes all that

1 out, I mean, that probably should be someone else at this  
2 point. Just -- let's just keep it --

3 MALE VOICE: Right.

4 MR. TREVIÑO: Well, well said, member Graham.  
5 Well said, well said. And thank you very much for that.  
6 So that being said, and member Graham not willing to serve  
7 in that capacity, I would ask member Painter if he would  
8 be willing to serve?

9 MR. PAINTER: Sure.

10 MR. TREVIÑO: Member Painter? It's great. So  
11 we have -- that's -- I have the authority to appoint, so  
12 Sheriff Painter will serve in that capacity. Thank -- but  
13 the one stipulation is that in no -- at any time, in  
14 written, in the record, refer to him as deputy -- okay --  
15 because he's a sheriff, and I want that clearly  
16 articulated in the record that he is never to be referred  
17 to as a deputy.

18 Okay. So now --

19 MR. GRAHAM: Or assistant deputy.

20 MR. TREVIÑO: Assistant deputy would be even  
21 worse. No. So okay. So now we're going into executive  
22 session. We're going into closed session. It is now  
23 approximately 11:31 on May 2, 2019. We'll go into closed  
24 session under Texas Government Code, Section 551.071 and  
25 551.074 and 551.089.





1 the member Scott needed to leave early.

2 MR. TREVIÑO: Thank you very much for pointing  
3 that out. Member Scott did have to leave to catch a  
4 flight, and let the record show. Thank you. And I see  
5 that we have no public comments. Is that correct?

6 MS. BEAVER: Yes.

7 MR. TREVIÑO: So with that, the only business  
8 left is -- if there's no further business, I'd like to  
9 entertain a motion for adjourn.

10 MR. PAINTER: Motion to adjourn.

11 MR. TREVIÑO: Motion to adjourn.

12 MR. BACARISSE: Second.

13 MR. TREVIÑO: Second. Okay. Motion by member  
14 Painter and member Bacarisse second. All in favor?

15 (A show of hands: Members Bacarisse, Gillman,  
16 Graham, Painter, Prewitt, Treviño, Washburn.)

17 MR. TREVIÑO: Let the record reflect that the  
18 vote is unanimous. It is now 12:48 p.m. and this meeting  
19 stands adjourned.

20 (Whereupon, at 12:48 p.m., the meeting of the  
21 Board of the Texas Department of Motor Vehicles was  
22 adjourned.)

C E R T I F I C A T E

MEETING OF: TxDMV Board

LOCATION: Austin, Texas

DATE: May 2, 2019

I do hereby certify that the foregoing pages, numbers 1 through 122, 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: May 8, 2019

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(Transcriber)

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