TEXAS DEPARTMENT OF MOTOR VEHICLES
BOARD MEETING

Thursday,
February 7, 2019

Lone Star Room
Building 1
4000 Jackson Avenue
Austin, Texas

BOARD MEMBERS:

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

5. Licensure Application Denial and Appeal to SOAH under Occupations Code, §§53.021(c), (d)(1)(B)(i), and 53.022-023; and under 43 Texas Administrative Code, §215.88(j)(12). MVD Docket No. 17-0176876; SOAH Docket No. 608-18-4937.ENF; Texas Department of Motor Vehicles, Enforcement Division v. Shawn Booker d/b/a Haul of Fame Transportation

## RULES - ADOPTION

6. Chapter 217, Vehicle Titles and Registration Amendments, §217.84 (Relating to proof of paid claim and salvage language cleanup) (Proposal Published October 26, 2018 - 43 Tex. Reg. 7107)

7. Chapter 219, Oversize and Overweight Vehicles and Loads
   B. Amendments, §219.101 (Relating to notice of the designated time
and location for inspector to inspect records)  
(Proposal Published October 26, 2018 - 43 Tex. Reg. 7109)

RULES - PROPOSAL

8. Chapter 206, Management Amendments, §§206.92 and §206.93  
   Repeals, §§206.94 and §206.95  
   New, §§206.94-206.99  
   (Relating to advisory committees and implementation of Sunset Advisory Commission's Recommendation 1.7)

9. New Chapter 223, Compliance and Investigations Division  
   (Relating to county tax assessor-collector reporting of suspected fraud, waste, or abuse and implementation of Sunset Advisory Commission's Recommendation 2.2)

10. Chapter 208, Employment Practices  

11. Chapter 209, Finance  

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16. Finance and Audit Committee Update  
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EXECUTIVE SESSION
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MR. PALACIOS: Good morning, everyone. It's a great day in Austin, Texas.

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

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

MR. PALACIOS: Okay. Let's get going here. Good morning. My name is Raymond Palacios, and I'm pleased to open the Board meeting of the Texas Department of Motor Vehicles.

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

Before we begin today's meeting, please place all cell phones and other communication devices in the silent mode, and please, as a courtesy to others, do not carry on side conversations or other activities in the meeting room.
If you wish to address the board or speak on an agenda item during today's meeting, please complete a speaker's sheet at the registration table. Please identify on the sheet the specific item you are interested in commenting on and indicate if you wish to appear before the board and present your comment or if you only wish to have your written comment read into the record. If your comment does not pertain to a specific agenda item, we will take your comment during the general public comment portion of the meeting.

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

Before we begin today, I want to remind all presenters of the rules of conduct at our board meetings. In the department's rules Section 206.22, the board chair is given authority to supervise the conduct of the meetings. This includes the authority to determine when a speaker is being disruptive of the meeting or is otherwise
violating the timing or presentation rules I just discussed.

And now let's have a roll call.

Board Member Barnwell?

MR. BARNWELL: Present.

MR. PALACIOS: Board Member Caraway?

MS. CARAWAY: Present.

MR. PALACIOS: Board Member Graham?

MR. GRAHAM: Present.

MR. PALACIOS: Board Member Hardy?

MS. HARDY: Present.

MR. PALACIOS: Board Member Painter?

MR. PAINTER: Present.

MR. PALACIOS: Board Member Prewitt?

MR. PREWITT: Present.

MR. PALACIOS: Board Member Scott?

MR. SCOTT: Present.

MR. PALACIOS: Board Member Treviño?

MR. TREVIÑO: Here.

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

Okay. Let's, if we would, please stand and honor the country and the state with the pledge of allegiance.
(Pledges of Allegiance - U.S. and Texas were recited.)

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

Okay. Agenda item 3.B. This has proven to be one of the most bittersweet moments of our time here for me. Board Members Kate Hardy and Luanne Caraway. A little while ago just briefly Kate and I were talking, we had this discussion, and I think it's safe to say that
when all of us were asked to serve on this board, none of us had a clear understanding of exactly what it is we were signing up for, and that notion continues to be reinforced all the time.

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

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

What you have done for this board and this agency is immeasurable. We will miss you tremendously. And I just want to thank the two of you for the honor of
being able to work side by side with you. This is truly
the greatest part of this job is being able to work with
people like you. So thank you so much for your service to
the State of Texas and to this agency.

(Applause.)

MR. PALACIOS: Any other comments?

MR. BARNWELL: I think you said it all.

MR. GRAHAM: How do we follow that?

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

So I think we had somebody.

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

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

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

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

"Awarded this 7th day of February 2019."

Thank you, Luanne.

MS. CARAWAY: Thank you.

(Applause.)

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

(Pause for presentations and photos.)

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

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

So thank you for all your help weaning me into the process. It's been a lot of fun.
MS. CARAWAY: And I will follow and echo what Kate has said. This has been a true honor. I'll be the one getting emotional. My profession has meant a lot to me and having two of my cohorts here means a great deal. But it has been a true honor to work with all of you and the ones that have gone on from the board already, but it has been a true honor.

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

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

So thank you to the agency, thank you, Whitney, for your leadership here. And Chairman, for the way you
lead this board, I appreciate you very much. And I appreciate each and every one of you board members and enjoyed working with you. So thank you and good luck to everybody. Thank you.

(Applause.)

MR. PALACIOS: Thank you.

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

MS. BREWSTER: We will soon.

(General laughter.)

MR. PALACIOS: We will.

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

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

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

The Sunset Advisory Commission, just as a reminder, adopted 33 recommendations, 16 of which were management actions, and those were effective immediately, we were to start implementation of those immediately. Some of them had deadlines, some of them did not, but certainly the expectation was that the agency start moving forward on those management actions immediately.
Of the 16 management actions that were adopted, the department has implemented seven of those. We are in various stages of implementing the rest of those recommendations but they are in the works. Two of the items on today's agenda will implement two additional recommendations adopted by Sunset, the first being the advisory committee rules, as you referred to earlier, and the rules relating to county tax assessor-collector reporting of suspected fraud, or our Red Flag process for notifying the department of fraudulent issues, and a third, the contested case policy, we'll partially implement a third recommendation adopted by Sunset.

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

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

(No response.)

MR. PALACIOS: Please proceed.

MS. BREWSTER: All right. Moving right along.

This is just an update. This is an item that was closed out several months ago but because of timing we just have not had the opportunity to publicly update the board on
this item, and that has to do with our FY18 operational plans.

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

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

Just a couple of other things. After the implementation of eLICENSING, the Motor Vehicle Division realigned its staff based on that new technology and the efficiencies that we have gained. We have updated the website for enhancements to salvage renewals mediation, criminal offense and fitness. We have updated and
continue to update the Consumer Relations Division knowledge management system. We've improved our accessibility standards for TxDMV through our Government and Strategic Communications.

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

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

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

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

(No response.)

MS. BREWSTER: All right. Thank you.

MR. PALACIOS: Please proceed.

MS. BREWSTER: At this time we would like to recognize our recent retirees and employees who have
reached a state service milestone. You may remain comfortably in your seats. There is no one here physically present to accept their service awards, but we do celebrate these employees and really appreciate the years of service that they have brought to this agency and to the State of Texas.

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

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

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

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

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

And 35 years: Cecilia Chen, Vehicle Titles and
Registration Division.

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

Thank you.

(Applause.)

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

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

Amber and her team were successful in investigating and negotiating the release of those goods
back to their rightful owners as part of a cohesive effort among multiple federal and state agencies. Racketeering charges have been brought against the individuals connected to the company as a result of her and her team's efforts. This award is a very high honor and is a great example of how TxDMV's employees truly help consumers.

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

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

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

(General laughter.)

MS. BREWSTER: Next I want to acknowledge that Investigator Mark Zimmerhanzel received the Lifetime Achievement Award from the Texas Association of Vehicle Theft Investigators, and he received that award in Galveston in October. The Lifetime Achievement Award recognizes a longtime member of the Texas Association of Vehicle Theft Investigators who, during their entire
membership, have made contributions to the organization above and beyond what is expected and whose actions have demonstrably improved the organization and the fight against vehicle crimes overall.

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

MR. PALACIOS: Thank you very much.

(Applause.)

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

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

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

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

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

(Whereupon, at 8:56 a.m., the meeting was
recessed, to reconvene this same day, Thursday, February 7, 2019, following conclusion of the executive session.)

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

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

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

MR. BARNWELL: Second.

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

(A show of hands.)

MR. PALACIOS: Okay. Wonderful. The motion
passes unanimously.

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

MS. HARDY: Section 5?

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

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

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

Staff is asking the board this morning to issue a final order which concurs with the administrative law judge's proposal for decision which is to deny Mr. Booker's application for an in-transit license. The ALJ in this case concluded that based on the evidence presented and considering the applicable factors for licensure, Mr. Booker's application should be denied. The ALJ found that the board has the authority and legal grounds for denying the application due to the respondent's criminal history.
Specifically, the ALJ determined that the following factors do not weigh in favor of licensure: the extent and nature of Mr. Booker's past criminal history which includes a third degree felony for theft, $20,000 to $100,000, and a second degree felony for evading motor fuel taxes, as well as the lack of evidence regarding Mr. Booker's rehabilitation or rehabilitative efforts.

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

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

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

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

MR. PALACIOS: Are there any questions for Mr.
Avitia or Ms. Nichols?

(No response.)

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

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

MR. PAINTER: Second.

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

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

MR. AVITIA: Members, thank you.

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

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

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

The rules before you are for final adoption of 217.84. These rules are related to some cleanup that we were doing in the salvage and non-repairable administrative rules. These rules relate to when somebody is coming in to apply for salvage title insurance
companies the different documents that they have to show. One of those is proof of paid claim. We have relieved them of that requirement to provide a proof, basically, a check stub or something that they have paid a claim. This is to help increase efficiency with them. These aren't any documents that we find necessary when processing salvage and non-repairable titles, and therefore, we were making a change for industry to streamline that process and make it more efficient.

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

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

(No response.)

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

(General laughter.)

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

MS. HARDY: Second.

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

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

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

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

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

Just real quickly, every four years after a rule is adopted a state agency must review and consider for re-adoption those rules and determine whether the reasons for initially adopting the rule continue to exist. Following that review, the state agency will then either re-adopt the chapter, re-adopt with amendments, or repeal any rules that should be repealed.

The department published its notice of intention to review Chapter 219 and the proposed amendment to 219.101 on October 26, 2018. The amendment in 219.101 gives the department the flexibility to send notice regarding an inspection or investigation of records by email in addition to mail and fax. Following its review of the chapter, the department determined that the reasons
for initially adopting these rules do continue to exist and intends to re-adopt Section 219.101 with amendments and re-adopt the remainder of Chapter 219 without amendments.

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

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

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

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

MS. SWANSON: My understanding is it allows for
all of the methods to be used. I think the department always notifies by mail, and then a secondary method to be either by email or fax, certified mail.

MR. GRAHAM: Okay. Restate that.

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

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

MS. SWANSON: Correct.

MR. GRAHAM: Got it. Thank you.

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

(No response.)

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

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

MR. TREVIÑO: Second.

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

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(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

Thank you, Ms. Swanson.


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


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

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

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

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

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

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

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

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

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

MR. GRAHAM: Right.

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

MR. GRAHAM: Okay. Thank you.

MR. PALACIOS: Are there any other questions?

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

MS. CARAWAY: Second.

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

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

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

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

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

Our Compliance and Investigations Division has developed a policy detailing this process and what we have today would be a proposal of a new chapter in the
Administrative Code, Chapter 223, which will be dedicated to rules applicable to our Compliance and Investigations Division.

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

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

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

MR. PREWITT: Mr. Chairman, I would move that
the board approve the proposed new Chapter 223 for
publication in the Texas Register for public comment.

    MR. TREVIÑO: Second.

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

    (A show of hands.)

    MR. PALACIOS: Motion passes unanimously.

    Thank you, Ms. Swanson, but you’re not
finished. Chapter 208, Employment Practices.

    MS. SWANSON: Thank you. This is agenda item
10. We had an adoption of a rule review just moments ago.

    Time is up for us to review a few more chapters, so what
this item 10 is, which begins on page 87 of your board
book, this would be publication of a notice of intent to
review Chapter 208 of the Administrative Code. This is
our chapter on employment practices, it includes rules
related to the sick leave pool and employee training and
education.

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

    And with that, the department asks the board to
approve publication of the proposed notice of intent to
review Chapter 208 in the Texas Register for public comment.

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

(No response.)

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

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

MS. HARDY: Second.

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

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

Thank you.

Please proceed.

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

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

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

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

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

(No response.)

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

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

MS. CARAWAY: Second.

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

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

Okay, we're getting there.

MS. SWANSON: Yet another rule review. This
will be agenda item 12, page 91 of your board books. The
department is proposing to publish its intent to review
Chapter 210, these are rules related to purchase contracts
and the Historically Underutilized Business program.

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

MR. PALACIOS: Any questions on this issue?

(No response.)

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

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

MR. PAINTER: Second.

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

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

Okay. Let's move on now to agenda item number
13. Rescind resolution authorizing creation of advisory committees.

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

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

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

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

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

(No response.)

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

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

MR. BARNWELL: Second.

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

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.


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

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

This policy establishes the standards for conducting and handling contested cases that come before you. It establishes general requirements and prohibitions, including the requirements of the Open
Meetings Act and the prohibition on ex parte communications. It outlines board options for taking action on a proposal for decision. It provides information on findings of fact and conclusions of law and the authority to change findings of fact, conclusions of law and sanctions, and it describes the process for making motions that change findings or conclusions.

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

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

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

MR. GRAHAM: I'd just like to add that I also appreciate the work that y'all put in on this. I think this is one of the most important, among many important things, but certainly a very important task that this board has that's very unique and complex, and none of us are attorneys that I'm aware of.
Wait a minute. Are you an attorney?

MR. BARNWELL: I'll never admit that.

(General laughter.)

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

MR. BARNWELL: I'll take the Fifth.

MR. GRAHAM: Take the Fifth.

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

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

MR. PALACIOS: Thank you.

Well, with that, I will entertain a motion.

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

MR. PAINTER: Second.

MR. PALACIOS: Motion by Board Member Scott, second by Board Member Painter. All in favor please signify by raising your right hand.
(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

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

Great job, Sarah. Thank you.

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

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

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

MR. BARNWELL: That's understandable.

(General laughter.)

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

(No response.)

MR. PALACIOS: Hearing none, I'll entertain a motion to accept the plate designs.
MR. BARNWELL: I move we accept the plate designs.

MR. PAINTER: Second.

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

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

MR. PALACIOS: All opposed?

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

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

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

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

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

The committee considered four agenda items.

All of the items from the committee meeting were briefings...
and require no action today by the full board. Staff will
make brief summary presentations of what was considered by
the committee without repeating the entire presentations,
and staff will be available for any questions you may
have.

Ms. Flores.

MR. PALACIOS: Thank you.

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

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

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

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

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

That is a quick snapshot of the annual financial report.

The second report that we are required to present in the fall is the annual report of nonfinancial data. This is a package of eight different schedules. Of note, the two significant ones which have an impact or I'd like to point out today is our indirect cost schedule. That one relates to the cost of our payroll cost, payroll benefits, and the overhead costs that are incurred by our
oversight agencies. Particularly if you look at page --
it starts on page 162 and at the bottom you will see the
indirect cost as it relates to the statewide cost
allocation plan, SWCAP, as we commonly know it as, this
one has increased since our start of the agency.

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

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

And with that, that concludes my briefing. I'm
open for any questions that you may have on these two
MR. PALACIOS: Are they any questions for Mr. Rey on these issues?

(No response.)

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

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

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

Total revenue all funds, the major take-away on this is that all revenue collections were within projected levels. We did have increases in oversize/overweight due to the increased activity in the oil patch, and also increases in vehicle registrations because of the number of registered vehicles. We did have slightly lower revenues for titles and that's just because last year we had a spike because of the damages. So that's kind of our take-away from the revenue for all funds, and that really
impacts Fund 6.

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

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

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

MR. GRAHAM: Okay. Thank you.

MS. BANKHEAD: Page 183, TxDMV highlights. The same things that impacted our overall revenue collections also impact our DMV Fund collections, oversize/overweight and vehicle registrations. The one other thing that's included in the DMV Fund is the processing and handling fee. Those collections were slightly down from our projected levels, and a factor in this drop that was beginning in 2019, 30-day and one-day temporary permits are not being sold online, and that's the result of discovery of unauthorized use of those permits. The department is in the process of implementing measures to ensure that those things do not happen, so once that's
done, then we'll start selling those online again. We're hoping that's a temporary process.

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

Moving on to expenditures, that's on page 186. No surprises here. Our expenditures are pretty much within our budgeted level. We spent approximately 47 percent of our total budget of $194.6 million. Our major obligations are salaries, ABTPA grants, contract services for plate production, printing and mailing for vehicle registrations. This also includes $35 million in capital budget which includes $15.2 million in carryforward from the prior year. The major pieces of that are technology and that's data center consolidation contract and our automation projects.

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

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

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

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

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

MR. PALACIOS: Yes, please.

MS. BREWSTER: Whitney Brewster, executive director.

Texas.gov has done a lot of research on the adoption of online use for vehicle registration as well as driver licensing, looking at both agencies in terms of adoption, and really targeted its messaging around how do we increase those numbers. They have worked with us and are looking at a different angle in terms of getting the word out in terms of that being available. What they initially found is that it's not necessarily an issue that
people don't know that that it's an option but that 
they're choosing in both instances not to utilize it. So 
how do we overcome those that want to come in and 
physically get it in their hands, and so the marketing 
plan is around that. So there are efforts underway to 
better market the program so that we can increase those 
numbers.

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

MS. BREWSTER: Long answer. Yes.

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

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

MR. TREVIÑO: Thank you.
MR. PALACIOS: Are there any other questions?
(No response.)
MR. PALACIOS: Thank you, Ms. Flores.
MS. FLORES: Moving on, the next briefing begins on page 189 of your briefing materials. I'm providing an update on the agency's appropriation request.
As you know, the legislative session began at the early part of January. We submitted, as a reminder, a base request of $321.5 million, exceptional items, approximately five of them, for a total amount of $19.2 million, along with some FTEs for consumer relations and IT.
House Bill 1/Senate Bill 1 was distributed January 14 and not only did we not receive any of our exceptional items, they also reached into the base and reduced that by approximately $20.6 million. We were notified by our legislative budget analyst, Thomas Galvan, that if we wanted the legislature to reconsider our exceptional items, we would have to resubmit those. We received those instructions Monday at approximately five o'clock, we had until Wednesday to do so, so we did submit a revised exceptional items request asking for the first set of five that we had originally asked for, we also asked for some new ones.
We included two items for ABTPA. One was the
reduction of the base of $6 million and then the second one was to broaden their scope, and this is tied to a Sunset recommendation. If the program itself were to expand its role in title fraud, they would need additional resources to accomplish that.

Mr. Rey briefly mentioned item number 5, Statewide Cost Allocation Plan. What this is is agencies, like the Comptroller, the Attorney General, are all funded with general revenue. They provide support to other state agencies that we use. In order to finance their operations, they go out to other state agencies who are not general revenue, such as the DMV who has the DMV Fund. We're allocated a piece of those costs. It's tripling from $468,000 to this year $1.2--; the projection going forward into the next biennium is closer to $1.6 million a year. So in light of that cost -- and it's not something that you can decline to pay, they will take the money -- as part of that exceptional item request, we included a Statewide Cost Allocation Plan, so that is item number 5.

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

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

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

The other thing that they focused on during that hearing was the Auto Burglary and Theft Prevention
program. It looks like they may be getting some traction to their request.

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

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

And that concludes my presentation.

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

MR. PALACIOS: With time to spare.

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

MS. FLORES: Happy to.

MR. GRAHAM: Thank you.

MR. PALACIOS: Are there any questions for Ms.
MR. PALACIOS: Okay. Thank you very much, Ms. Flores, Mr. Rey, Ms. Bankhead.

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

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

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

We gave this rating because we had four audit
results related to clarifying the job classification review process, monitoring background check contract deliverables, reporting on conflict of interest and shortening hiring time frames. We issued seven audit recommendations and the Human Resource Division has implemented several of them and is in the process of implementing the rest. The audit was led by Derrick Miller, one of our senior auditors.

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

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

We also rated this engagement as a level two because we issued four audit results, including defining roles and responsibilities between the Enforcement Division and the Office of Administrative Hearings,
increasing or leveraging technology, increasing communication to consumers, and identifying conflict of interest. We issued a total of ten audit recommendations to address these concerns, and Jason Gonzalez was the senior auditor who led the engagement.

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

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

The current engagements include an advisory service on the enterprise project management governance structure, an audit on information security risk
management, an audit on procurement and contract management, and an advisory service on accounts receivable. We anticipate these engagements to conclude either in May or August of 2019.

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

That concludes my status. Any questions?

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

MS. MENJIVAR-SUDDEATH: Yes.

MR. TREVIÑO: Great.

MS. MENJIVAR-SUDDEATH: Even Ms. Flores.

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

(General laughter.)

MR. PALACIOS: Notice she singled her out.

MR. TREVIÑO: I'm not quite sure.

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

MR. TREVIÑO: There is nothing boring in what
you do.

    MR. PALACIOS: An accountant calling an auditor boring.

    (General laughter.)

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

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

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

    MS. MENJIVAR-SUDDEATH: I think so. I think that was really just communication between two divisions. You know, when you have a function that is being done by two separate divisions, communication becomes really key
in that, and so there was some communication gaps and I think the audit had really helped identify those gaps and now they're coordinating better to make sure that Lemon Law is as effective as possible.

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

MS. MENJIVAR-SUDEATH: That would be correct. I don't have the KPIs in front of me, but the KPIs, I believe, are more about getting cases closed by 150 days. I believe that's one of the measures, I'm not sure what the other ones are. So some of the coordination between the two divisions would not show up there because it's more focused on the output, not the outcome or the input.

MR. GRAHAM: Okay. Thank you.

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

MR. PALACIOS: Yes.

MS. BREWSTER: Despite the items that Sandra pointed out, the Lemon Law, the Office of Administrative Hearings is still able to meet many of its KPIs. So there are certainly things that we need to do to improve our
overall communication between the two divisions so that
ultimately we are more efficient, however, we are still --
the 150-day requirement, we are surpassing that. So there
are certainly areas that we need to improve on, as pointed
out in the audit, but in terms of the KPIs and closing out
those cases, they are doing that.
  
MR. GRAHAM: All right. Thank you.
  
MS. BREWSTER: Yes, sir.
  
MR. PALACIOS: Are there any other questions
for Ms. Menjivar?
  
(No response.)
  
MR. PALACIOS: Thank you very much for your
presentation.
  
Okay. Moving right along, Legislative and
Public Affairs update. Ms. Love.
  
MS. LOVE: Good afternoon. For the record, my
name is Caroline Love, director of the Government and
Strategic Communications Division of the department, and I
have a briefing today on the status of the 86th
Legislature and impacts on the department that starts on
page 256 of your briefing binders.
  
I'll just note as I begin that a lot of what I
put together I did a week ago and things are constantly
changing at this point, so I'll have some verbal updates
that I'll provide, in addition to what you'll see in your
books there.

So as you can see from page 256, there's a lot of the key dates that we have for the legislative session. We are 30 days in, we have 30 days until the filing deadline, and we have about 110 days until the legislature adjourns sine die. Of course, the joke is these first 30 days it's all about building camaraderie and friendship, which I think we've seen in a lot of press conferences, but in those last 30 days that all gets torn apart. That's a joke that I did not come up with, by the way. I don't want to be attributed that.

(General laughter.)

MS. LOVE: I did want to mention that we have seen approximately 2,500 bills filed so far this session. Of those, there are just over 200 that we have identified as having a potential impact on the department, should they pass. And to date there hasn't been a whole lot of legislation filed that has a significant impact on the department, but we certainly are hearing of things that are in the works, so I think in these next 30 days we'll be seeing a lot of things come through that we'll be identifying, including the filing of our Sunset legislation which has not been filed yet but we hear it should be happening any day. The authors, we've been told, are Senator Dawn Buckingham and Representative Chris
Paddie, so we'll be on the lookout for those and we'll certainly be working closely with those offices throughout the session.

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

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

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

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

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

The House Appropriations Committee is certainly the largest committee that the House has, and just earlier this week -- and it's not noted in your briefing materials -- the Subcommittee on Articles 6, 7 and 8, and our budget is included in Article 7, that committee was announced. Representative Toni Rose is chair of that subcommittee; Cecil Bell, who served on Appropriations and our subcommittee in the past, is vice chair of that committee. And then the other members include: Representative Ina Minjarez who was on House Transportation in the past; Representative Sergio Munoz who was also on our subcommittee in the past; and then a couple of new members, Representative Reggie Smith, he's a freshman this session; and then Representative Steve Toth, who was recently reelected, he had served in the House in the past; and then Representative Terry Wilson, this is his second term in the House. And so we have a couple of new faces in Appropriations to work with as well.
And then, of course, the Licensing and Administrative Procedures Committee is another committee that we tend to work with frequently when it comes to any kind of dealer licensing issues or anything like that.

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

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

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

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

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

Is there anything else, Ms. Swanson?

MS. SWANSON: No.

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

MR. BARNWELL: Absolutely.

(Applause.)

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

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

With that, we have no public comment. Correct?

MS. SWANSON: Correct.

MR. PALACIOS: Okay. Great. Well, then I will
entertain a motion to adjourn the meeting.

MR. BARNWELL: So moved.

MR. PALACIOS: Second?

MR. SCOTT: Second.

MR. PALACIOS: All in favor?

(A show of hands.)

MR. PALACIOS: Meeting adjourned. Thank you.

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

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

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

DATE:  February 14, 2019

/s/ Nancy H. King
(Transcriber)

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