

TEXAS DEPARTMENT OF MOTOR VEHICLES

BOARD MEETING

Texas Department of Motor Vehicles
4000 Jackson Avenue
Building 1
Lone Star Room
Austin, Texas 78731

Thursday,
October 12, 2023
9:00 a.m.

BOARD MEMBERS:

Charles Bacarisse, Chair
Christian Alvarado
Stacey Gillman (absent)
Brett Graham
Tammy McRae (absent)
Sharla Omumu
John Prewitt
Darren Schlosser
Paul R. Scott

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CLOSED SESSION

15. The Board may enter into closed session under one or more provisions of the Texas Open Meetings Act, Government Code Chapter 551, including but not limited to: Section 551.071 Section 551.076 Section 551.089	91
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P R O C E E D I N G S

1
2 MR. BACARISSE: Good morning. It is 9:00 a.m.
3 and welcome to this meeting of the Texas Department of
4 Motor Vehicles Board. I'm Charles Bacarisse, chair, and
5 I'm calling the Board meeting to order for October 12,
6 2023.

7 I want to note for the record that the public
8 notice of this meeting, containing all items on the
9 agenda, was filed with the Office of Secretary of State on
10 October 4, 2023.

11 And before we begin today's meeting, please
12 place all cell phones and other communication devices in
13 silent mode. Also, as a courtesy to others, please do not
14 engage in side conversations in the meeting room.

15 I want to welcome those who are with us for
16 today's Board meeting. Visitors, welcome.

17 If you wish to address the Board or speak on an
18 agenda item during today's meeting, please complete a
19 speaker's sheet at the registration table or send an email
20 to GCO_General@TxDMV.gov. Please identify in your email
21 the specific item you're interested in commenting on, your
22 name and address, and whether you are representing anyone
23 or speaking for yourself. If your comment does not
24 pertain to a specific agenda item, we'll take your comment
25 during the general public comment portion of the meeting.

1 In accordance with the department's
2 administrative rule, comments to the Board will be limited
3 to three minutes. To assist each speaker, a timer has
4 been provided at the podium. The timer light will be
5 green for the first two minutes, yellow when the speaker
6 has one minute left, and then red when the speaker's time
7 is up.

8 Individuals cannot accumulate time from other
9 speakers, and comments should be pertinent to the issues
10 stated on the comment sheet. And when addressing the
11 Board, please state your name and affiliation for the
12 record.

13 There are few things that will help us keep the
14 meeting running smoothly and assist the court reporter to
15 get an accurate record. So identifying yourself before
16 speaking is number one, speak clearly and slowly, do not
17 speak over others, and ask the chair for permission to
18 speak and be sure to get recognized before speaking.

19 I'd like to thank our court reporter who is
20 transcribing this meeting.

21 Before we begin today, I'd like to remind all
22 presenters and those in attendance of the rules of conduct
23 at our Board meetings. In the department's administrative
24 rule, the chair has the authority to supervise the conduct
25 of the meetings, and this includes the authority to

1 determine when a speaker is being disruptive of the
2 meeting or is otherwise violating the timing or
3 presentation of the rules that I just discussed.

4 So with all that out of the way, I'd now like
5 to have a roll call of the Board members, so please
6 respond verbally when I call your name.

7 Member Alvarado, are you present?

8 MR. ALVARADO: Here.

9 MR. BACARISSE: Member Graham?

10 MR. GRAHAM: Here.

11 MR. BACARISSE: Member McRae is absent today.
12 Member Omumu?

13 MS. OMUMU: Present.

14 MR. BACARISSE: member Prewitt?

15 MR. PREWITT: Here.

16 MR. BACARISSE: Member Schlosser?

17 MR. SCHLOSSER: Here.

18 MR. BACARISSE: Member Scott?

19 MR. SCOTT: Here.

20 MR. BACARISSE: And let the record reflect that
21 I am here too. We have a quorum.

22 Member Gillman is also absent today.

23 So we'll now move to agenda item number 2, the
24 Pledges of Allegiance to the U.S. and Texas flags, and so
25 Member Prewitt will do the U.S. pledge and Member Omumu

1 will take care of the Texas pledge.

2 (The Pledges of Allegiance - U.S. and Texas,
3 were recited.)

4 MR. BACARISSE: Thank you, members and guests.
5 Thank you, members, for leading us in those pledges.

6 Agenda item 3 is the chair's report, and I want
7 to certainly steal a little of that thunder to introduce
8 our newest Board member, Mr. Darren Schlosser. Darren is
9 a sergeant with the Houston Police Department and has done
10 incredible work in our city. For that we are thankful.
11 Governor Abbott appointed him in August as our law
12 enforcement representative for a term that will expire
13 February 1, 2027.

14 Member Schlosser lives in Rosharon and is the
15 sergeant of the Auto Theft Division Vehicle Fraud Unit at
16 the Houston Police Department. He's a member of the Texas
17 Association of Auto Theft Investigators and the
18 International Association of Auto Theft Investigators.
19 Additionally, he teaches law enforcement and industry
20 stakeholders across the nation about vehicle finance laws.

21 Sgt. Schlosser received his associates of applied science
22 and computer drafting from San Jacinto College.

23 And I've appointed Sgt. Schlosser, with his
24 agreement, to be a member of two of our standing
25 committees, Legislative and Public Affairs, as well as

1 Projects and Operations.

2 When Governor Abbott appointed Member
3 Schlosser, he also reappointed Members Prewitt, Scott and
4 Graham for terms set to expire February 1, 2029. All of
5 those appointed and reappointed members have fulfilled the
6 required training, completed all the required paperwork,
7 and have been duly sworn into office, and have received
8 their commission from the Texas Secretary of State.

9 You can read more about our Board members on
10 our department website under the "About Us" section. And
11 I look forward to working with Member Schlosser as a new
12 member and continuing to work with our tremendous Board
13 that we have in place. So thank you, members, for
14 agreeing to serve again.

15 Now I'd like to for agenda item 4 over to our
16 executive director, Daniel Avitia, to go through items 4.A
17 through 4.D.

18 Daniel.

19 MR. AVITIA: Chairman and members, thank you
20 and good morning. For the record, Daniel Avitia. I have
21 the pleasure of serving as the executive director for the
22 department.

23 Chairman, members, the briefing document for
24 agenda item 4.A can be found on page 6 of your Board book.

25 I, along with Deputy Executive Directors

1 Mellott and Luna and staff attended the American
2 Association of Motor Vehicle Administration, or AAMVA,
3 Annual International Conference in Madison, Wisconsin,
4 September 26 through 28. The department was recognized by
5 AAMVA and received the International Award for Fraud
6 Prevention Detection by a Motor Vehicle Agency for
7 temporary tag and dealer licensing improvements that we
8 have made over the course of the last year and several
9 months. The TxDMV also received the Region II Award in
10 August.

11 And here is -- I hope I don't drop it and break
12 it -- here is the award -- with my fingerprints all over
13 it now. And I promise you this is a new award, this isn't
14 the same one from the last Board meeting. These are all
15 new.

16 (General laughter.)

17 MR. AVITIA: Chairman, members, AAMVA
18 recognizes awards by region, nationally and then
19 internationally, and again, this is the international
20 award. At the time that AAMVA considered the award
21 submissions in November of 2022, the department had
22 implemented temporary tag and dealer licensing
23 improvements that have now resulted in 214 dealers being
24 denied access to the temporary tag database,
25 fingerprinting and pre-licensing rules that have led to

1 3,356 license applications being withdrawn, and a more
2 robust pre-licensing check that have resulted in increased
3 Enforcement referrals and site visits increased from 270
4 in fiscal year 2021 to 640 in 2022 and 776 in fiscal year
5 '23 alone. Monitoring of daily tag reports has also
6 resulted in 120 Enforcement referrals and 14 dealers were
7 denied access as a result.

8 Chairman, members, this continues to amaze me;
9 staff's efforts, the Board's support just showing us how
10 great we can be as an agency and how we can fix things
11 very quickly. I really appreciate the Board's support, as
12 well as the team's efforts on this.

13 I'm happy to answer any questions on this item.

14 MR. BACARISSE: Members, any questions for Mr.
15 Avitia on this particular item?

16 MS. OMUMU: Congratulations.

17 MR. AVITIA: Thank you.

18 MR. BACARISSE: I will chime in and say life is
19 best done as a team sport and I think we have a fantastic
20 team of people who are very dedicated to the citizens of
21 Texas. So kudos and now there's more work to do.

22 MR. AVITIA: Indeed, indeed, lots more work to
23 do.

24 Chairman, if I may continue. Agenda item 4.B
25 is a briefing document also and can be found on page 7 of

1 your Board materials.

2 The Motor Vehicle Industry Regulation Advisory
3 Committee, or MVIRAC, and the Customer Service and
4 Protection Advisory Committee, or CSPAC, each met in
5 August to elect committee leadership. Both MVIRAC and
6 CSPAC met again in September to consider the department's
7 rule review of staff's draft amendments for 43 TAC
8 Administrative Code Chapter 206 relating to Management,
9 Chapter 215 relating to Motor Vehicle Distribution,
10 Chapter 221 relating to Salvage Dealers, and New Chapter
11 224 relating to Adjudicative Practice and Procedures.

12 The MVIRAC and CSPAC committees provided staff
13 with feedback and voted on recommendations for
14 presentation to the DMV Board. Department staff continues
15 to seek feedback from stakeholders to further refine the
16 draft amendments. Staff plans to present these draft
17 amendments, the rule reviews and the advisory committees'
18 recommendations to the Board in its December Board
19 meeting.

20 Chairman, members, this concludes my remarks on
21 agenda item 4.B.

22 MR. BACARISSE: Thank you.

23 Members, any questions for Mr. Avitia?

24 (No response.)

25 MR. BACARISSE: Continue, please.

1 MR. AVITIA: Thank you, Chairman.

2 Briefing item for agenda item 4.C can be found
3 on page 8 of your Board books.

4 On September 22, 2023, Deputy Executive
5 Director Luna and MVCPA Director Joe Canady attended the
6 appointment and swearing in ceremony for the new Laredo
7 Chief of Police Mike Rodriguez.

8 Chief Rodriguez serves as the TxDMV's Motor
9 Vehicle Crime Prevention Authority chair and is
10 responsible for overseeing the MVCPA program which awards
11 grants to agencies, organizations and concerned parties to
12 raise public awareness of vehicle theft and burglary and
13 to implement education and prevention initiatives. Chief
14 Rodriguez has fostered a statewide cooperative network of
15 law enforcement groups, prosecutors, insurance industry
16 representatives, local tax assessor-collectors, and
17 citizens to combat vehicle theft and burglary through
18 enforcement, prevention, public information and education
19 initiatives.

20 Chief Rodriguez was appointed as the chief of
21 police again on September 22, 2023. Along with serving as
22 the MVCPA chairman, Chief Rodriguez oversees over 500
23 sworn officers and over 80 civilian employees. The
24 department serves an estimated 261,000 people, covering an
25 area of 111 square miles.

1 Chairman, members, please join me in
2 congratulating Chief Rodriguez.

3 (Applause.)

4 MR. AVITIA: Agenda item 4.D can be found on
5 page 9 of your Board materials.

6 At this time, Chairman, members, I'd like to
7 recognize our employees who have reached a state service
8 milestone. We celebrate these employees as a show of our
9 appreciation for their years of service and dedication to
10 the citizens of Texas.

11 Our first recipient for 20 years of state
12 service is Lydia Lopez with the Vehicle Titles and
13 Registration Division.

14 Next we have 25 years of state service, Christy
15 McDaniel, also with the Vehicle Titles and Registration
16 Division.

17 Then we have 30 years of state service, Linda
18 Friar, with the Vehicle Titles and Registration Division.

19 That's like Hotel California; they can't leave.

20 (General laughter.)

21 MR. AVITIA: Next we have 30 years of state
22 service, Jeffrey Armstrong, with the Information
23 Technology Services Division.

24 Forty years of service, Bill Klipple, with the
25 Information Technology Services Division.

1 And finally, we have an amazing 45 years of
2 state service with Ms. Priscilla Tijerina, with the
3 Vehicle Titles and Registration Division yet again.

4 Chairman, members, I'd like to say a few words
5 for the two recipients that are present with us this
6 morning.

7 The first is Ms. Linda Friar. Linda serves as
8 a program specialist for the VTR Division. She leads a
9 staff of five operations specialists by planning,
10 developing and implementing the department's activities
11 related to the National Motor Vehicle Title Information
12 System, or NMVTIS. Her research, quality control and
13 fraud prevention efforts help to stop trafficking of
14 stolen vehicles and protect the interests of our
15 customers. In addition, Linda represents the TxDMV as a
16 member of the NMVTIS State Program Subcommittee to develop
17 program policies and best practices.

18 It is a pleasure to congratulate her on this
19 state service milestone of 30 years.

20 (Applause.)

21 MR. AVITIA: Continuing on, we also have the
22 following individual present in the room with us that
23 retired from the agency, a good friend of mine for many
24 years, Ms. Ann Pierce. Ann served as the Administrative
25 Services director and reached a milestone of almost 35

1 years before her retirement. Ann served the state with
2 the Texas Department of Transportation and then with the
3 Texas Department of Motor Vehicles when it was first
4 created in 2009.

5 Ann has worked in many areas of the TxDMV,
6 including the Vehicle Title and Registration Division, the
7 Austin Regional Service Center, and most recently as the
8 director of Operations where she was instrumental in
9 coordinating from TxDOT the transfer of management and
10 maintenance and then finally ownership of these facilities
11 to the TxDMV.

12 She also served as TxDMV's project manager in
13 Phase I, Planning and Design, of the Camp Hubbard Renewal
14 Project, and the beginning of Phase II of the renovations,
15 demolition and construction, in coordination with the
16 Texas Facilities Commission and our contracted vendor,
17 Marmon Mok.

18 Chairman, members, would you please join me in
19 congratulating those individuals for their years of
20 service with the department and State of Texas, and join
21 me in front of the dais for a photo opportunity with Linda
22 and Ann for their years of service.

23 Congratulations.

24 (Applause; pause for presentation and photos.)

25 MR. AVITIA: Chairman, if I may continue, there

1 is a non-agenda item that I'd like to speak on.

2 MR. BACARISSE: Please.

3 MR. AVITIA: Thank you, Chairman.

4 Chairman, members, this morning we'd like to
5 recognize the Honorable Allison Getz from Jefferson
6 County. She was the tax assessor-collector. She left an
7 indelible mark on the community with her unwavering
8 dedication and support and service.

9 Her passing on October 10, 2023, after a
10 valiant battle with illness, has deeply affected all who
11 knew her in the community that she served. She was
12 elected in 2014. Allison's commitment to her role and her
13 broader contributions to the community are testament to
14 her love for the people in a place she called home.

15 As Terry steps into the role of interim tax
16 assessor-collector, we remember Allison's legacy and hope
17 to honor her memory by continuing her exemplary work. Our
18 thoughts and prayers are with her family, her friends, and
19 all who were touched by her remarkable spirit.

20 Members, staff, guests, would you please join
21 me in a moment of silence to honor Ms. Allison Getz.

22 (A moment of silence was observed.)

23 MR. AVITIA: Thank you.

24 Chairman, I appreciate the extra time for this.
25 This is very important for us as Allison was a great

1 member and partner for us.

2 Chairman, this concludes my remarks this
3 morning. I appreciate the time. Thank you, sir.

4 MR. BACARISSE: You bet. Thank you.

5 I think we may also want to mention that
6 several of us are wearing pink ties or some other pink
7 today because October is Breast Cancer Awareness Month. I
8 lost my mother-in-law from that horrible disease, and
9 thankfully we are on the way to a cure, so let's keep
10 those in mind as well that are battling in that area.

11 I'd like to now move to agenda item number 5
12 which is our contested case. And before we go to the oral
13 presentations from the parties, General Counsel Laura
14 Moriarty will present the procedural history and a summary
15 of the case.

16 So, Laura, let me give you the floor.

17 MS. MORIATY: Thank you.

18 Good morning, Board. Laura Moriarty, general
19 counsel of the DMV.

20 The contested case before you today is a
21 licensure case. This is an action brought by the
22 department against NJIM Group, Inc., which has been doing
23 business as NJIM Auto. NJIM holds a general
24 distinguishing number issued by the department. I'll be
25 calling that a GDN.

1 So the question for the Board to decide today
2 is whether NJIM violated the Board's rules and statute,
3 and if so, if we should revoke the GDN and if we should
4 impose a monetary civil penalty against NJIM.

5 So this case began when the department issued a
6 notice of department decision and denied NJIM access to
7 the temporary tag system on August 12, 2022. The
8 department then set the case for hearing in front of the
9 State Office of Administrative Hearings -- I'll be calling
10 that SOAH -- and that hearing was held on February 23,
11 2023.

12 So the SOAH ALJ, administrative law judge --
13 I'll call it an ALJ -- the ALJ issued a proposal for
14 decision on April 26, 2023. And in that proposal for
15 decision -- which I'm going to refer to as a PFD, I think
16 that's our last acronym -- the ALJ found that NJIM had
17 failed to make records available for inspection by a
18 department representative during normal business hours on
19 their business premises, and that NJIM had misused or
20 failed to comply with the requirements for issuance and
21 recordkeeping of 347 temporary buyer's tags.

22 So the ALJ recommended that the Board revoke
23 NJIM's GDN and assess a penalty of \$35,200 against NJIM.
24 And that's broken down as \$500 for the failure to produce
25 records violation and then \$34,700 for issuance of 347

1 temporary buyer's tags without corresponding vehicle
2 sales. So that's \$100 per temporary tag for 347 tags.

3 On May 10, 2023, the department's attorneys
4 filed exceptions. The ALJ issued a response to that; they
5 didn't make any changes to the findings of fact or the
6 conclusions of law or the recommended penalty, and said it
7 was ready for your review.

8 Both parties received notice that the Board
9 would be considering the case today, but only the
10 department's attorneys responded with a request to make an
11 oral presentation. So NJIM will not have the opportunity
12 to speak today and I believe is not present today. So
13 we'll only be hearing from the department's lawyer this
14 morning.

15 So now I need to review with you the options
16 you have today as you consider this. The first one is
17 that you could decide to accept the ALJ's recommendation,
18 you could accept the findings of fact, the conclusion of
19 law, the penalty, and that would mean that the Board would
20 be revoking the GDN and issuing a \$35,200 civil penalty.

21 You may also amend portion of the PFD. You can
22 amend the findings of fact, the conclusions of law and
23 adopt them as amended. You can decide the issue of
24 sanction different from what the ALJ recommended. But if
25 you do so, any changes to the PFD have to comply with

1 Texas Government Code 2001.058(e), and that means that if
2 it's a finding of fact, we can only amend it if we are
3 correcting a typo, basically, making a technical change to
4 it.

5 And if it's a conclusion of law, we have to
6 explain how the ALJ misinterpreted or misapplied the
7 statutes, the rules, the written policies of the Board or
8 prior administrative decisions. We can also do it if we
9 can explain that the ALJ relied on a prior administrative
10 decision that the Board now wants to change.

11 So if you want to make a motion to change a
12 finding of fact or conclusion of law, you should identify
13 the specific change you're requesting, explain the law
14 that was misapplied or misinterpreted, and how it was
15 misapplied or misinterpreted, and then explain how the
16 findings of fact from the ALJ support your interpretation.

17 Now, there is a third option and that's to
18 remand portions of this thing back to SOAH. But I want to
19 emphasize that that is a very limited option because we
20 can only remand areas that SOAH has not already made
21 findings in essentially. We can't remand to get a finding
22 of fact that is opposite what SOAH decided before or we
23 can't remand to make SOAH change their underlying
24 decision. So essentially, we would only be remanding if
25 there's an area that was argued and presented at the

1 hearing but SOAH didn't actually make findings on for some
2 reason.

3 There's also the fact that SOAH doesn't have to
4 take our remand, and they could always just push it back
5 to us and tell us that they're going to stand on the
6 decision. So remanding is a very, very limited option.

7 With regard to the penalty, the Board has a lot
8 of discretion and authority to set what the penalty should
9 be in these cases. But in deciding the amount of the
10 civil penalty, you're still going to have to explain why
11 it's reasonable and we still have to comply with Texas
12 Occupations Code 2301.801(b), which requires the Board to
13 consider certain factors when it's setting civil
14 penalties. And those are the seriousness of the
15 violation, the economic damage caused to the public by the
16 violation, a history of previous violations, what would be
17 necessary to deter a future violation, any efforts to
18 correct the violation, and then a catchall, any other
19 matter that justice may require.

20 So when you make a motion to change the
21 proposed sanction, we need to explain how your sanction is
22 appropriate and then how it fits in with those factors,
23 which of those factors are supporting making a change to
24 the sanction.

25 So if there are no questions, I will turn it

1 back over to Chairman Bacarisse to explain the rules of
2 the presentation and to introduce the attorneys.

3 MR. BACARISSE: Thank you.

4 Members, any questions on what General Counsel
5 presented to us so far?

6 (No response.)

7 MR. BACARISSE: Okay, we're good.

8 I do want to mention for the record that we do
9 have a process by which these hearings go, whether or not
10 there are two parties or only one party present. The
11 respondent, NJIM Group, Inc., d/b/a NJIM Auto, did not
12 submit a request for the opportunity to provide an oral
13 presentation, so we're going to hear from one side here in
14 just a moment.

15 During the presentation, time spent responding
16 to any Board questions won't be counted against the total
17 time allotted to present. The timer light will be on for
18 the first 14 minutes, then yellow, and then red when the
19 time is up.

20 I'd like to remind the Board members and the
21 party that the Board's decision must be based, as General
22 Counsel said, solely on evidence contained within the
23 administrative record from the State Office of
24 Administrative Hearings. If a Board member asks a
25 question about evidence that's not in the SOAH's

1 administrative record for this case, the lawyer needs to
2 respond that the question is about evidence that's not in
3 the record.

4 The petitioner for the Department of Motor
5 Vehicles is represented by Lorelei Evans -- good morning,
6 thank you for being here -- who will now make the
7 department's oral presentation on the contested case.

8 So, Ms. Evans, please.

9 MS. EVANS: Mr. Chairman, Board members, Mr.
10 Avitia, good morning. My name is Lorelei Evans and I'm
11 the Enforcement attorney who handled this case at SOAH.

12 As you just heard from General Counsel, this
13 case involves two primary allegations: serious tag misuse
14 of 347 buyer's temporary tags, as well as one record
15 violation stemming from a site inspection by one of our
16 investigators. My focus during this presentation is to
17 address three technical errors that are found in the
18 findings of fact and conclusions of law, which I believe
19 requires a motion to amend, and then also present
20 reasoning to the Board to apply a stricter penalty and
21 sanction than what was originally recommended by the ALJ,
22 or the administrative law judge.

23 So first, I would like to cover the
24 administrative errors. As you heard from General Counsel,
25 there is authority to change certain findings of fact of

1 and conclusion of law, especially if they're technical in
2 nature. So all the proposed changes that I'm going to be
3 addressing are typographical errors.

4 The first is finding of fact number 4, located
5 on page 32 of your Board book. Finding of fact number 4
6 incorrectly referenced the date of the site inspection as
7 May 8, 2022, however, the correct date of the inspection
8 was on August 8, 2022. August 8 was the date of the
9 allegation in the original notice of department decision
10 and is referenced throughout the PFD.

11 If there are questions after my oral
12 presentation, I'm happy to address where exactly August 8
13 is located in the PFD, so we believe that this was a
14 typographical error and we would request that finding of
15 fact number 4 changes the date from May 8, 2022 to August
16 8, 2022.

17 Conclusion of law number 7, which is located on
18 page 34 of your Board book, also references the site
19 inspection, but this time it references it as August 3,
20 2016. For the very same reason, we'd request that it be
21 amended to read August 8, 2022, which was the date of the
22 site inspection.

23 Conclusion of law number 11, which is located
24 on page 35 of your Board book, incorrectly states that 377
25 buyer's temporary tags were issued without a coordinating

1 sale. While it is true that 377 buyer's temporary tags
2 were issued during the period time frame, 30 of those did
3 have a coordinating sale. So the correct number should be
4 347, not 377.

5 This would also benefit the respondent. And
6 again, there's several areas where the judge does
7 correctly reference it as 347, which I'm happy to go over
8 if there are any questions afterwards. So we would
9 recommend that the conclusion of law number 11 be revised
10 to read: 347 buyer's temporary tags.

11 Now to transition into the second part of the
12 presentation which is the petitioner's request for the
13 Board to increase the proposed civil penalty in this case.

14 The ALJ found that the respondent committed 348
15 violations, broken down as follows: 347 of those
16 violations were buyer's temporary tag misuse from January
17 2022 until June 30, 2022. That's a six-month period of
18 time. The ALJ recommended \$100 per tag for each of the
19 347 violations which amounted to \$34,700, and a
20 recommendation that the dealer's license be revoked, and
21 for the one record violation on August 8, a \$500 penalty.

22 The total penalty and sanctions was \$35,200 and
23 revocation of the dealer's GDN.

24 From the onset, the petitioner requested a
25 total penalty of \$200,000 in this case. That number was

1 calculated based on the Texas Transportation Code Section
2 503.095, which permits \$1,000 per violation per day.
3 Since 347 buyer's temporary tags were misused, that would
4 be \$347,000; petitioner capped the recommendation at
5 \$200,000.

6 Despite the ALJ's comments that the petitioner
7 did not distinguish for which allegations the \$200,000
8 were to apply, the petitioner felt that it was clear that
9 the crux of this case was buyer's temporary tag misuse.
10 Of the 348 allegations, 347 were buyer's temporary tags
11 misuse; that's 99.7 percent of this case was buyer's
12 temporary tags misuse. So the petitioner believes it was
13 clear on the face of the case that the \$200,000 penalty
14 was really aiming towards those buyer's temporary tags
15 misuse.

16 Nonetheless, the ALJ recommended a low sanction
17 of just \$100 per tag violation; however, the Board, and
18 not the ALJ, makes the final determination as to penalties
19 and sanctions in this case. And I would request that the
20 Board increase the penalty per tag misuse to \$1,000 per
21 tag issued, with the cap of the \$200,000 for this case.
22 My reasoning for this recommendation is guided by the same
23 factors that General Counsel just went over from the Texas
24 Occupations Code Section 231.801(b).

25 To begin, the seriousness of the violation.

1 Buyer's temporary tag misuse has reached an all-time high
2 over the past few years and it's undeniable the effect
3 that it has had on the department, the state and
4 consumers. It is very serious in nature.

5 In the current case, the respondent issued 347
6 buyer's temporary tags during a short six-month window
7 period of time. 347 tags is not a mistake. It was not an
8 accident, it was the deliberate misuse of a government
9 system. Seriousness should be based not only on the
10 nature of the allegation but how many times it occurred,
11 and the ALJ's recommendation simply does not address the
12 severity of the misconduct in this case.

13 The history of the previous violations is
14 another factor to consider. One of the most compelling
15 factors warranting a higher penalty in this case was the
16 fact that the history of the respondent included misusing
17 buyer's temporary tags. Stemming from 2017, so over a
18 five-year period of time, the respondent had issues with
19 misusing buyer's temporary tags.

20 The respondent was given the benefit of the
21 doubt in the past and received lower penalties through
22 agreed orders and dealer training. Yet despite the
23 department's rehabilitative efforts, the respondent
24 continued to misuse tags and commit other violations. And
25 I would reference the agreed orders from November 17,

1 2017, September 10, 2020, and July 21, 2021.

2 I would like the Board to consider that during
3 those agreed orders, of those violations, the respondent
4 paid between \$250 to \$375 per allegation. That includes
5 tag misuse. In this case we're looking at \$100.

6 So instead of increasing, we're actually going
7 down. And this is after the respondent has had the
8 benefit of dealer training seminars on two occasions and
9 known that this is misconduct. It doesn't make sense.

10 The next factor is the amount necessary to
11 deter future violations. Increasing penalties are
12 required because past precedent demonstrates that lower
13 penalties are simply not enough to deter others or the
14 respondent. The lower penalties of \$250 to \$375 in the
15 previous orders still did not deter this respondent. If
16 the Board concurs with the petitioner's requested amount
17 of \$1,000 per tag violation, capped at \$200,000, this
18 amount will result in approximately \$575 per tag violation
19 and would be appropriate considering the final factor in
20 the Occupations Code which is the efforts to correct the
21 violation.

22 The Board members have heard about the efforts
23 taken by the department to educate the respondent on tag
24 misuse and records violations stemming back to 2017. You
25 heard that Enforcement Division provided multiple

1 opportunities, dealer training seminars, and lower fines
2 before the allegations arose in this case. The
3 department's statutes and rules are intended to hold
4 dealers accountable for tags obtained through their dealer
5 e-accounts.

6 I would ask you to send a signal to dealers
7 across Texas that the Texas tag system is not to be
8 abused, and that when abuse is found that penalties are
9 appropriate to the violations. In this case there are 348
10 substantiated violations.

11 The petitioner respectfully requests that you
12 adopt the PFD as it pertains to the revocation of the
13 dealer's GDN, but request that you modify the PFD to
14 correct the three technical errors in the findings of fact
15 and conclusions of law, and increase the civil penalty of
16 \$1,000 per tag misuse, capped at the \$200,000 penalty.

17 I appreciate your time. And if there are any
18 questions, I'm happy to answer them.

19 MR. BACARISSE: Thank you.

20 Members, are there any questions for Ms. Evans
21 on her presentation?

22 MR. SCOTT: I have one.

23 MR. BACARISSE: Member Scott, go ahead. Thank
24 you.

25 MR. SCOTT: Thank you. Member Scott, for the

1 record.

2 So where does the \$200,000 come from?

3 MS. EVANS: That was the capped penalty. So
4 that was from management that we cap the penalty once it
5 exceeds a certain amount.

6 MR. SCOTT: You're talking about management
7 at --

8 MS. EVANS: The Enforcement Division, sir.

9 MR. SCOTT: Okay. Thank you.

10 MR. BACARISSE: Member Graham, did you have a
11 question?

12 MR. GRAHAM: And just to make sure I'm clear,
13 you stated that on previous occasions this dealer had
14 received penalties.

15 MS. EVANS: Yes, sir.

16 MR. GRAHAM: And how much was that per tag
17 violation?

18 MS. EVANS: So those were the agreed orders, so
19 on November 17, 2017, it's given a bulk. So if there's
20 four allegations, it's given a bulk penalty. They don't
21 usually divide it individually.

22 But what it comes out to in that case was there
23 were four allegations and one of the four allegations was
24 buyer's temporary tag misuse. They paid a \$1,500 penalty,
25 which came out to \$375 per violation.

1 And then September 10, 2020, there were three
2 allegations of tag misuse, four total allegations, and the
3 respondent paid a \$1,000 penalty.

4 MR. GRAHAM: So on each of those previous
5 occasions, one could make the determination that it was
6 understood that there was a penalty larger than \$100 for
7 some of the tag use previously. And my point is they had
8 already paid larger fines before this situation.

9 MS. EVANS: Yes, sir.

10 MR. GRAHAM: And so the ALJ decided, I guess,
11 to back it back down. I was trying to make sure I was
12 clear on what that picture looked like. Thank you.

13 MS. EVANS: Yes, sir.

14 MR. BACARISSE: Member Omumu.

15 MS. OMUMU: Mr. Chairman, I have a question.
16 Thank you. Member Omumu, for the record.

17 I have a question on the ownership. At the
18 time of the site visit, ownership had transferred or had
19 it not transferred? That's just a question I have: Who
20 was in ownership or the GDN holder at the time of the site
21 visit?

22 MS. EVANS: It was Mr. Mamun, which was the
23 owner of NJIM. There were several breaks beforehand, but
24 he was the primary owner, and there is a co-owner as well.

25 MS. OMUMU: Okay. So for the infractions that

1 were received in '17, 2020 and 2021, was Mr. Mamun the GDN
2 holder at that time?

3 MS. EVANS: He was a co-owner.

4 MS. OMUMU: He was a co-owner. Okay. Thank
5 you.

6 MR. BACARISSE: Member Scott, did you have a
7 follow-up question?

8 MR. SCOTT: Yeah. Back on the \$200,000, I
9 understand that the \$200,000 cap comes from management.
10 Is the Board bound by that recommendation, is the Board
11 bound to the \$200,000? Could the Board go greater than
12 the \$200,000 if they so desire?

13 MS. EVANS: Yes, sir. Those are not the caps.
14 So there's \$1,000 to \$10,000 per penalty, to cap at, I
15 believe, the \$10,000 per penalty. So the Board is not
16 required to stick to the \$200,000, but I would defer to
17 General Counsel on that.

18 MS. MORIATY: The policy that she's citing is
19 just an internal guidance metric. You guys are only
20 capped by the statute which is the thing she just recited,
21 \$10,000 per violation. So you are not capped by the
22 \$200,000 if you want to go higher than that, but we do
23 need to be able to explain why that's appropriate and how
24 it fits within the statutory guidelines.

25 MR. SCOTT: I understand. Okay. Thank you

1 very much.

2 MR. BACARISSE: Thank you, Ms. Moriaty, for the
3 record.

4 Member Alvarado.

5 MR. ALVARADO: Good morning.

6 MS. EVANS: Good morning.

7 MR. ALVARADO: Can you talk a little bit more
8 about the ALJ's position when they were rebuking your
9 recommendation of the \$200,000, saying it was excessive?
10 Can you talk a little bit more about their reasoning why
11 they thought it was excessive?

12 MS. EVANS: My understanding from the letter
13 post my exceptions was more that we didn't speak -- the
14 petitioner didn't speak as to the division of the penalty.
15 That's where I was gathering more that the ALJ was saying
16 that we didn't break it down for them and make an
17 argument. However, as I was stating in my previous
18 presentation that the \$200,000 penalty with 347 of those
19 violations of the 348, it was definitely pretty clear that
20 this case was about tag misuse.

21 But as far as the ALJ saying it's excessive, I
22 really can't speak to that. I don't believe that it is
23 excessive. I believe that past precedents and even the
24 previous AOs, agreed orders, have indicated that higher
25 penalties have been applied in the past.

1 I think when you look at the total number, it
2 does seem high because \$35,000 is a lot of money.
3 However, 348 violations is a lot of violations.

4 I'm not sure if that answered your question.

5 MR. ALVARADO: That does. Thank you.

6 MR. BACARISSE: Member Prewitt.

7 MR. PREWITT: Did we ever determine whether the
8 GDN holder benefitted economically from the issuance of
9 the 347 temp tags that were issued but there's no
10 documentation? Did they get paid for those by a third
11 party, did we determine that?

12 MS. EVANS: That information did not come out
13 in this hearing, so I can't speak on that. What I can say
14 that did come out as far as economic damage was that \$5
15 per tag is supposed to be paid towards the Comptroller.
16 And in this case it amounts to over \$1,700 that did not
17 get paid with those excessive tags that were issued, so I
18 can speak to that economic damage.

19 MR. PREWITT: I guess I have a point of
20 information I'd request is that if they were assessed a
21 penalty and did not pay it and defaulted on payment, what
22 is the recourse of the state at that point to pursue that
23 or to have consequences to the person or entity that was
24 fined?

25 MS. MORIATY: If I may, Chairman? Laura

1 Moriaty, general counsel.

2 We can go to the Attorney General's Office and
3 ask them to try to collect it for us and they can try to
4 put liens on whatever the respondent has.

5 MR. PREWITT: Okay.

6 MS. MORIATY: But it will be whatever they are
7 able to do.

8 MR. PREWITT: Got it. Thank you.

9 MR. BACARISSE: Members, are there any other
10 questions? Okay, Member Graham and then Member Scott.

11 MR. GRAHAM: So to keep going down the track of
12 economic damage, in the Board's consideration of economic
13 damage, my thought here is -- or my question is: Is the
14 economic damage that we consider, must it be specific to
15 the 347 tags specific to this dealer or can it be broadly
16 considered in regards to the damage caused in the State of
17 Texas by tag misuse?

18 MS. MORIATY: If I may, Chairman?

19 MR. BACARISSE: Please.

20 MS. MORIATY: Laura Moriaty again.

21 There's two factors you look to in 2301.801.
22 The first one would be the seriousness of the violation.
23 So if we're looking at something that is impacting public
24 safety is a big enough problem that we could argue it from
25 that angle, that would be one option.

1 But as far as economic damage, the statute
2 speaks to economic damage to the public. So that's why
3 you're hearing counselor talk about what it cost, what we
4 lost in revenue as an effect of this, because, again, the
5 economic damage is to the public, not to other dealers.
6 It's from that perspective.

7 MR. GRAHAM: Okay. Understood. Thank you for
8 that clarification.

9 MR. BACARISSE: Member Scott, did you have a
10 follow-on question?

11 MR. SCOTT: Yes. Paul Scott, for the record.

12 My question is if we pose a sanction greater or
13 different than the \$35,200, what happens next? Does it go
14 back to the ALJ? What's the circle here?

15 MS. EVANS: General Counsel?

16 MS. MORIATY: Laura Moriatty, general counsel.

17 So you have the authority and the discretion to
18 impose a penalty; you do not have to remand back to SOAH
19 for that. We just have to be able to explain how it fits
20 within the sanctioning guidelines and is reasonable based
21 on the facts.

22 MR. SCOTT: Okay. So when we explain that, is
23 that explanation subject to review by someone?

24 MS. MORIATY: So there is an appeal process
25 from here. They will file a motion for a hearing, and if

1 we don't act on that or deny it or even rehear it, they
2 can then appeal up to the Travis County District Court or
3 an appellate court and go up there to the Supreme Court.
4 So yes, they can appeal from there, but no, we don't have
5 to go back to SOAH.

6 MR. SCOTT: Okay. Thank you.

7 MR. BACARISSE: Member Schlosser.

8 MR. SCHLOSSER: Member Schlosser, for the
9 record.

10 Quick question. Are we allowed to know how
11 this compares to other infractions so we know if we're
12 setting a precedent for this, or is there something we can
13 compare to to other penalties imposed? Is that something
14 we can know?

15 MS. MORIATY: Absolutely. We can talk about
16 prior decisions.

17 MR. SCHLOSSER: Do you know of prior decisions
18 and what the penalty ranges were for other similar
19 violations?

20 MS. EVANS: I can't speak with certainty. We
21 have had other tag abuse cases come before, but it's been
22 progressive. So initially it was uncharted waters and we
23 just started with whether or not revocation was even
24 proper.

25 And so we've really gone much further over the

1 past two years, but there has been cases in the past. It
2 just has developed as these cases have developed and as
3 ALJs have become more competent on these matters.

4 Again, without having those cases in front of
5 me, I don't want to speak to them specifically, but there
6 have been other cases.

7 MR. BACARISSE: Members, to perhaps further try
8 to answer the question, the chair would like to recognize
9 Mr. Brian Gee, who has had extensive and long experience
10 in this particular issue, Member Schlosser.

11 MR. GEE: Thank you. My name is Brian Gee.
12 I'm the deputy director for Enforcement.

13 In the past three or four years we have had two
14 cases come before the Board for tag abuse. The first one
15 was Jay Enterprise back in 2020, I think, and in that
16 case, a penalty in the 30-something thousand dollar range
17 was assessed.

18 For that case, we were not assessing increased
19 penalties yet. So the temporary tag problem existed, we
20 were dealing with it within our existing framework. And
21 then as temporary tag abuse took off, we increased the
22 guidance on what we would assess as a penalty per tag
23 abuse.

24 Similarly, earlier this year, LVB Automotive
25 came before the Board and I believe you assessed a similar

1 penalty. But again, that case was -- we sent out a notice
2 of department decision on that case before we increased
3 the penalties.

4 MR. BACARISSE: And, Mr. Gee, if I may take
5 privilege as the chair. Charles Bacarisse, for the
6 record.

7 Each of those cases that you discussed, the
8 violations were in the hundreds of tags. Right? They
9 were each fairly large temp tag issuances. Right?

10 MR. GEE: Yes, sir.

11 MR. BACARISSE: A similar type case to this
12 one.

13 MR. GEE: Yes, sir.

14 MR. BACARISSE: Okay. Thank you.

15 Members, any other questions for our team here?
16 Member Prewitt, question, or are you good?

17 MR. PREWITT: I'm good. I might have a motion
18 to make at some point.

19 MR. BACARISSE: Very good.

20 Member Omumu?

21 MS. OMUMU: Chairman, if no more questions, I
22 would like to make a motion, please.

23 MR. BACARISSE: Certainly. You may make your
24 motion.

25 MS. OMUMU: Member Omumu, for the record.

1 I move that the Board adopt findings of fact 1
2 through 3 and 5 through 12 and conclusions of law 1
3 through 7 and 8 through 10 and 13.

4 I further move that the Board modify finding of
5 fact 4 to read: "On Monday, August 8, 2022, a department
6 investigator performed a site visit during respondent's
7 normal business hours to obtain records of sales for the
8 buyer's temporary tags issued from January 1, 2022 through
9 June 30, 2022."

10 I also move that the Board modify conclusion of
11 law 7 to read: "Respondent failed to make records
12 available for inspection by a department representative
13 during normal business hours on August 8, 2022."

14 These modifications are necessary and
15 permissible under Texas Government Code 2001.058(e)
16 because the administrative law judge made a technical
17 error of fact by misstating the date of the department
18 investigator's visit to the respondent's dealership.
19 Justin White, the department's investigator, testified at
20 the SOAH hearing that he visited respondent's dealership
21 on August 8, 2022.

22 Additionally, May 8, 2022 was a Sunday rather
23 than a Monday. Therefore, I move that we change finding
24 of fact 4 and conclusion of law 7 to reflect the correct
25 date.

1 I additionally move that the Board modify
2 conclusion of law 11 to read: "Respondent misused the
3 buyer's temporary tags or failed to comply with the
4 requirements of the issuance of recordkeeping of the
5 buyer's temporary tags during the period of January 1,
6 2022 through June 30, 2022 by issuing 347 buyer's tags
7 without corresponding vehicle sales."

8 The modification is necessary and permissible
9 under Texas Government Code 2001.058(e) because the
10 administrative law judge made a technical error by
11 misstating the number of buyer's tags issued without
12 corresponding vehicle sales as 377, rather than 347.

13 Throughout the PFD, the administrative law
14 judge makes several statements that 347 temporary buyer's
15 tags were issued without corresponding vehicle sales, and
16 the conclusion of law 12 recommends a sanction based on
17 issuing 347 buyer's tags without corresponding vehicle
18 sales. Further, evidence in the administrative records
19 supports that 347, rather than 377, buyer's temporary tags
20 were issued without corresponding vehicle sales.

21 I also move that the Board modify conclusion of
22 law 12 to read: "Respondent should be assessed a penalty
23 of \$200,000 for issuing 347 buyer's temporary tags without
24 corresponding vehicle sales."

25 This modification is permissible under Texas

1 Government Code 2001.058(e) because the administrative law
2 judge did not properly apply or interpret the factors in
3 Texas Occupations Code 2301.801 that the Board considers
4 in determining the amount of a civil penalty, including
5 the seriousness of the violation, respondent's history of
6 previous violations, and the amount necessary to deter a
7 future violation. Misuse of temporary buyer's tags is a
8 very serious offense, a terrible breach of the trust that
9 the state puts in a GDN holder when it allows the licensed
10 access to the state's Registration and Titling System.

11 Additionally, finding of fact 9 shows that the
12 respondent has a long history of misusing buyer's tags.
13 Respondent signed agreed orders in 2017, 2020 and 2021,
14 all for violations involving buyer's tags. None of those
15 orders were sufficient to deter respondent because he
16 continued to misuse buyer's tags, as shown in finding of
17 fact 8. A very strong sanction is therefore necessary,
18 both to reflect respondent's history of previous
19 violations and to create a sufficient deterrent to
20 respondent and others like him.

21 I, therefore, move that the Board revoke the
22 respondent's license and assess a penalty of \$200,000
23 against respondent.

24 MR. BACARISSE: Thank you, Member Omumu.

25 Is there a second to that motion?

1 MR. GRAHAM: Second.

2 MR. BACARISSE: Member Graham seconds.

3 MS. MORIATY: Chairman, if I may?

4 Yes, Ms. Moriaty.

5 MS. MORIATY: Laura Moriaty, general counsel.

6 I just wanted to clarify the prior decisions we
7 discussed earlier because I wanted to make sure you had
8 the right information.

9 LVB Automotive was a \$15,000 monetary penalty
10 for 2,710 buyer's tags, that was in 2022. Jay Enterprise,
11 the case in 2021, was 1,648 buyer's tags and we had an
12 \$11,000 monetary penalty.

13 MR. BACARISSE: Thank you.

14 We have a motion from Member Omumu and a second
15 from Member Graham. At this point I'd entertain any
16 comments or questions.

17 MR. GRAHAM: I have a comment.

18 MR. BACARISSE: Member Graham.

19 MR. GRAHAM: So thank you for that, Laura, the
20 history. As I sit here, there's no question in my mind
21 that the citizens of Texas have had it with bad actors who
22 are abusing the system and misusing the system for the
23 benefit of a few people. I think that the previous
24 sanctions, when those previous sanctions were issued, that
25 was a completely different landscape than the landscape we

1 have today, considering what we've gone through in the
2 last 18 months to two years.

3 And I think this is a statement that I hope can
4 be supported, but I think we have that authority and we
5 can do that and makes a statement to anyone that if you're
6 going to do it, we're going to come down as hard on you as
7 we can. So I support the motion.

8 Thank you.

9 MR. BACARISSE: Members, any other questions on
10 the motion?

11 (No response.)

12 MR. BACARISSE: Seeing none, I would call the
13 vote at this point.

14 MS. EVANS: I'm sorry. Do you mind if I speak?

15 MR. BACARISSE: Yes, Ms. Evans, certainly.

16 MS. EVANS: Just out of abundance of caution,
17 the July 2021 agreed order was for records violations and
18 not for buyer's temporary tags. I think she referenced
19 all three as buyer's temporary tags, there were two agreed
20 orders. Just out of abundance of caution, I want to make
21 sure the record is clear.

22 MR. BACARISSE: We want to have a good record
23 there. Thank you.

24 MR. GRAHAM: Thank you.

25 MR. BACARISSE: I am just looking here but I do

1 not have a roll call for this vote in my binder, but I can
2 do it anyway and just make note of it.

3 If there are no other comments or questions at
4 this point, I will call the roll on this item, contested
5 case agenda item number 5.

6 I don't believe there are any public comments
7 on this particular agenda item, are there?

8 MS. MORIATY: No, sir, no public comments.

9 MR. BACARISSE: Okay. Thank you.

10 So in that case, I will call your name and you
11 can vote aye if you support the motion that has been
12 spoken by Member Omumu, or nay if you are not in favor of
13 that motion. And we have come up -- thank you -- with a
14 tally sheet.

15 So for the record now, Member Alvarado?

16 MR. ALVARADO: Aye.

17 MR. BACARISSE: Member Graham?

18 MR. GRAHAM: Aye.

19 MR. BACARISSE: Member Omumu?

20 MS. OMUMU: Aye.

21 MR. BACARISSE: Member Prewitt?

22 MR. PREWITT: Aye.

23 MR. BACARISSE: Member Schlosser?

24 MR. SCHLOSSER: Aye.

25 MR. BACARISSE: Member Scott?

1 MR. SCOTT: Aye.

2 MR. BACARISSE: And I, Chair Bacarisse, vote
3 aye as well. It is unanimous. This motion has passed.

4 And I appreciate your good work, Ms. Evans, and
5 those of the team. Thank you, Mr. Gee, for our
6 institutional memory, and we'll move on.

7 MS. EVANS: Thank you, Board members.

8 MR. BACARISSE: Agenda item number 6 is rule
9 adoptions, and I will turn it over to Ashley Crutchfield
10 to walk us through Chapter 206.

11 Good morning.

12 MS. CRUTCHFIELD: Good morning, Chairman and
13 members, Executive Director Avitia. For the record, I'm
14 Ashley Crutchfield, associate general counsel in the
15 Office of General Counsel.

16 Today we're asking the Board's permission to
17 adopt the rules implementing Transportation Code 643.155
18 regarding motor carriers transporting household goods, and
19 cleaning up some other language in Chapter 206 of the
20 Administrative Code. This rule package is listed on your
21 agenda as item 6 and is on page 49 of your book.

22 The proposed amendment to Rule 206.92 expands
23 the definition of advisory committee by adding
24 Transportation Code 643.155. The proposed amendments to
25 206.93 just really are doing some cleanup, removed some

1 language that's elsewhere in the Transportation Code and
2 things like that. The new 206.98 is creating the
3 Household Goods Rules Advisory Committee as a new stand-
4 alone advisory committee.

5 These amendments and the new rule were
6 published in the *Texas Register* and we have received no
7 comments on them.

8 Members, this concludes my remarks. I'm happy
9 to answer questions if you have any.

10 MR. BACARISSE: Thank you, Ms. Crutchfield.

11 Members, any questions on this particular rule
12 for Ms. Crutchfield?

13 (No response.)

14 MR. BACARISSE: Seeing none, I would entertain
15 a motion on agenda item number 6.

16 Mr. Alvarado.

17 MR. ALVARADO: I'll make a motion, Mr.
18 Chairman.

19 MR. BACARISSE: Certain, please.

20 MR. ALVARADO: I move that the Board approve
21 the adoption of the proposed amendments to 43 Texas
22 Administrative Code, Sections 206.92, 206.93 and 206.98
23 concerning advisory committees, as recommended by staff.

24 MR. BACARISSE: Is there a second to this
25 motion?

1 MS. OMUMU: I second, Mr. Chairman.

2 MR. BACARISSE: Member Omumu, thank you.

3 Now that we have a motion and a second, is
4 there any further discussion or questions from members?

5 (No response.)

6 MR. BACARISSE: Seeing none, Ms. Moriaty, is
7 there anyone here to discuss this item, public comments?

8 MS. MORIATY: No, sir, there is no public
9 comment on this item.

10 MR. BACARISSE: No public comments. Great.

11 I will now call the vote, please, on this
12 agenda item.

13 Member Alvarado?

14 MR. ALVARADO: Aye.

15 MR. BACARISSE: Member Graham?

16 MR. GRAHAM: Aye.

17 MR. BACARISSE: Member Omumu?

18 MS. OMUMU: Aye.

19 MR. BACARISSE: Member Prewitt?

20 MR. PREWITT: Aye.

21 MR. BACARISSE: Member Schlosser?

22 MR. SCHLOSSER: Aye.

23 MR. BACARISSE: Member Scott?

24 MR. SCOTT: Aye.

25 MR. BACARISSE: And I, Chair Bacarisse, vote

1 aye as well. It is unanimous. Thank you.

2 We now move to agenda item number 7 which is
3 another rule, Chapter 211, so we've got Monique up here to
4 walk us through it.

5 So please proceed. Good morning.

6 MS. JOHNSTON: Good morning, Chairman, members,
7 Director Avitia. For the record, I'm Monique Johnston,
8 director of the Motor Vehicle Division, or MVD.

9 Today we're asking the Board's permission to
10 adopt changes to the department's fingerprinting rules.
11 The rule package is listed on your agenda as item number 7
12 and the details may be found beginning on page 57 of your
13 Board book.

14 At the June 30, 2022 meeting, the Board
15 approved new 211.6, which added a fingerprint requirement
16 for two types of applicants: applicants for a new GDN and
17 existing dealers at the time of their GDN renewal. The
18 new rule was effective for applicants filed on or after
19 September 2, 2022, and the fingerprint requirement is a
20 one-time requirement if an active GDN is maintained.

21 The fingerprint rule prevents fraud in two
22 ways: by verifying an applicant's identity through
23 fingerprints, and by providing a complete comprehensive
24 DPS and FBI criminal background check. The fingerprint
25 rule also prevents fraud in subsequent license renewals as

1 once fingerprints are provided, the department has access
2 to the DPS and FBI Rap Back subscriptions which provide
3 ongoing updates to criminal history records.

4 Since implementing the fingerprint requirement
5 on 9/1/2022, MVD has processed over 18,000 applications,
6 and just under 15,000 individuals have provided
7 fingerprints. Our experience to date confirms that
8 implementing fingerprinting reduces fraud in the
9 application process. The rule amendments will allow
10 fingerprint requirements to be added to other license
11 types through future rulemaking if the Board chooses to do
12 so.

13 The department received no public comments on
14 the proposed amendments, and MVD requests your approval to
15 adopt these amendments as proposed.

16 This concludes my remarks and I'm happy to
17 answer any questions from the Board on this rule package.

18 MR. BACARISSE: Members, any questions for Ms.
19 Johnston on this rule?

20 (No response.)

21 MR. BACARISSE: Seeing none, do you have a
22 question or a motion?

23 MR. SCHLOSSER: No.

24 MR. BACARISSE: Okay, good. Seeing no
25 questions, I would entertain a motion on agenda item 7.

1 Member Schlosser.

2 MR. SCHLOSSER: Darren Schlosser, for the
3 record.

4 I move that the Board approve the adoption of
5 the proposed amendments to 43 Texas Administrative Code
6 Section 211.6 concerning fingerprint requirements for
7 license applicants and holders, as recommended by staff.

8 MR. BACARISSE: And is there a second for this
9 motion?

10 MR. GRAHAM: So moved.

11 MR. BACARISSE: Graham.

12 Any further discussion, members, on this
13 particular agenda item?

14 (No response.)

15 MR. BACARISSE: Seeing none, are there any
16 public commenters on this agenda item?

17 MS. MORIATY: No, sir, no public comments.

18 MR. BACARISSE: Thank you.

19 In that case, I will now call for the vote.
20 Member Alvarado?

21 MR. ALVARADO: Aye.

22 MR. BACARISSE: Member Graham?

23 MR. GRAHAM: Aye.

24 MR. BACARISSE: Member Omumu?

25 MS. OMUMU: Aye.

1 MR. BACARISSE: Member Prewitt?

2 MR. PREWITT: Aye.

3 MR. BACARISSE: Member Schlosser?

4 MR. SCHLOSSER: Aye.

5 MR. BACARISSE: Member Scott?

6 MR. SCOTT: Aye.

7 MR. BACARISSE: And I, Chair Bacarisse, vote
8 aye as well. It's unanimous. Thank you.

9 MS. JOHNSTON: Thank you, members.

10 MR. BACARISSE: You bet. Thank you, Monique.

11 We'll now move to agenda item number 8 which
12 is, again, another rule in Chapter 217, and Annette will
13 lay this one out for us.

14 So come on down.

15 MS. QUINTERO: Good morning, Chairman. Good
16 morning, Board members, Executive Director Avitia. My
17 name is Annette Quintero. I'm the director of the Vehicle
18 Titles and Registration Division.

19 I am presenting agenda item number 8 which
20 begins on page 63 of your Board book. As you can see, we
21 brought a few samples for you to look at while we talk
22 about seeking the Board's approval to adopt the proposed
23 amendments to Rule 217.52, which will implement Senate
24 Bill 702 enacted by the 88th Legislature.

25 Senate Bill 702 amended Transportation Code

1 504.851 to require the department to allow for the
2 establishment of a range of premium embossed specialty
3 license plates to be sourced, marketed and sold by the
4 department's contracted vendor. The amendments to Rule
5 217.52 establish the fees required for embossed background
6 only license plates, embossed personalized specialty
7 license plates, and restyling from non-embossed to
8 embossed specialty plates. The amendments also allow a
9 purchaser of an auction pattern to select any embossed
10 license plate design available without an additional
11 charge.

12 The rule proposal package was established for
13 comment in the September 2, 2023, issue of the *Texas*
14 *Register*. The comment period closed on October 1, 2023.
15 The department received no comments on the proposed
16 amendments.

17 If the Board adopts the rules, staff
18 anticipates publication in the October 27, 2023 issue of
19 the *Texas Register* and an effective date of November 2,
20 2023.

21 And I'm available to take questions.

22 MR. BACARISSE: Thank you, Ms. Quintero.

23 Members, any questions on this item?

24 (No response.)

25 MR. BACARISSE: Seeing none, I would entertain

1 a motion on this item, if there is one.

2 Member Scott.

3 MR. SCOTT: I move that the Board approve the
4 adoption of the proposed amendments to 43 Texas
5 Administrative Code, Section 217.52 concerning the
6 marketing of specialty license plates through a private
7 vendor, as recommended by staff.

8 MR. BACARISSE: And is there a second to this
9 motion?

10 MS. OMUMU: I second, Mr. Chairman.

11 MR. BACARISSE: Member Omumu, thank you.

12 And we have a motion and a second. Is there
13 any discussion on this item, members?

14 (No response.)

15 MR. BACARISSE: Seeing none, is there any
16 public comment?

17 MS. MORIATY: There is a public comment, sir.
18 Sean Kennedy is here to make public comment.

19 MR. BACARISSE: Great. All right. Thank you,
20 Annette.

21 MS. QUINTERO: Thank you.

22 MR. BACARISSE: Mr. Kennedy, are you here?
23 Great. Come on up.

24 MR. KENNEDY: Good morning, Mr. Chairman, Board
25 members, Executive Director Avitia. For the record, my

1 name is Sean Kennedy and I'm vice president of License
2 Plates of Texas, doing business as MyPlates.com. I am
3 speaking in favor of the adoption -- which seems to have
4 just occurred -- of the proposed admin rule related to the
5 introduction of the premium embossed specialty license
6 plates.

7 It was back in 2009 when the state moved away
8 from manufacturing an embossed standard license plate and
9 moved to the now current flat printed plate, so for the
10 past 14 years, Texans have lacked the choice of an
11 embossed license plate. Since the change to flat
12 printing, My Plates has received regular requests from car
13 collectors and from general citizens to bring back the
14 embossed license plate option. My Plates has conducted
15 surveys with both specialty license plate holders and the
16 general public, and there has been overwhelming support to
17 have the embossed specialty license plates once again be
18 available to Texans.

19 During the last Texas Legislative Session,
20 Senator Perry drafted Bill SB 702 to make that a reality.

21 This bill passed in both chambers with total support, not
22 a single nay vote. So it enjoys support from the
23 legislature as well.

24 My Plates believes the addition of a range of
25 embossed specialty license plates will drive new and

1 increased interest to the specialty plate program. The
2 program, since November 2009, has now generated over \$165
3 million to the State General Revenue Fund of Texas. This
4 year, 2023, we're on track to drive over \$27 million to
5 the same fund.

6 And the program is now averaging over \$2
7 million per month in new revenue generated for the state.
8 With the introduction of the new category of embossed
9 plates, we are very confident that there will be
10 additional new growth and new interest in our license
11 plate program.

12 So in summary, we support the adoption of the
13 new admin rule to make the embossed plate category
14 available to the citizens of the State of Texas. That's
15 all.

16 MR. BACARISSE: Thank you, Mr. Kennedy. I
17 appreciate your time this morning.

18 Members, any questions for Mr. Kennedy on this
19 item?

20 (No response.)

21 MR. BACARISSE: Seeing none, we will now call
22 for the vote.

23 Member Alvarado?

24 MR. ALVARADO: Aye.

25 MR. BACARISSE: Member Graham?

1 MR. GRAHAM: Aye.

2 MR. BACARISSE: Member Omumu?

3 MS. OMUMU: Aye.

4 MR. BACARISSE: Member Prewitt?

5 MR. PREWITT: Aye.

6 MR. BACARISSE: Member Schlosser?

7 MR. SCHLOSSER: Aye.

8 MR. BACARISSE: Member Scott?

9 MR. SCOTT: Aye.

10 MR. BACARISSE: And I, Chair Bacarisse, vote
11 aye as well. It's unanimous. Thank you.

12 We'll move on to agenda item number 9, Chapter
13 217, and Jimmy Archer will walk us through this
14 subsection.

15 Good morning.

16 MR. ARCHER: Good morning, Chair Bacarisse,
17 Executive Director Avitia, members of the Board. For the
18 record, my name is Jimmy Archer. I'm director of the
19 Motor Carrier Division.

20 This item is number 9 on today's agenda and the
21 materials are found beginning on page 78 of your Board
22 books.

23 For the Board's consideration, I'm presenting
24 these rule amendments to 43 Texas Administrative Code
25 Chapter 217 for adoption and publication in the *Texas*

1 *Register*. The amendments were proposed at the August 17
2 Board meeting and were published in the *Texas Register* on
3 September 1, 2023. The comment period closed on October
4 1, 2023, and the department received no comments on the
5 proposed amendments.

6 The proposed rule amends the Administrative
7 Code Section 217.54 and is necessary to implement House
8 Bill 433 that was passed during the last regular
9 legislative session. House Bill 433 amends the definition
10 of commercial fleet in the Transportation Code by reducing
11 the minimum number of non-apportioned motor vehicles,
12 semi-trailers or trailers owned, operated or leased by a
13 business entity necessary to constitute a commercial fleet
14 group from 25 to 12.

15 Under Transportation Code, non-apportioned
16 vehicles and commercial fleets are eligible for multi-year
17 registration and fleet owners can register all their
18 vehicles in their fleet to expire on the same schedule so
19 that the owner only has to keep track of one registration
20 renewal date for the whole fleet. Prior to House Bill
21 433, the Transportation Code limited the minimum size of a
22 fleet qualified for these benefits to 25 vehicles, and
23 customers were concerned if they had to manage large
24 fleets under 25 vehicles, so the legislature amended it to
25 12. House Bill 433 addresses this issue and increases the

1 efficiency and accommodates these carriers to allow them
2 to register fleets from 25 to 12.

3 The amendments were published, again, like I
4 said, in the *Texas Register*. No comments were received,
5 and I ask the Board to adopt these rules.

6 MR. BACARISSE: Thank you, Mr. Archer.

7 Members, are there any questions for Mr. Archer
8 on this particular rule?

9 Mr. Prewitt, I'm sorry.

10 MR. PREWITT: If there are no questions, Mr.
11 Chairman, I'd like to make a motion.

12 MR. BACARISSE: Hold on just a second.

13 Are there any public comments?

14 MS. MORIATY: No public comments, sir.

15 MR. BACARISSE: Okay. Member Prewitt, would
16 you like to make a motion?

17 MR. PREWITT: Yes, sir, I would.

18 MR. BACARISSE: Go right ahead.

19 MR. PREWITT: John Prewitt, for the record.

20 I move that the Board approve the adoption of
21 the proposed amendments to 43 Texas Administrative Code
22 Section 217.54 concerning registration of fleet vehicles,
23 as recommended by staff.

24 MR. BACARISSE: Great. Is there a second for
25 this motion?

1 MR. GRAHAM: Second.

2 MR. BACARISSE: Okay, Member Graham.

3 Any other discussion on this motion? Member
4 Graham.

5 MR. GRAHAM: I would like to ask the Board to
6 support this. This is something that I think will be a
7 big help for fleets in this size range.

8 This whole thing started with a phone call I
9 got from a customer in Paris, Texas, that had 15 trucks
10 that he leased to folks that did work for the state and
11 they were scattered all over the state. And he was
12 spending time every month having to go do them
13 individually because they all came up on different
14 timelines. And so his expense was significant, the time
15 he spent on it.

16 So I'm excited because we're going to be able
17 to take our companies and do this, we fell in that range,
18 so I would just like to ask you to consider it. I think
19 it will be great for a lot of small business folks in
20 Texas. Thank you.

21 MR. BACARISSE: Any further discussion,
22 members, on this motion?

23 (No response.)

24 MR. BACARISSE: Seeing none, and there are no
25 public comments, I would go ahead and call the roll for

1 the vote, please.

2 Member Alvarado?

3 MR. ALVARADO: Aye.

4 MR. BACARISSE: Member Graham?

5 MR. GRAHAM: Aye.

6 MR. BACARISSE: Member Omumu?

7 MS. OMUMU: Aye.

8 MR. BACARISSE: Member Prewitt?

9 MR. PREWITT: Aye.

10 MR. BACARISSE: Member Schlosser?

11 MR. SCHLOSSER: Aye.

12 MR. BACARISSE: Member Scott?

13 MR. SCOTT: Aye.

14 MR. BACARISSE: And I, Chair Bacarisse, vote
15 aye as well. It's unanimous. Thank you.

16 Thank you, Mr. Archer.

17 MR. ARCHER: I would add one thing. Member
18 Graham, we've already had three carriers take advantage of
19 this program.

20 MR. BACARISSE: Oh, good.

21 MR. GRAHAM: And my bride will be here shortly
22 and I'm sure she's going to be visiting with you about it
23 because it's time for us to do it too.

24 MR. BACARISSE: There you go.

25 MR. ARCHER: Happy to do it, sir. Thank you.

1 MR. BACARISSE: Thank you. Perfect.

2 We'll now move to briefing and action items
3 under number 10. This is the policy on contested cases
4 that will be presented to the Board, so I will give the
5 floor over to Ms. Moriaty.

6 Please proceed.

7 MS. MORIATY: Good morning, Board. Laura
8 Moriaty, general counsel. I'm here to bring you item 10
9 which gives you the opportunity to approve a new version
10 of the policy on contested cases presented to the Board.

11 So this policy started back in 2019 with a
12 recommendation from the Sunset Commission. The Sunset
13 Commission recommended that the Board adopt both a policy
14 and rules on how it handled contested cases in front of
15 the Board because it had neither.

16 But since then, we immediately did the policy
17 and got it in place right away because it didn't have to
18 go through the rulemaking process. And then we
19 backstopped it shortly thereafter with rules that have
20 redundant language that was originally put in the policy
21 that has now been enacted into rule. So this new version
22 of the policy strips out that redundant language so it
23 will just be in the rule.

24 The policy will be clean and we won't have to
25 fix it every time we amend a rule. We'll be able to just

1 amend the rule, have the policy stay the way it is. There
2 are some other small changes to make the policy more
3 clearly and accurately reflect what procedures we're using
4 in front of the Board, but no major changes from the
5 original policy.

6 So if there are no questions, that's all I
7 have.

8 MR. BACARISSE: Members, any questions on this
9 agenda item for General Counsel?

10 (No response.)

11 MR. BACARISSE: Seeing none, I would take a
12 motion on this item, on agenda item 10.

13 MS. OMUMU: Mr. Chairman, I'd like to make a
14 motion, please.

15 MR. BACARISSE: Member Omumu.

16 MS. OMUMU: I move that the Board approves the
17 new version of the policy on contested cases presented to
18 the Board, as recommended by staff.

19 MR. BACARISSE: And is there a second for this
20 motion?

21 MR. SCOTT: Second.

22 MR. BACARISSE: Member Scott, thank you.

23 Any further discussion on this motion, members?

24 (No response.)

25 MR. BACARISSE: And I don't believe there are

1 any public comments, are there, Laura?

2 MS. MORIATY: No public comments, sir.

3 MR. BACARISSE: Very good. Thank you.

4 I would call the roll for this vote, please.

5 Member Alvarado?

6 MR. ALVARADO: Aye.

7 MR. BACARISSE: Member Graham?

8 MR. GRAHAM: Aye.

9 MR. BACARISSE: Member Omumu?

10 MS. OMUMU: Aye.

11 MR. BACARISSE: Member Prewitt?

12 MR. PREWITT: Aye.

13 MR. BACARISSE: Member Schlosser?

14 MR. SCHLOSSER: Aye.

15 MR. BACARISSE: Member Scott?

16 MR. SCOTT: Aye.

17 MR. BACARISSE: And I, Chair Bacarisse, vote

18 aye as well. It's unanimous. Thank you.

19 Agenda item 11 is specialty plate design, and

20 Patricia is here to -- it's Annette again.

21 MS. QUINTERO: We had a slight change in plan

22 this morning.

23 MR. BACARISSE: All right, great. Please walk

24 us through agenda item 11, Annette.

25 MS. QUINTERO: Absolutely. Good morning again.

1 My name, for the record, is Annette Quintero. I'm the
2 VTR director.

3 The action item before you is agenda item
4 number 11. This is a request from the Vehicle Titles and
5 Registration Division for Board approval or denial in
6 accordance with the Board's statutory authority. The
7 specialty plate design submitted for your consideration
8 may be referenced on page 94 of your Board book.

9 The following proposed plate is from My Plates,
10 the state's specialty license plate marketing vendor, and
11 was posted for public comment in September 2023. Support
12 Adoption, a crossover plate design, is proposed under
13 Transportation Code 504.851 and 504.6011. 783 people
14 liked this design and 289 did not.

15 This concludes my presentation and I'm
16 available to take any questions.

17 MR. BACARISSE: Members, any questions on this
18 agenda item for Annette?

19 (No response.)

20 MR. BACARISSE: I'm just curious, is this the
21 first adoption plate that the state has thrown out, or is
22 this different?

23 MS. QUINTERO: I believe it is a first.

24 MR. BACARISSE: Great. Any other questions,
25 members?

1 (No response.)

2 MR. BACARISSE: Seeing none, I want to know if
3 there's any public comment on this item.

4 MS. MORIATY: No public comment, sir.

5 MR. BACARISSE: Thank you.

6 I would entertain a motion. Do we have a
7 motion? We need a motion.

8 MS. OMUMU: Yes, sir.

9 MR. BACARISSE: I'm sorry. Go ahead, Member
10 Omumu.

11 MS. OMUMU: I move that the Board approves the
12 specialty plate design, as presented by staff.

13 MR. BACARISSE: Is there a second for that?

14 MR. PREWITT: I second.

15 MR. BACARISSE: Member Prewitt seconds. Thank
16 you.

17 Got ahead of myself on the public comment side.
18 I will now call for the vote on this agenda item.

19 Member Alvarado?

20 MR. ALVARADO: Aye.

21 MR. BACARISSE: Member Graham?

22 MR. GRAHAM: Aye.

23 MR. BACARISSE: Member Omumu?

24 MS. OMUMU: Aye.

25 MR. BACARISSE: Member Prewitt?

1 MR. PREWITT: Aye.

2 MR. BACARISSE: Member Schlosser?

3 MR. SCHLOSSER: Aye.

4 MR. BACARISSE: Member Scott?

5 MR. SCOTT: Aye.

6 MR. BACARISSE: And I, Chair Bacarisse, vote
7 aye as well. Thank you.

8 And we move to agenda item number 12. David
9 Richards will walk us through some advisory committee
10 appointments.

11 MR. RICHARDS: Good morning, Chairman, members,
12 Executive Director Avitia. For the record, my name is
13 David Richards. I'm associate general counsel in the
14 Office of General Counsel.

15 I am tasked today to present to you agenda item
16 number 12, which deals with appointments to our advisory
17 committees. Today we're confined only to the Vehicle
18 Titles and Registration Advisory committee.

19 I bring before you an ask of Director Avitia
20 and the department that you approve three potential new
21 members, as well as reappoint 12 existing members whose
22 terms expired on October 3 of this year. As you know, the
23 Board is couched under Transportation Code 1001.031 with
24 appointing advisory committees. With the appointments of
25 these three new members, the Vehicle Titles and

1 Registration Advisory Committee will have 21 members.

2 And that ends my presentation. I'll be happy
3 to answer any questions that you may have.

4 MR. BACARISSE: Thank you, David.

5 Any questions for Mr. Richards on this item?

6 (No response.)

7 MR. BACARISSE: I would entertain a motion on
8 agenda item 12, if we can have one, please.

9 MR. ALVARADO: Mr. Chairman, I'd like to make a
10 motion.

11 MR. BACARISSE: Member Alvarado.

12 MR. ALVARADO: I move that the Board appoint to
13 serve as advisory committee members the individuals who
14 are presented as potential members by the department's
15 executive director in the Board book materials dated
16 October 12, 2023, and to reappoint the members of the
17 Vehicle Titles and Registration Advisory Committee whose
18 terms expired on October 3, 2023.

19 MR. BACARISSE: Is there a second for this
20 motion?

21 MS. OMUMU: I second.

22 MR. BACARISSE: Okay, Member Omumu.

23 Any further discussion on this agenda item?

24 (No response.)

25 MR. BACARISSE: Hearing none, is there any

1 public comment on this agenda item?

2 MS. MORIATY: No, sir, no public comment.

3 MR. BACARISSE: I'll now call for the vote,
4 please.

5 Member Alvarado?

6 MR. ALVARADO: Aye.

7 MR. BACARISSE: Member Graham?

8 MR. GRAHAM: Aye.

9 MR. BACARISSE: Member Omumu?

10 MS. OMUMU: Aye.

11 MR. BACARISSE: Member Prewitt?

12 MR. PREWITT: Aye.

13 MR. BACARISSE: Member Schlosser?

14 MR. SCHLOSSER: Aye.

15 MR. BACARISSE: Member Scott?

16 MR. SCOTT: Aye.

17 MR. BACARISSE: And I, Chair Bacarisse, vote
18 aye as well. It's unanimous. Thank you.

19 We move to agenda item number 13, the Projects
20 and Operations Committee update, and we will hear from our
21 chair, John Prewitt.

22 MR. PREWITT: Thank you, Mr. Chairman. John
23 Prewitt, for the record.

24 Agenda item 13, Projects and Operations
25 Committee update. Thank you, Chairman Bacarisse,

1 Executive Director Avitia and members.

2 Yesterday, Vice Chair McRae, Members Alvarado,
3 Gillman, Scott and I participated in the Projects and
4 Operations Committee meeting and received briefings from
5 department staff. There were no action items on the
6 agenda; this is a briefing item only.

7 Agenda item 13 under Enterprise Projects,
8 13.A.i. Camp Hubbard Renewal Project, Glenna Bowman, the
9 departments director of Finance and Operations, briefed
10 the committee on the most recent activities related to the
11 Camp Hubbard Renewal Project. In regards to construction
12 documents, the department received 95 percent construction
13 documents from Texas Department of Motor Vehicles'
14 contracted vendor, Marmon Mok, on September 9, 2023.
15 Staff are in the process of reviewing these documents.
16 One hundred percent documents are expected in mid
17 November.

18 In terms of where we are in construction, phase
19 zero. TxDMV is currently working on projects in Camp
20 Hubbard Building 6 that must be completed before the
21 larger construction project begins in the spring of 2024.

22 Activities include the demolition and interior finish-out
23 work to relocate the Camp Hubbard data center from CH-5 to
24 CH-6. This involves removing raised flooring previously
25 used by TxDOT for its data center, removing and replacing

1 cabling, and installing updated information technology
2 components.

3 In regards to financing activities, at its
4 September 14 meeting, the Texas Public Finance Authority,
5 TPFA, authorized the appointment of bond counsel for the
6 financing of the Camp Hubbard Renewal Project on behalf of
7 TxDMV. TPFA staff have begun work on the transaction
8 documents necessary for approval of the debt issuance by
9 the Office of Attorney General. Once this is complete,
10 TxDMV will be able to draw down the funds based on project
11 needs.

12 In regards to TxDMV facilities project manager,
13 to ensure the Camp Hubbard Renewal Project is managed as
14 efficiently and effectively as possible, the department
15 has hired Dorothy Spearman to provide dedicated project
16 management for the duration of the project. Dorothy
17 brings construction expertise and a single focus to the
18 Camp Hubbard Renewal Project. She will coordinate the
19 Texas Facilities Commission, the contracted architectural
20 engineering firm, the Construction Manager at Risk, TPFA,
21 as well as TxDMV staff and other parties involved in the
22 project to make sure the various components are aligned
23 and deliverables are completed on time and as expected.

24 Ms. Bowman is here to answer any questions on
25 this item. Are there any questions?

1 MR. BACARISSE: Members, any questions of Mr.
2 Prewitt on this great work being done in the P&O
3 Committee?

4 (No response.)

5 MR. BACARISSE: Seeing none, thank you, Member
6 Prewitt.

7 MR. PREWITT: Thank you, Mr. Chairman. I must
8 say everybody is very excited about the new building and
9 the project and excited to get it going.

10 MR. BACARISSE: Absolutely.

11 MR. PREWITT: Under agenda item 13.A.ii, HB 718
12 implementation, Roland Luna, Sr., the department's deputy
13 executive director, provided an update on House Bill 718
14 implementation. Roland provided an overview of the
15 implementation plan for HB 718 which eliminates various
16 temporary tags and time permits, an overview of the
17 statutory changes, operational impacts, operational
18 considerations, and coordination with stakeholders.

19 Roland also discussed how the agency created
20 various internal committees to assist with different
21 components of the legislation. A committee chair was
22 appointed to each committee which consists of Technology
23 Committee, License Plate Design and Manufacturing
24 Committee, Compliance Committee, Regulatory Affairs
25 Committee, and Executive Advisory Committee. Each

1 committee will organize goals, tasks, activities and
2 cross-committee efforts to ensure the successful
3 implementation of House Bill 718.

4 Mr. Luna is here to answer any questions on
5 this item.

6 MR. BACARISSE: Any questions, members, on this
7 item?

8 (No response.)

9 MR. BACARISSE: No? We're good. Thank you.

10 MR. PREWITT: And just adding, great job, Mr.
11 Luna and all the staff.

12 Agenda item 13.A.iii, RSC expansions, moves and
13 renovations. Annette Quintero, the department's Vehicle
14 Titles and Registration director, provided an update on
15 the regional service center expansions, moves and
16 renovations.

17 The RSC expansions in Dallas and Houston are
18 progressing well. Annette's update included an overview
19 of the planning effort and the development of the five
20 phases of this project. To date, the submission of the
21 required space allocation requests to the Texas Facilities
22 Commission is complete, as is the subsequent assignment of
23 a TFC planner.

24 The six positions provided by the legislature
25 for the new customer service representatives will be

1 posted soon for both Dallas and Houston. The completion
2 of the service mapping, the zip code mapping exercise is
3 expected to be completed by October 31, 2023.

4 Annette also discussed the signing of the new
5 lease for the San Antonio Regional Service Center move,
6 which was August 31, 2023, when that happened. This move
7 will provide staff and customers with additional office
8 space and parking. The additional parking will facilitate
9 conducting 68-A inspections.

10 In addition, Annette and her team are also
11 working on the renovation of the Odessa Regional Service
12 Center, which is on Texas Department of Transportation,
13 TxDOT, property. The renovation will provide better
14 customer traffic flow and provide TxDMV staff with
15 additional workspace.

16 Ms. Quintero is here to answer any questions on
17 this item.

18 MR. BACARISSE: Members, any questions on this
19 item?

20 (No response.)

21 MR. BACARISSE: Seeing none, please continue.

22 MR. PREWITT: Agenda item 13.B.i and 13.B.ii,
23 and 13.B.iii, Technology projects. And before I start, I
24 would just say these are just a portion of the projects
25 that are ongoing right now, but these are the most

1 significant of those.

2 Wendy Barron, the department's chief
3 information officer, provided an update on the status of
4 current active department technology projects. The update
5 included a description and status update on seven of the
6 high priority projects and initiatives overseen by the
7 Information Technology Service Division. These include:
8 the Registration and Titling System replacement
9 modernization; the Camp Hubbard Renewal IT projects,
10 including network migration and core network build out and
11 the core telephone and call center migration to the cloud;
12 the tax assessor-collectors T1 upgrade project; the tax
13 assessor-collectors workstation refresh project; the Motor
14 Carrier Credentialing System rewrite; and the Texas
15 International Registration Program upgrade.

16 Ms. Barron is here to answer any questions on
17 these items.

18 MR. BACARISSE: Members, any questions?

19 (No response.)

20 MR. BACARISSE: Thank you. Continue.

21 MR. PREWITT: Thank you, sir.

22 Next 13.B.iv, Credit cards in the regional
23 service centers. Eric Horn, the department's director of
24 Accounting, briefed the committee on the progress on
25 implementing an over-the-counter credit card payment

1 process at each of the 16 regional service centers.
2 Regional service center locations currently only accept
3 cash, checks and money orders for services provided to the
4 public.

5 TxDMV staff finalized programming and testing
6 efforts for both the Registration and Titling System and
7 the Texas International Registration Plan systems for
8 Austin Regional Service Center late in September. The
9 deployment of the new applications were successful and the
10 Austin RSC began offering a credit card payment option to
11 customers on October 4.

12 Following the successful implementation in
13 Austin, TxDMV staff plan to deploy the credit card
14 capabilities to the remaining RSC locations throughout
15 2024. Programming efforts are underway and the Houston
16 RSC is tentatively scheduled to begin offering the credit
17 card payment option to customers in January 2024.

18 Mr. Horn is here to answer any questions on
19 this item.

20 MR. BACARISSE: Members, any questions on this
21 particular item?

22 (No response.)

23 MR. BACARISSE: No? Okay.

24 MR. PREWITT: All right. And finally, 13.B.v,
25 Accounts receivable project. Eric Horn, the department's

1 director of Accounting, also briefed the committee on the
2 progress of the accounts receivable system. Following the
3 completion of the accounts receivable study by Gartner in
4 August 2022, TxDMV issued a request for information to
5 gather additional details from vendors on the cost of
6 recommended software options. The RFI process led to the
7 selection of Microsoft Dynamics 365 Business Central as
8 the platform for the A/R system.

9 TxDMV staff is finalizing the procurement
10 process for Microsoft Dynamics 365 Business Central
11 licenses through Microsoft and the selected vendor.
12 Following completion of this procurement, TxDMV will
13 finalize a deliverable-based information technology
14 services contract with DIR and the selected vendor for the
15 implementation of an A/R system. Once the contract is
16 approved by DIR, the project is expected to begin in the
17 first quarter of 2024 and to be completed in early 2025.

18 Mr. Horn is here to answer any questions on
19 this item.

20 MR. BACARISSE: Members, any questions?

21 (No response.)

22 MR. BACARISSE: Chairman Prewitt, you know, any
23 part of that agenda would have been an incredible amount
24 of work, but all of it taken together is an outstanding
25 and unbelievable amount of work that the agency is engaged

1 in, so I appreciate you and your committee's work to come
2 alongside the leadership of the agency and talk through
3 and work through these initiatives. They're important.

4 MR. PREWITT: I'd like to reference the quote
5 by Executive Director Avitia in that he said that they
6 have a full load.

7 (General laughter.)

8 MR. BACARISSE: Yes, indeed.

9 MR. PREWITT: And I agree with that.

10 MR. BACARISSE: Yes, indeed, absolutely.

11 Mr. Avitia, do you want to add anything further
12 to this? I mean, this is a tremendous amount of work.

13 MR. AVITIA: Absolutely. Chairman, thank you
14 for the opportunity. And, Member Prewitt, thank you for
15 chairing this committee so well.

16 The members received a great deal of
17 information. And I think the comment I'd like to make --
18 many people may not understand this -- but what we are
19 doing by implementing House Bill 718, building a new
20 campus, replacing a 30-year-old RTS system, implementing
21 credit cards for our regional service centers in 2023 -- I
22 know that sounds silly but here we are, we're doing it for
23 the first time in this agency's history -- consolidating
24 our accounts receivable system -- again, a first time for
25 this agency -- and then as well, having the opportunity to

1 build two new regional service centers which we've asked
2 for many, many years through the legislative process,
3 we're getting to do all these things, and with your
4 support, Chairman and members, and the team's diligence,
5 we are building, initially, the future of the DMV for the
6 next 30 to 40 years.

7 I don't know that I will be here for the next
8 30 to 40 years, but what starts here is for the future,
9 and I appreciate all of your support. Thank you so much.

10 MR. BACARISSE: Thank you.

11 You know, I just think the interconnectedness
12 of a lot of these IT projects, in particular -- the credit
13 card thing, while it sounds like we're late to the game,
14 is actually incredibly challenging when you consider how
15 many various agencies that data has to connect to. So
16 it's been a real challenge, I know. So terrific.

17 MR. AVITIA: Thank you, Chairman.

18 MR. BACARISSE: Let's go to agenda item 14 now,
19 Finance and Audit, and we will hear from Glenna Bowman to
20 walk us through what's happening there and is equally as
21 busy.

22 Good morning.

23 MS. BOWMAN: Yes, we're always busy.

24 Good morning, Chairman Bacarisse, members, Mr.
25 Avitia. For the record, my name is Glenna Bowman. I'm

1 the chief financial officer for TxDMV.

2 The FY 2023 financial report can be found on
3 page 121 of your Board materials. The report covers the
4 period of September 1, 2022 through August 31 of 2023.
5 The report includes statistical and detailed information
6 on revenues, expenditures, outstanding obligations, and
7 the TxDMV Fund 10 balance.

8 In FY 2023, TxDMV deposited \$2.066 billion in
9 revenue to three funds: the State Highway Fund, the TxDMV
10 Fund 10, and the General Revenue Fund. That's 1.8 percent
11 more than we deposited in FY 2022.

12 In the TxDMV Fund, we deposited a total of
13 \$189.4 million, which is a 5.2 percent increase over 2022.

14 The adjusted balance of TxDMV Fund 10, as of August 31,
15 2023, is \$185.3 million.

16 The TxDMV budget is funded by TxDMV Fund 10, as
17 well as General Revenue for the Motor Vehicle Crime
18 Prevention Authority, and the total expenditures and
19 outstanding obligations to DMV Fund 10 and GR in our
20 budget total \$195.9 million for FY 2023. In FY 2023 we
21 did have sufficient revenue to cover all of our
22 expenditures and outstanding obligations and we are in
23 very good financial position at this time.

24 That concludes my formal remarks and I'm happy
25 to answer any questions.

1 MR. BACARISSE: Members, any questions for Ms.
2 Bowman?

3 (No response.)

4 MR. BACARISSE: I see none on this particular
5 issue.

6 MS. BOWMAN: Thank you.

7 MR. BACARISSE: Thank you.

8 All right. Members, thank you for your work
9 here at this point. Before we move to the next agenda
10 item, which is closed session, I'd like to note that --
11 I'm sorry.

12 Oh, Salem, sorry.

13 MR. GRAHAM: Don't cut Salem off. I had you
14 covered, Salem, don't worry.

15 (General laughter.)

16 MR. BACARISSE: Internal Audit, I just thought,
17 well, that's internal, never mind.

18 Salem, glad you're here. Sorry about that, I'm
19 getting ahead of myself.

20 MR. CHUA: Good morning, Chairman Bacarisse,
21 Board members, Executive Director Avitia. For the record,
22 my name is Salem Chua. I'm the director of the Internal
23 Audit Division for the department.

24 Item 14.B is a briefing item to provide you
25 with a status update on the Internal Audit Division's

1 activities pertaining to internal engagements, external
2 engagements and administrative items.

3 We have three internal engagements. The first
4 is the quality assurance improvement program assessment,
5 and this has moved into the field work phase. In this
6 assessment we are reviewing our standard operating
7 procedures and our audit programs to verify conformance to
8 auditing standards.

9 The second is our audit on regional service
10 centers which continues in the field work phase. We have
11 administered the organizational culture assessment
12 instrument, or OCAI questionnaire. And we administered
13 this to employees in the four regional service centers
14 that are within our audit scope, so that's Houston,
15 Dallas, El Paso, and Abilene.

16 We have also begun testing a sample of bonded
17 title applications to determine whether those applications
18 were completed in its entirety and uniformly. And just a
19 few days ago, on Monday, we conducted a site visit of the
20 Houston Regional Service Center to observe processes and
21 also interact with customers to get them to participate in
22 a short little questionnaire.

23 We will be continuing work on this audit and
24 visiting the other regional service centers in the weeks
25 to come.

1 The third engagement is our completion of the
2 fiscal year 2023 Internal Audit Annual Report, and that is
3 included in the Board materials starting on page 135.
4 This report is statutorily required to be submitted to the
5 State Auditor's Office, the Legislative Budget Board and
6 the Governor's Office by November 1. This report was
7 created using guidelines established from the State
8 Auditor's Office.

9 Overall, last fiscal year we completed seven
10 engagements, and that consisted of three audits, one
11 advisory service and two follow-ups and two compliance
12 reports. Just for context, in fiscal year 2022, we
13 completed six total engagements. In this fiscal year
14 2024, we are planning to conduct 12.

15 Pivoting here, the Internal Audit Division is
16 not currently aware of or tracking any external
17 engagements. We will, however, continue tracking these
18 engagements as applicable.

19 For administrative reports and items, the
20 Internal Audit Division posted a request for
21 qualifications, or RFQ, and we posted this last week.
22 This RFQ is for a vendor to conduct performance and
23 information technology audit and advisory services. We
24 want to thank the team members from the Office of General
25 Counsel and the purchasing unit for their help in getting

1 this RFQ developed and posted, as there were several steps
2 we had to go through in this process.

3 This RFQ is needed because our previous
4 contract expired at the end of August. And so going
5 through this RFQ will allow us to ultimately have a
6 contract with a vendor to continue to use specialized
7 expertise and also augment our staffing when needed to
8 carry out the work that's set forth in the Internal Audit
9 Plan. We are hoping for good responses and proposals from
10 vendors so that we can evaluate those submittals next
11 month in November, with hopefully an executed contract in
12 December.

13 We completed our fiscal year 2024 operational
14 strategy and included four major goals which are:

15 Goal number 1, building a high trust, high
16 engagement and high performance team. And this is through
17 the recruitment process as well as development of the
18 team. And I want to share that we appreciate the
19 partnership with the Human Resources Division as we posted
20 all of our vacancies and continue going through this
21 hiring process, and I hope to have introductions in
22 December.

23 Goal 2 is actively participate and communicate
24 risks to the department. That's doing our Internal Audit
25 Plan, fulfilling what we set out for the year through

1 audits and advisory services.

2 Goal 3 is educating others on the internal
3 audit function, so demystifying what Internal Audit does.

4 Goal 4 is being innovative by exploring new
5 tools and enhancing the current tools that we have.

6 And so all of the projects and initiatives and
7 plans that we have are all tied to one or more of these
8 four major goals.

9 Lastly, we are serving as a peer reviewer of
10 the internal audit function at the Texas Civil Commitment
11 Office, and this is alongside two other team members from
12 two other state agencies. This peer review is to
13 determine the internal audit function's compliance with
14 auditing standards. Our own internal audit function will
15 be going through a peer review next year, as the last peer
16 review was conducted in 2021 of our function here.

17 This concludes my status updates. I'm happy to
18 answer any questions.

19 MR. BACARISSE: Members, any questions for Mr.
20 Chua?

21 (No response.)

22 MR. BACARISSE: I will say -- and then I'm
23 going to ask Member Graham to comment as well -- I'm
24 really excited for the future of Internal Audit and your
25 rebuild of the team. I think you've got some open

1 positions. We've discussed how challenging the
2 marketplace is right now for this particular skill set,
3 but I encourage you and thank you for your good work.

4 Member Graham, do you have comments?

5 MR. GRAHAM: Sure. You know, you can see that
6 Salem's plan for 2024 is a very aggressive plan, and he --
7 and I don't know if Jason is here. I saw him earlier but
8 he may not be in the room -- there you are, Jason.

9 These two fellows have really been humping it
10 to make sure everything gets done. Obviously our
11 timelines have been impacted somewhat. They've been
12 working really hard to try to keep them as close to plan
13 as they could, along with developing the audit plan for
14 next year, and really appreciate that.

15 And Salem has worked really hard interviewing
16 and trying to make sure that we're doing what we can,
17 working with HR to be competitive in those positions
18 because the audit environment right now, hiring auditors
19 is very, very competitive. And it looks like he is having
20 some success there. Fingers crossed that that continues
21 and in December we could be talking about the new team.

22 But yes, thank you to both of y'all for keeping
23 the wheels on the bus, so to speak, and pushing through
24 and helping us get to where we need to be.

25 And I'll say this for Darren's benefit, the

1 work that this audit team does is critical to ensure that
2 the audit team is looking at all the functions and risks
3 associated with this agency, and that we're taking all the
4 actions that we need to make sure we mitigate those risks
5 as best we can and function in a way that is going to make
6 the agency a highly performing agency.

7 So we appreciate those efforts, so keep it up.
8 Thank you, Salem. Thank you, Jason.

9 MR. BACARISSE: Thank you.

10 Salem, do you have one more item to cover with
11 us. Please continue, go ahead.`

12 MR. CHUA: I do, Chairman. Thank you.

13 Item 14.C is an action item requesting the
14 Board's approval of the Internal Audit Charter. The Texas
15 Government Code states that the internal audit functions
16 at state agencies must follow standards from the Institute
17 of Internal Auditors, known as the IIA. IIA standards
18 require the internal audit function to have an internal
19 audit charter that is periodically reviewed and updated.
20 The IIA position paper, which starts on page 158 of your
21 Board materials, further states that the internal audit
22 charter is vital to internal audit's success and should be
23 reviewed annually by the governing body.

24 The charter was last reviewed and approved by
25 the Board in August 2022. We reviewed the Internal Audit

1 Charter and proposed minor non-substantive changes with
2 the track changes in redlines included on pages 148
3 through 152, followed by a clean version. The charter has
4 seven key areas.

5 And that's purpose and mission; number 2,
6 auditing standards, and we follow IIA standards as well as
7 the Generally Accepted Government Auditing Standards;
8 number 3, the authority or administrative reporting line
9 to the executive director, Director Avitia, and functional
10 reporting line to the Board, also our authority to have
11 full access to records, personnel and property needed to
12 conduct our services, subject to prudent use and
13 safeguarding; number 4, scope of internal audit
14 activities, audits, advisory services and internal
15 investigations.

16 Number 5 is independence and objectivity,
17 having no direct operational responsibility or authority
18 over audited areas. Number 6 is the roles and
19 responsibilities, and number 7 is the maintenance of our
20 quality assurance and improvement program.

21 This concludes my report on this item. I'm
22 happy to answer any questions.

23 MR. BACARISSE: Members, any questions for Mr.
24 Chua on the Internal Audit Charter issue?

25 (No response.)

1 MR. BACARISSE: We will take action on this for
2 him for the agency. If there are no other questions, the
3 chair would entertain a motion on agenda item 14.C.

4 MR. GRAHAM: Chairman, I have a motion.

5 MR. BACARISSE: Member Graham.

6 MR. GRAHAM: I move the Board approve the
7 Internal Audit Charter, as presented by staff.

8 MR. BACARISSE: Very good. Is there a second
9 to that?

10 MR. SCOTT: Second.

11 MR. BACARISSE: Member Scott seconds. Any
12 further discussion on this motion?

13 (No response.)

14 MR. BACARISSE: Any public comment on this
15 motion?

16 MS. MORIATY: No, sir, no public comment.

17 MR. BACARISSE: Thank you.

18 In that case, I will call the roll for the
19 vote, please.

20 Member Alvarado?

21 MR. ALVARADO: Aye.

22 MR. BACARISSE: Member Graham?

23 MR. GRAHAM: Aye.

24 MR. BACARISSE: Member Omumu?

25 MS. OMUMU: Aye.

1 MR. BACARISSE: Member Prewitt?

2 MR. PREWITT: Aye.

3 MR. BACARISSE: Member Schlosser?

4 MR. SCHLOSSER: Aye.

5 MR. BACARISSE: Member Scott?

6 MR. SCOTT: Aye.

7 MR. BACARISSE: And I, Chair Bacarisse, vote
8 aye as well. It's unanimous. Thank you.

9 Okay. Now, I was so excited about getting here
10 I almost forgot this important work. Sorry about that,
11 Salem.

12 Before we move to the next agenda item, I'd
13 like to note that we do have a public comment section
14 listed as agenda item 17, but we're going to go into
15 executive session. So are there any people who have
16 signed up to comment publicly about anything now?

17 MS. MORIATY: No, sir, there are no public
18 comments for item 17.

19 MR. BACARISSE: Very good. In that case, we
20 will now take up agenda item number 15 where we go into
21 closed session.

22 It is now 10:46 a.m. on October 12, 2023.
23 We'll go into closed session under Texas Government Code
24 Sections 551.071, 551.076 and 551.089.

25 For those of you in the audience, I anticipate

1 being in closed session for approximately one hour, and we
2 will reconvene in open session after that.

3 With that, we are recessed from the public
4 meeting and we're going into closed session.

5 (Whereupon, at 10:46 a.m., the meeting was
6 recessed, to reconvene this same day, Thursday, October
7 12, 2023, following conclusion of the executive session.)

8 MR. BACARISSE: It is 12:06 p.m. on October 12,
9 2023, and the Board of the Texas DMV is now back in open
10 session.

11 No action items will be taken up from the
12 closed session, and we will now move to agenda item 18.
13 Adjournment. You don't even have to sit down.

14 MR. GRAHAM: I make a motion for adjournment.

15 MR. BACARISSE: Very good, Member Graham.

16 Is there a second?

17 MS. OMUMU: I second.

18 MR. BACARISSE: Everybody seconds. Okay. I'll
19 just give it to Omumu.

20 And before I call the roll, I will note the
21 presence of a VIP guest, Ms. Debbie Graham over there.
22 Glad you're with us.

23 So I will now call the roll for adjournment.

24 Member Alvarado?

25 MR. ALVARADO: Aye.

1 MR. BACARISSE: Member Graham?

2 MR. GRAHAM: Aye.

3 MR. BACARISSE: Member Omumu?

4 MS. OMUMU: Aye.

5 MR. BACARISSE: Member Prewitt?

6 MR. PREWITT: Aye.

7 MR. BACARISSE: Member Schlosser?

8 MR. SCHLOSSER: Aye.

9 MR. BACARISSE: Member Scott?

10 MR. SCOTT: Aye.

11 MR. BACARISSE: And I, Chair Bacarisse, vote
12 aye as well, and so that's unanimous.

13 It is now 12:07, and this meeting of the Board
14 of the DMV is adjourned.

15 (Whereupon, at 12:07 p.m., the meeting was
16 adjourned.)

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C E R T I F I C A T E

MEETING OF: TxDMV Board
LOCATION: Austin, Texas
DATE: October 12, 2023

I do hereby certify that the foregoing pages, numbers 1 through 94, 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: October 23, 2023

/s/ Nancy H. King
(Transcriber)

On the Record Reporting
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