TEXAS DEPARTMENT OF MOTOR VEHICLES

BOARD MEETING

Thursday,
October 4, 2018

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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13. The Board may enter into closed session under one or more of the following provisions of the Texas Open Meetings Act, Government Code, Chapter 551:
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    • Section 551.074
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14. Action Items from Executive Session
    none

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MR. PALACIOS: Good morning, everyone. It's a great day in Austin, Texas. So happy to see all of y'all on this wonderful morning.

My name is Raymond Palacios, and I'm pleased to open the Board meeting of the Texas Department of Motor Vehicles. It is exactly 8:00 a.m., and I'm calling the Board meeting for October 4, 2018 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 Secretary of State on September 24, 2018.

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 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 minute, and red when your time is over. Individuals cannot accumulate time from other speakers. Comments shall 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'd like to remind all presenters of the rules of conduct at our Board meetings. In the department 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 have just discussed.

Now I'd like to take a roll call of our Board members.

Board Member Barnwell?

MR. BARNWELL: Present.

MR. PALACIOS: Board Member Caraway?

MS. CARAWAY: Here.
MR. PALACIOS:  Board Member Graham?
MR. GRAHAM:  Here.
MR. PALACIOS:  Board Member Hardy?
MS. HARDY:  Here.
MR. PALACIOS:  Board Member Prewitt?
MR. PREWITT:  Here.
MR. PALACIOS:  Board Member Painter?
MR. PAINTER:  Here.
MR. PALACIOS:  Board Member Treviño?
MR. TREVIÑO:  Here.
MR. PALACIOS:  And let the record reflect I, Raymond Palacios, am here.  We have a quorum.  And let the record reflect that Member Scott is absent today.
And now if you would all please stand and honor our country with the Pledge of Allegiance.
(The Pledge of Allegiance was recited.)
MR. GRAHAM:  Mr. Chairman, just a question, if I may.
MR. PALACIOS:  Yes.
MR. GRAHAM:  Have we ever considered also adding the Texas flag in addition to the U.S. flag to our process?
MR. PALACIOS:  I think that's a great idea.  Can we do this, or do we need to have certain protocol for moving forward on that, or can we just do it?
MS. SWANSON: It would be at your wish, and I believe we have done it at one Board meeting on Texas Independence Day.

MR. GRAHAM: And we're in Texas, by God, let's stand up and do the Texas Pledge, shall we?

MR. PALACIOS: Let's do it.

(The Texas Pledge was recited.)

MR. GRAHAM: Thank you, Mr. Chairman.

MR. PALACIOS: Thank you very much for that, Board Member Graham. Thanks for leading us in the recital.

Thank you for your guidance, Ms. Swanson.

I would like to acknowledge Sarah Swanson. Sarah is serving as our interim general counsel, and in that capacity she will take on all the general counsel duties until we place a permanent general counsel, she will be presiding as general counsel over this Board meeting, she was the certifying officer for the agenda.

And I want to thank you, Sarah, for agreeing to fill in on such short notice. Thank you very much.

We will now move on to agenda item number 4, and I'll turn it over to our executive director, Ms. Whitney Brewster.

Oh, yes, one administrative item here. The 2019 meeting schedule is in your board books in order to
keep all of you aware. You see most of the meetings we're leaving them to be held on the first Thursday of every month which, of course, we don't have them every month but we want to keep those dates open in the event we do need them. If there's a change, we'll notify everybody, and once the meeting is officially scheduled, the meeting date will be posted on the department website.

Now I'll turn it over to Ms. Brewster.

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

The purpose of this first agenda item is to provide a brief update to the Board on the agency's FY19 operational plan. The operational plan contains 38 initiatives that will be performed by each of the divisions over the course of the next year, and these are items that are above and beyond the day-to-day duties of the agency. They are derived from the Sunset Advisory Commission report, also from TxDMV's new balanced scorecard, and some other statutory provisions. Some are single year, some are multi year.

Just to hit on a few of the highlights:

Enforcement is looking at new processes to improve the complaint resolution time frames; Finance and Administrative Services are looking to automate motor vehicle refunds; the Human Resources Division is looking
at providing new training, TxDMV 101 training for our employees, as well as additional leadership training here in the agency; the Office of Administrative Hearings is looking at publishing all Lemon Law and warranty performance decisions and final orders to the TxDMV website. So there are a number of really great initiatives that are being performed by the agency.

This report is in the final formatting stage and will be provided to you in the very near future, but just wanted to let you know that we're on the tail end of that process and we have a lot of good things that we're going to be doing over the course of the next year.

Mr. Chairman, if I can go on to item B?

MR. PALACIOS: Yes, please do.

MS. BREWSTER: Okay. Just to give you an update on some fraud training we recently provided, the tax assessor-collectors now have more tools available to combat fraud. The department hosted almost 90 tax assessor-collectors here in Austin over at the State Capitol last week. It was a two-day training, September 26 and 27, for fraud awareness. Our special guest presenter was Travis County District Attorney Margaret Moore, and she did a great job. TxDMV staff led sessions on various topics, including ethics, common transaction issues, RTS access, monitoring of processes, and dealer
issues, as well as reporting.

It was a really excellent opportunity for the agency to partner with the tax assessor-collectors and really show greater accountability between the two entities as we strive to provide ethical and quality service to our customers. The attendees were extremely engaged throughout the whole process, they asked lots of insightful questions, made some great suggestions, and all around it was, I believe, a very successful training. We also took advantage of the time to give an update on legislative issues that we're looking forward to as well as giving an update on where we are with the kiosk pilot project, which the tax assessor-collectors have been very interested in having potentially those units in their counties.

We do intend to hold regular training like this, and we've also, I just might note, recently pushed out fraud training online for the tax assessor-collectors and their staff through our LMS, our learning management system. Again, just an update and a briefing for y'all, but it was a really, really good forum and we will certainly be doing it again.

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

MR. GRAHAM: Just a comment that my tax
assessor up in Grayson County was very appreciative and made a comment about that training, said they were really pleased with it and their people saw a lot of value in it.

MS. BREWSTER: Great. Thank you.

MS. CARAWAY: And I will echo that since I was in attendance for one day. It was a very good training and I think we have a lot of things we can do together going forward and to build that relationship. So I appreciate the department doing it and I appreciate all the presenters that were there.

MS. BREWSTER: Thank you.

All right, Mr. Chairman, I'll move on to item C.

MR. PALACIOS: Please do.

MS. BREWSTER: I just wanted to take an opportunity to introduce Matthew Levitt. He's standing over there to our left. He is our new HR director, replacing Sharon Brewer who recently retired. He is day four on the job, but we're really pleased that he's here. Just to tell you a little bit about Matthew, he has a lot of state experience, 25 years of human resources management experience, and primarily in Texas state government. Prior to coming to the agency, he was a consultant for the Texas Association of School Boards, and so he's been working with school boards across the state.
He was also the HR director for the Texas School for the Deaf, and was an HR manager for various state agencies. He taught college level classes for 15 years and was selected as the outstanding instructor at Concordia University's accelerated degree program in 2006 and 2007, and he is the past president of the Texas State Human Resources Association, so he has a lot of good contacts in other state agencies as well. And he has a bachelor's degree in economics from Antioch College and an MBA from the University of Texas at Austin.

Mr. Chairman, members, if you will please join me in welcoming Matthew Levitt as our new HR director.

(Applause.)

MR. PALACIOS: I will add I had a chance to meet with Matthew yesterday, and I'll tell you his credentials are impeccable and he's a really nice guy to boot.

So welcome aboard. We're happy to have you.

MS. BREWSTER: Thank you, Mr. Chairman.

Moving on to item E, I just wanted to inform the Board that our eLICENSING application received another award from the Center for Digital Government. The agency received that honor on September 28 here in Austin and we were presented with that award. Daniel Avitia was there to accept the award on behalf of the agency. This
application continues to rack up all sorts of awards, it's filling up the trophy cabinet out there. But just want to congratulate the eLICENSING team for the Government to Business Award presented by the Center for Digital Government. It's just an outstanding accomplishment again by the agency.

MR. PALACIOS: This honor should not be unrecognized. It's my understanding that we compete against thousands of other state agencies, municipalities and so forth, so this shouldn't be taken lightly. And I just want to commend Daniel and everybody at the agency that had a hand in this. Congratulations on a job well done.

MS. BREWSTER: At this time we'd like to recognize our recent retirees and employees who have reached major state service milestones. We celebrate these employees as a show of our appreciation for their years of service to the citizens of Texas. I also want to welcome the family and friends of these employees and say thank you to them for sharing your loved ones with us. We know that that is a commitment for you as well.

So, members, if you would please join me at the front of the dais.

MS. YANCEY: Good morning. My name is Martha Yancey, Human Resources Division, and I'm going to make
some announcements.

The following employee has reached a state service milestone of 25 years, Linda Friar. Would you please join the Board?

(Applause.)

MS. YANCEY: Linda began her career with the state in 1993 and joined TxDOT in 1999, she transferred to TxDMV in 2009. Since 1999 Linda has served exclusively with the Vehicle Titles and Registration Division. In 2014 she was chosen as part of a select group to set up and implement the department's National Motor Vehicle Title Information System help desk, or NMVTIS. In August 2016 Linda was promoted to her current position as coordinator of NMVTIS and represents the DMV nationally in the NMVTIS community. She is an advocate for the citizens of Texas and serves as an integral part of her division's operations.

Thank you, Linda, for your contributions, and congratulations on your 25 years of service.

(Applause; pause for presentation and photos.)

MS. YANCEY: Next, this employee has reached a state service milestone of 35 years, William Klipple. Come and join the Board members. He goes by Bill.

(Applause.)

MS. YANCEY: Bill began state service right
after high school in 1980 for TxDOT. His position as a
mail clerk quickly advanced to computer operations. He
progressed to mainframe support and then to the main
office, working directly with TxDOT administrators and
commissioners. He retired from TxDOT in 2013. Bill's
second career included contracting for TxDMV registration
and titling system program and then as an employee for the
Attorney General's Office. We welcomed Bill to the TxDMV
last December in our ITS infrastructure service section.

Congratulations on 35 years of service.

(Applause; pause for presentation and photos.)

MS. YANCEY: And last but not least, the
following employee has reached a state service milestone
of 40 years, Priscilla Tijerina. Please join the Board
members.

(Applause.)

MS. YANCEY: Priscilla began working for TxDOT
in 1976 at the age of 20. She was a title examiner for
some time and then became a customer service clerk. She
was assigned as a trainer in the Austin headquarters where
she conducted training presentations on motor vehicle
titles. Thereafter, she was promoted to lead worker.
Priscilla loved her job and her family but had to make a
decision to retire due to her ailing husband. She retired
with 33 years of service. In January 2011 she returned to
work but this time at TxDMV.

Priscilla has a daughter, a son and one grandson. When she's not working she spends her time between her family and boxing at the gym. She enjoys yard work, since she has no choice, and she says she will probably be with the agency until she's told it's time for her to retire again.

Congratulations, Priscilla.

(Applause; pause for presentation and photos.)

MS. YANCEY: The following employees also reached a state service milestone but were unable to join us this morning: 20 years, Christy McDaniel, Vehicle Titles and Registration Division; 25 years, Raul Vela, Enforcement Division; 30 years, LaDonna Castañuela, Motor Vehicle Division, Mary Eschenburg, Information Technology Services Division. And last, employees who recently retired from the agency are: Michael Chisum, Kim Hyatt, Chris Reding, Debbie Nelson, Suzanne Koneman, Janet Reece, Michael Cuellar, David Childers and Paul Maldonado.

Thank you.

(Applause.)

MR. PALACIOS: It's always nice to recognize staff for their tenure and longstanding service and dedication to this agency.

Moving right along now, we have a contested
case coming up, and Daniel Avitia and Brian Coats will address agenda item number 5.

MR. AVITIA: Chairman, members, Ms. Brewster, good morning. For the record, my name is Daniel Avitia. I'm the director of the Motor Vehicle Division. With me this morning is Mr. Brian Coats. Mr. Coats provided the legal representation at the State Office of Administrative Hearings on this case.

Agenda item 5, which can be found on page 9 of your board books, is the contested case regarding the Texas Department of Motor Vehicles v. Marshone Sheppard, d/b/a MFJ Auto Shop. The issue before you today, members, is whether the Board should approve or deny Mr. Sheppard's application for a general distinguishing number or to operate as an independent motor vehicle dealer.

The ALJ in this case concluded that based on the evidence presented and considering the applicable factors for licensure, Mr. Sheppard's application should be denied. Specifically, the ALJ determined that the following factors do not weigh in favor of licensure: number one, the extent and nature of Mr. Sheppard's past criminal activity which includes four convictions for possession of marijuana, two convictions for failure to identify, and one conviction for deadly conduct; number two, the age at which Mr. Sheppard committed the crimes of
which he was convicted; number three, the lack of evidence presented regarding Mr. Sheppard's rehabilitation or rehabilitative efforts; and four, Mr. Sheppard's numerous convictions over an extensive span of time. The respondent, Mr. Sheppard, did not file briefs, pleadings, or exceptions to the ALJ's proposal for decision or findings of fact or conclusions of law.

Staff believes that the ALJ's analysis of the law and the evidence presented in this case is thorough and that the conclusions of law reached are reasonable. Staff requests that the Board issue an order which concurs with the ALJ's proposal for decision, adopts the judge's proposed findings of fact and conclusions of law, and ultimately denies Mr. Sheppard's application for licensure.

Mr. Sheppard did receive a formal notice of this meeting this morning and several phone calls from us and voicemails, none of which were replied to or returned. To my knowledge, Mr. Sheppard is not present this morning to address the Board or answer any questions.

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

MR. PALACIOS: Thank you, Mr. Avitia.

Are there any questions for Mr. Avitia?

MS. CARAWAY: I do have one question. Is there
a length of time that you look at past record, like if they've been clean for a certain length of time -- I use the word clean -- is there some kind of time frame that you use in determining when they're fit for being licensed?

MR. AVITIA: Member Caraway, that's a great question, and yes, there is a time frame that we look at. We also look at the severity of the crimes, so for example, with Mr. Sheppard's record he had about nine years of criminal convictions, the last one was less than five years, so basically the time frame that we look at is five years, and also the types of convictions that are on those records.

MS. CARAWAY: So he would qualify possibly at some point in the future?

MR. AVITIA: Potentially, yes, ma'am. It's not an across-the-board you're out forever.

MS. CARAWAY: Sure. Thank you.

MR. GRAHAM: Just one other comment. Appreciate your work on this and I certainly support the position. As a franchised dealer -- and there's hundreds of us, if not thousands, in the State of Texas, not just franchised but independent as well -- it seems like the worst one is the one that ends up sort of being reflective of all of us, and so I think it's the integrity of the
quality of our dealers is essential, and so I support this, I appreciate it, and will support that. So thanks.

MR. PALACIOS: Okay. I, as well, do not have anything that would indicate that Mr. Sheppard or a representative are here to speak on his behalf, so in light of that.

MS. HARDY: I'd like to move that the Board adopt the ALJ's findings of fact and conclusions of law.

MR. PAINTER: Second.

MR. PALACIOS: Okay. We have a motion by Board Member Hardy to accept the ALJ's findings, a second by Board Member Painter. All in favor please signify by raising your right hand.

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

Thank you very much, Mr. Avitia, Mr. Coats.

MR. AVITIA: Thank you.

MR. PALACIOS: Okay. We'll now move on to agenda item number 6 regarding the adoption of rule in Chapter 215, and I will turn it over to Ms. Corrie Thompson and company.

MS. THOMPSON: Good morning, Chairman, members of the Board, Executive Director Brewster. I'm Corrie Thompson, director of the Enforcement Division. I'm presenting item 6, found on page 32 of your board books.
Before you is a recommendation to approve the adoption of amendments to Rule 215.155 for publication in the Texas Register. The purpose of the amendment is to make 215.155(b) consistent with Transportation Code 548 which includes exemptions from motor vehicle inspection requirements.

Another amendment to the rule language in the current 215.155(b) changes the language by adding the word "on" which I will explain in a moment. The current rule says that a buyer tag may only be displayed on a vehicle that has a valid inspection in accordance with Chapter 548 of the Transportation Code, and the amendment would permit a buyer's tag to be displayed on a vehicle that does not have a valid inspection if that vehicle is exempt from inspection requirements pursuant to 548 of the Transportation Code.

Staff has determined that there will be no significant fiscal impact associated with the amendments. The proposal was previously published for comment in the Register from July 6 through August 6, 2018, and we did receive comments in support of the amendments from the Texas Independent Automobile Dealers Association, as well as the Texas Automobile Dealers Association. We also received one comment from Governor's Office staff which asked us to include the word "on" in the language of the
rule so that it reads: "A buyer's temporary tag may be displayed only on a vehicle that has a valid inspection."

If the Board adopts the amendments during this meeting, staff anticipates publication of the rule in the October 26 issue of the Texas Register, with a November 4 effective date for that rule.

I'm happy to answer any questions. If there are none, I would ask the Board for approval to publish the adoption of the amendments in the Register.

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

MS. CARAWAY: I move that the Board approve the adoption of amendments to Section 215.155, as recommended by staff.

MR. TREVIÑO: Second.

MR. PALACIOS: Okay. We have a motion by Board Member Caraway, second by Board Member Treviño to accept the adoption of the amendments. All in favor please signify by raising your right hand.

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

Thank you, Ms. Thompson.

Moving right along then to item number 7, the proposed rule on Chapter 219. So, Ms. Thompson, stay where you are, and I see Aline is already here.
MS. AUCOIN: For the record, my name is Aline Aucoin, associate general counsel for the Texas Department of Motor Vehicles. The materials begin on page 40 of your board book materials.

The department is requesting Board approval to publish a notice of intention to review Chapter 219 of our rule regarding oversize and overweight vehicles and loads. Section 2001.039 of the Government Code requires state agencies to review their rules every four years and to then either readopt, readopt with amendments, or repeal the current rules. The department determined that the reasons for initially adopting our rules in Chapter 219 continue to exist. We are proposing to readopt Section 219.101 with amendments and to readopt the remainder of the rules in Chapter 219 without amendments, and Corrie Thompson will explain the proposed amendments to Chapter 219.101.

MS. THOMPSON: Along with the recommendation to approve the item that Aline spoke to, also before you is a recommendation to approve publishing of proposed amendments to Rule 219.101 in the Texas Register for public comment.

The proposed amendments give the department greater flexibility in how notices informing carriers that we're going to come out and inspect records or inspect
their business location can be notified. So what the rule
is going to do, it currently authorizes the notice to be
sent via certified mail or via fax, the rule amendment is
going to remove the word "certified" and add in the word
"email" to give those alternatives for notification.

I would like to comment, though, that anything
that affects the carrier's or the registrant's due process
rights, if we're charging them formally with any
allegations that could result in sanction actions, such as
revocation of registration or blocking of permits or
imposition of a penalty, will still be sent via certified
mail. So I just wanted to make that clarification.

There's no fiscal impact associated with the
proposed amendments, and I'm happy to answer any
questions, but if you have none, then I would ask the
Board to approve the publishing of the rule amendments for
comment in the Register.

MR. BARNWELL: When you send out a notice that
you're going to inspect or audit, currently it's certified
mail, return receipt requested so you have some evidence
of delivery. What's going to happen now that we're doing
regular first class mail or email or fax?

MS. THOMPSON: Well, usually the result of the
notice -- that's a good question -- the result of the
notice being sent is that we actually make contact with
the carrier, and so we would have an investigator present
to testify that they were able to make contact, that they
actually visited the carrier.

MR. BARNWELL: So they do call.

MS. THOMPSON: Correct.

MR. BARNWELL: Okay. Well, as long as there's
a followup. We get notices from the Railroad Commission
all the time for auditors and inspections and things, and
we always have a conversation with that auditor to
discuss, first of all, the type of audit and the kind of
information they want so that when they get there we can
hand them a book with everything in it, and then move
forward in an expeditious manner.

MS. THOMPSON: Absolutely.

MR. BARNWELL: So I see what you're saying, but
I just didn't know if you were actually going to have a
phone call with anybody or just send an email that could
wind up in cyberspace somewhere.

MS. THOMPSON: No. And if an allegation in a
case was going to be something along the lines of that
person never responded or anything like that, we would
follow back up with a certified notice.

MR. BARNWELL: Okay. So you're going to give
them an opportunity.

MS. THOMPSON: Yes, absolutely.
MR. BARNWELL: Because it might not be there and here comes the inspector one day. That was my only question.

MS. THOMPSON: Correct.

MR. BARNWELL: And that would waste his time and the dealer's time and require us to resend notice, et cetera, not good. Okay. So I understand. Thank you.

MR. GRAHAM: I do have one question. You said there's no fiscal impact. I would think in addition to this giving you more flexibility in the way that you communicate with these folks, certified mail also has a cost associated with it. Explain that.

MS. THOMPSON: There could be reduced costs in connection with not sending everything via certified mail, but there are instances where we would follow up and send certified mail as well.

MR. GRAHAM: Okay. And so that's why you take the position that there's no.

MS. THOMPSON: Correct.

MR. GRAHAM: Okay. Thank you of the clarification.

MR. PALACIOS: Are there any other questions?

(No response.)

MR. PALACIOS: Hearing none, I will entertain a motion to accept the proposal.
MR. PREWITT: Mr. Chairman, I'd like to make a motion to approve this amendment, as presented by staff.

MS. HARDY: Second.

MR. PALACIOS: Okay. Thank you.

MS. SWANSON: Mr. Chairman, if I may. You might consider entertaining a motion to propose the notice of intention to review the chapter as well. I can get you the language if you'd like.

MR. PALACIOS: Would you like to modify your motion?

MR. PREWITT: Yes, sir.

MR. PALACIOS: Okay. Motion by Board Member Prewitt, 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 very much.

Okay. Let's move on to agenda items number 8 and 9 regarding the proposal of rules in Chapter 217, and I will turn it over to the esteemed Mr. Jeremiah Kuntz.

Good morning.

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

Before you are amendments to 217.27 relating to
personalized license plates. If you'll remember, in the last Board meeting we actually adopted the final adoption of these rules. Shortly following that, we recognized that we had an oversight in the rules and that we had put in a provision that prevented any references to governmental entities on any kind of personalized license plate. As such, what we are trying to do here is clarify that our intent was not to not allow references to institutions of higher education. We did not have an intention of trying to ban references to schools or military academies in that rule, and so this is a clarifying amendment that we would like to go back out for public comment to clarify that we will allow folks to put A&M, UT, any references to their universities in the personalized license plate.

And so before you are the amendments to 217.27. Staff are requesting approval of authority to publish the rules for public comment.

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

(No response.)

MR. PALACIOS: Hearing none, I'll entertain a motion to accept the amendment.

MR. BARNWELL: Mr. Chairman, I move that the Board approve the proposed amendments to Section 217.27
for publication in the Texas Register for public comment.

MR. PAINTER: Second.

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

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

Thank you.

Please proceed, Mr. Kuntz.

MR. KUNTZ: Also before you are some rules for publication for public comment. These are amendments to 217.84. These amendments relate to the salvage and non-repairable application for title. Currently we require entities that are applying for salvage and non-repairable titles, insurance companies in particular, to provide information that they have made a proof of paid claim on a salvage vehicle. That's just basically a notice in their application that they have a vehicle that was totaled that they've had a total loss payment claim that was paid to the insured. That is not consistent with statutory definitions and it's not any information that is necessary in order for us to process salvage titles, so we're removing that from our rules to lessen the burden on the insurance industry.

That rule also required that they provide us
with that proof that they made a paid claim, i.e., a canceled check or some kind of notice that a claim was paid. Again, this is information that's not necessary in order for us to process salvage and non-repairable titles. And therefore, we're going to propose these amendments to lessen that burden on the salvage and insurance industries for their applications.

MR. PAINTER: Is the proof only on the insurance companies or is there any written verification required from the owner of the vehicle?

MR. KUNTZ: It's just an insurance requirement that they provide us with that proof of paid claim, and again, it's not necessary in order for us to process that application.

Staff are requesting approval of authority to publish the rules for public comment.

MR. PALACIOS: Okay. Are there any further questions for Mr. Kuntz on this issue?

(No response.)

MR. PALACIOS: Okay. Hearing none, I'll entertain a motion to accept the proposal.

MR. PREWITT: Mr. Chairman, I move that the Board approve the proposed amendments to Section 217.84 for publication in the Texas Register for public comment.

MR. TREVIÑO: Second.
MR. PALACIOS: Okay. We have a motion by Board Member Prewitt, second by Board Member Treviño to accept the amendments. All those in favor please signify by raising your right hand.

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

Thank you, Mr. Kuntz.

Okay. Let's move on now to the briefing and action item portion of the agenda. I'll turn it over now to Committee Chair Treviño, who will be assisted by Caroline Love, our executive director, Ms. Brewster, and Corrie Thompson.

MR. TREVIÑO: Great. Thank you, Mr. Chairman.

I'll give a 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 Barnwell and Painter; Member Scott was unable to attend. Also, TxDMV Chairman Palacios was present for information gathering and discussion.

The committee considered four agenda items. Two of the items, 10.A and 10.D from the committee meeting, require action today by the full Board. After brief staff presentations of each item, a committee member will make a recommendation for Board action. The
remaining two items, 10.B and 10.C are briefings. 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.

So it was a quick meeting and Caroline and
staff gave excellent presentations and briefings, and I
want to thank you for all your hard work.

Caroline.

MS. LOVE: Good morning, and thank you. My
name is Caroline Love. I am the director of the
Government and Strategic Communications Division for the
department. And since we're running so well on time, I'm
going to bend your ear for a long time this morning.

(General laughter.)

MS. LOVE: So the first item that we have
before you today is agenda item A which is a request for
an action from the Board. This Board is charged in
statute with considering opportunities for improvements to
the department and reporting those opportunities for
changes in statute to the legislature. And so earlier
this year my division went out to all the divisions and
offices within the department and started talking with our
staff to see where they saw opportunities for improvements
and we kind of categorized them into four different
categories, which I'll go into in just a moment.

But then after we looked at those internally, we did also spend time reaching out to stakeholders, which you can see on the third bullet for the slide in front of you has a list of all the entities that we did reach out to to get feedback and comments. So that being said, while we have the concepts that we are definitely wanting to consider moving forward with, the language that is associated with that will kind of remain in progress as we continue to work through the feedback we received and items that come up.

So moving on to the next page, the first category that we found for areas for improvement related to the department's experience with responding to the Hurricane Harvey disaster. There were some items where we felt like there could be efficiencies in statute.

This first one that you see here relates to when a registration renewal is due but the motorist is from a county that may be impacted by the disaster and the county office is not available to process that registration. During the hurricane the governor waived certain laws and rules that related to registration and allowed for that kind of flexibility, but having this information in the statute would provide clarity that that individual would not necessarily get a citation for having
an expired registration. So we're kind of working through the details on that.

Another option there is that when an insurance company pays out a claim on a vehicle that is considered salvaged or non-repairable, there's no requirement that that be reported to the department, and so we wouldn't have a record unless the owner of that vehicle reported that. So we are looking at opportunities for the insurance companies to provide that information to the department so we can make sure it is on record.

And then also there is no definition currently in statute of what constitutes a flood vehicle so that is something that we're looking at creating a definition for as well.

MR. GRAHAM: Just a question on that if I could. You know, I know we were discussing potential impacts of these vehicles making their way back into the marketplace. Do you have an update, has that transpired or how has that gone? I know that's a great concern.

MS. LOVE: I may defer to Jeremiah on that. We definitely do all we can to identify them in the national database on titles, but I'll turn it over to Jeremiah.

MR. KUNTZ: Again, Jeremiah Kuntz, director of the Vehicle Titles and Registration Division.

So there are really kind of two classes of
vehicles following a flood event like this that we are concerned about. The ones that are fully insured come in for salvage and unrepairable titles and we are able to easily brand those and make sure that the National Motor Vehicle Title Information System has all of those brands to protect any future purchasers of those, that they can see that there was a flood event that occurred. We actually have a flood brand that is applied, as well as a salvage brand, so that in case that vehicle every gets rebuilt, that flood brand stays on that vehicle for the life of it so any future purchaser can see it.

The other class of vehicles that really are the ones that are more difficult to try and find are those that do not have full coverage insurance or have liability only policies where an insurance company does not make a total loss claim payment and is not required to file for salvage title for those vehicles. It is state law that those individuals are required to apply for a salvage title, but as we see, they do not always do that.

One of the things that we're really trying to get at here is that vehicles that are owner retained where there is at total loss claim payment but somebody wants to retain their vehicles, today the insurance company does not apply for a salvage title, however, we put a mark on those vehicles, we put a legal restraint on them so that
they can't pass title to a future purchaser before salvage
title is applied for and the rebuilt process is gone
through. What we're proposing here is that the insurance
companies when they make that notice to us, we would go
ahead and process that as a salvage title application,
brand those vehicles for owner retained so that we ensure
that that shows up in any future title.

MR. GRAHAM: Thank you.

MR. TREVIÑO: And, Jeremiah, while you're
there, can you talk a little bit about the definition of
what constitutes a flood vehicle and how you arrived at
that. I know it's a difficult process, very difficult,
but I just wanted the thought process.

MR. KUNTZ: It is. That is something that we
have had a lot of discussions about. What we are looking
at right now with the new proposed flood definition is
that water has risen to the point that it has entered the
vehicle, so it's come up to the door sills, it's entered
the trunk or the main compartment of the vehicle, and then
we've made a change from our original version to where
it's entered the vehicle and it has come in contact with
electrical components or there's a requirement to replace
a major mechanical part. That would be the transmission,
rear end, motor, something major mechanical.

So we've got basically two conditions that must
be met: water has entered the vehicle and it's either come in contact with electrical components or a major mechanical part has to be replaced. And that was after we had received some comments and feedback from the salvage industry, insurance pool operators about our definition that we had originally come up with, so we went ahead and tightened that up a little bit. I fully anticipate there will be additional comments on event that definition. Flood is one of those that it's difficult to try and really nail down what level do you want to mark those.

MR. TREVIÑO: Thank you.
MR. KUNTZ: Yes, sir.
MS. LOVE: Thank you.

The next category of changes for opportunities for improvement that we have relate to creating efficiencies in processes. One recommendation that we have is allowing for the Auto Burglary and Theft Prevention Authority appropriations to be directly appropriated to the TxDMV Fund. Currently they're out of the general revenue fund. This would help make our method of finance consistent among all department operations and functions.

And also, we would like to repeal the statutory requirement that oversize/overweight permits be issued by phone. We still intend to provide that service by phone.
but by and large, our online permitting system, TxPROS, does handle most all permit requests that come through, so should technology continue to advance in a way that makes phones obsolete -- I don't know that that will happen, but we wouldn't want to be bound by that.

The next one relates to Public Information Act requirements. Many state agencies that conduct administrative investigations have an exemption from information related to that case being subject to open records. We do not have that exemption and so this would add us to protect those cases until they're closed and then we could provide that information if requested.

Another one is about a form that is currently required for salvage dealers. It says in statute that the department must create this inventory form, and we have found by and large that it's not used, so we are looking to remove that.

Another item relates to the title hearing process that can be conducted by tax assessor-collectors. We have noticed that there's not been consistent use of that process throughout the state and we're working with the tax assessor-collector association now in looking at what we can do to streamline that process and make it more efficient for everybody when there is a dispute on a title.
And then the last one in this section would allow the department to require escort flaggers as a part of issuing an oversize/overweight permit. This would certainly be a good safety measure to have in place.

If there's no questions on that section, I'll move on.

MR. BARNWELL: What's the next section you're going to? Are you still in A?

MS. LOVE: Yes, I am, and I was going to move on to previous recommendations that this Board has approved.

MR. BARNWELL: Okay. I'm sorry. Go ahead.

MS. LOVE: Okay. So the next section are items that this Board has approved previously for moving forward with legislative actions but for various reasons, usually the legislature just ran out of time, did not make it into law.

So those include allowing for administrative sections for a vehicle that is loaded in excess of size and not just weight. We do feel like that was likely an oversight that only weight is currently included there.

Another relates to if the Federal Motor Carrier Administration has placed a carrier out of service that we are allowed to deny them an oversize/overweight permit.

In addition, there is currently in the
oversize/overweight permitting chapter in statute there's not consistency with how those fees that are received from those permits are distributed. Some go fully to general revenue, some go fully to the State Highway Fund, but a majority have approximately 10 percent that's dedicated to the TxDMV Fund for purposes of covering our administrative costs, so we would like to see that for any newly created permits moving forward that that 10 percent be part of the base, but that can certainly be changed by the legislature per permit if they so choose.

And another one relates to having the person or entity essentially that obtains an oversize/overweight permit be that entity that moves that load. If they are in an agreement with another entity to move the load, that would be fine, but we've seen instances where they're wholly separate entities that move under those permits.

And then lastly, if a shipper does not provide a certificate of weight when they load to a carrier, they can be subject to an administrative penalty.

And then we also have a couple of just general clarifying items. One relates to making it clear that a motor vehicle dealer can only sell from their licensed location. And another one relates to there was a very specific permit for Northeast Texas Intermodal permit that was passed by the legislature last session that does not
clearly state that the Comptroller will provide the revenues to the county in which that travel occurs, so we just wanted to clarify that.

And so that wraps up all the recommendations that we have. I'm happy to answer any questions.

MR. TREVIÑO: Caroline, is this the fifth legislative cycle the agency has been through?

MS. LOVE: That's correct, yes.

MR. TREVIÑO: So is the process creating legislative agendas maturing, do you feel more comfortable going through it as more input, anything different about the cycle?

MS. LOVE: You know, this cycle will certainly be unique in that we have the Sunset legislation that will also be considered and that legislation is pretty much all encompassing of what the department is responsible for. So that will certainly add a unique aspect to how these items may even go through. It may all end up becoming part of that legislation or they all may go separately. So this one, 2019, will definitely be different but I think that this being our first Sunset cycle it should actually be, I feel like, pretty smooth.

MR. GRAHAM: I have one question on the clarification regarding motor vehicle dealers selling from their licensed location. Could you expand on that just a
little bit? It certainly was my understanding that the
statute clearly defines that they can only sell from their
location.

MR. PALACIOS: I was about to ask the same
question.

MS. LOVE: Well, thankfully, Ms. Thompson is
right next to me.

MS. THOMPSON: Yes, you would think that it's
clear. Again, Corrie Thompson, director of Enforcement.
But there is a provision in statute that says when a
dealer consigns a certain number of vehicles away from
their location, it confuses the issue that licensed
dealers can only sell from their licensed location, and so
we are just recommending striking that from statute.

MR. PALACIOS: Okay. So currently as I
understand, consignment is permissible off of a dealer's
location.

MS. THOMPSON: Right, but the wording of the
language in the statute is confusing the issue that you
can sell away from the licensed location.

MR. GRAHAM: Not just consign.

MS. THOMPSON: Correct.

MR. GRAHAM: So is there a distinction between
engines, transmissions, axles which constitute a motor
vehicle in Texas statute and a motor vehicle itself? And
I do not want to take us down that road if it's not necessary, but I'm just asking a question because in Texas an engine is considered a motor vehicle. But I think in general we understand that an engine is not an entire motor vehicle, so there may not be a distinction to be made.

MS. LOVE: Let us take that back and as we continue to work on the language we'll make sure that that is something that's clear.

MR. GRAHAM: Sounds good.

MS. LOVE: Staff at this time would ask for approval of the items included in 10.A.

MR. PALACIOS: Okay. Are there any further questions on any of these items for Ms. Love or Ms. Thompson?

(No response.)

MR. PALACIOS: Hearing none, I'll entertain a motion to accept the recommendations.

MR. BARNWELL: Mr. Chairman, I move that the Board approve the following recommendation of the Legislative and Public Affairs Committee: first, I move that the Board adopt the proposed legislative agenda as developed by the department staff with stakeholder input and involvement; second, I move that the Board direct staff to finalize and submit this agenda to the
legislature as directed in Transportation Code 1001.025 for further consideration by members of the legislature for bill drafting and potential filing; lastly, I move that the staff be directed to provide the Board regular updates throughout the session on the status of the approved agenda items.

MS. HARDY: Second.

MR. PALACIOS: Okay. We have a motion by Board Member Barnwell, a second by Board Member Hardy to accept the recommendations as presented. All those in favor please signify by raising your right hand.

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

Thank you.

Please proceed.

MS. LOVE: Thank you.

The next item, agenda item 10.B, is a briefing item, and we were just going to highlight some of the actions that we plan and key dates for the next session.

So although the legislature begins their first day of session 96 days from now -- I know you're very interested in that number -- truly the session will start to begin when bill filing starts on November 12 of this year 2018, and then the first day of the session is set for January 8 of 2019. The last day to file legislation
will be March 8. That's always a big day when lots of bills tend to hit the chief clerk's office, and then the last day of session is May 27 of 2019, and just in case you were wondering, that's 235 days from now.

MR. GRAHAM: I can hear the excitement in your voice.

MR. BARNWELL: But who's counting?

(General laughter.)

MS. LOVE: So one of the things that we'll start to do as an agency once the bill filing starts is have weekly meetings with executive leadership and also the subject matter experts throughout the agency to review legislation that's filed for potential impacts to the agency. And in addition to that, my division will work with all those people to help develop analyses of impacts, as well as fiscal impacts, and part of the process is the Legislative Budget Board, if they identify that a bill has a potential financial impact to an agency, they will request that the agency complete a fiscal analysis, and so we'll work with those as well, as well as the Finance and Administrative Services Division.

And we'll be providing regular status reports and updates to the executive team on the status of those recommendation that you just adopted, as well as the Sunset legislation since that will be the most critical
component. As I mentioned to the tax assessor-collector group last week, currently in statute this agency will cease to exist as of September 1, 2019, so the reason that Sunset legislation is so critical is because per the adopted Sunset Advisory Commission recommendations, it will extend us out another twelve years, so that's very important.

We'll also help coordinate the department's involvement in legislative hearings and meetings. I'm sure we'll have lots of requests from elected officials to visit with them to kind of talk through maybe ideas that they may have or legislation that's pending, and we often provide witness support to legislation as a resource when it comes up in the hearing process. And so my staff will help monitor all of those substantive hearings as well as all the floor debates at the House and Senate levels and we'll provide reports on those, and then we'll make sure that those get passed along to the Board for your reference as well. We'll try not to over inundate you but keep it enough to where you know all the important things that are happening there.

That's all I have unless you have any questions.

MR. TREVIÑO: And, Caroline, you're also in contact with the Governor's Office as well.
MS. LOVE: Absolutely.

MR. TREVÍÑO: Great.

MR. PALACIOS: Thank you, Caroline.

I guess we'll move on to item number 10.C. Ms. Brewster.

MS. BREWSTER: Thank you, Mr. Chairman, members. For the record, Whitney Brewster, executive director.

I had the opportunity to provide a briefing to the Legislative and Public Affairs Committee yesterday on the implementation efforts of the TxDMV on Sunset Advisory Commission recommendations. It was a briefing, no action was taken, and no action is being requested of the Board on this item today.

The Sunset Advisory Commission met on August 29 to make decisions on recommendations made in the Sunset staff report as well as to consider any new recommendations that were developed from our initial hearing on May 23. Again, just as a reminder, recommendations can come in two forms: one, statutory recommendations to be considered by the legislature when they convene in January, and also, management recommendations and those became effective immediately upon adjournment of the hearing on August 29.

In an effort to make sure that the agency is
making progress towards implementation of these important recommendations, the agency is tracking them very closely. On page 84 of your board books and also on the screen in front of you, I've provided you with a high level tracking document that includes a summarized description of the recommendations, as well as due dates that are specified in the report, as well as the division at the agency that is really spearheading the effort for implementation.

Further, I've included some color coding so hopefully you can easily distinguish between where we're at on those items with relative ease. Green indicates that there's nothing further for the agency to do at this time or that it is fully implemented, yellow indicates that we are in progress, and red means that at this time no action has yet occurred.

I will note that the items that you see in red are primarily statutory recommendations, and obviously the agency can't move too much on those items until the legislature considers those things during the legislative session.

This document, and I think it's important to point out, is supposed to be a helpful document for y'all, as well as the agency to gauge our progress, so if there are improvements that you would like to see to this document, please know that I welcome your feedback. We
just more than anything want this to be a useful document.

As for where we are today, three recommendations have been fully implemented.

Recommendation 3.8 regarding publishing of penalty matrices has been implemented by the Enforcement Division. That information was published to our website, I believe, on May 22, so that information is out there for viewing.

Recommendation 4.5 regarding criminal history checks for motor vehicle license renewals, that has also been implemented by the Motor Vehicle Division. And just to point out, we were doing background checks on initial application, what this recommendation was around is requiring the agency to do it upon renewal as well, so that process has been updated and the Motor Vehicle Division is now doing that.

And recommendation 4.7 regarding unnecessary application requirements for salvage license, that has been implemented by the Motor Vehicle Division, and that really has to do with the potential licensee providing business references and the agency is no longer requiring that of applicants for a salvage license.

There are 17 recommendations in progress. One other item that I should point out is that there are two recommendations, 3.4 and 3.5, on the agenda today for your consideration. Ms. Thompson will be providing you with
further information on those two items here momentarily, but should the Board favorably vote to accept our policy changes, those items would move to green as being fully implemented.

Last, but certainly not least, you may notice that one recommendation is not on here that has gotten quite a bit of attention, and that is the concept of moving driver licensing to the Texas Department of Motor Vehicles, and it is not reflected in this document because it is not within our report. That recommendation is within the Department of Public Safety's report, and certainly we are paying very close attention to that and would be providing various updates to you all as things progress on that front.

But just to let the Board know how that recommendation finally ended up being adopted by the Sunset Advisory Commission, the recommendation for that requires the Department of Public Safety to hire an independent third party to do a study of the transfer of driver licensing from the Department of Public Safety to our agency, and that study should be completed by September of 2020. The recommendation goes on to say that should the 86th Legislature not appropriate funding for that study, that the transfer would occur anyway and would be effective September 1 of 2021.
So obviously we are very interested in how that recommendation shapes up, I know this Board is as well, and we will certainly provide ongoing updates on that.

Members, that concludes my briefing and I'd be happy to answer any questions that you have.

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

(No response.)

MR. PALACIOS: Okay. Thank you very much for the briefing.

All right. Let's move on to item number 10.D, the Board approval of policy on guidance on Enforcement case prioritization and complaint resolution.

MS. THOMPSON: Good morning. Again, Corrie Thompson, director of Enforcement. I'm presenting agenda item 10.D which begins starting on page 89 of your board books.

Before you is a request for Board approval of a policy concerning case prioritization and complaint resolution in the Enforcement Division. The policy is being presented to you in order to implement Sunset Advisory Commission management recommendations 3.4 and 3.5. This information was presented as well yesterday at the Legislative and Public Affairs Committee meeting.

There is no fiscal impact associated with the
policy, and the reason it's being presented to you for approval today is because Sunset, during their review, made recommendations to help the department reduce its complaint resolution time frames, and as part of those recommendations they asked that we bring the policy to the Board to approve those new policies that address the factors that contribute to longstanding complaint resolution time frames, including: having the Enforcement Division develop an intake system and a plan to close and refer non-jurisdictional cases; to identify stages where delays occur in the case process in order to minimize potential for bottlenecks; to develop priorities based upon the type of allegation and the associated risks with each case balanced with the need to close out those longstanding cases; and to present a plan to the Board for bringing those longstanding cases to the Board for review.

The policy that we are presenting for you today that's found in your board books does just this and it provides a commitment to the goals identified by the Sunset Advisory Commission. The policy refers back to standard operating procedures created by the Enforcement Division, and those standard operating procedures outline the details as to how we are accomplishing those stated goals within the division.

The policy on presentation of longstanding
cases to the Board for review would involve Enforcement staff being required to bring cases aged beyond three years where an Enforcement attorney has not brought formal allegations against a dealer or a carrier to the Board for review at specified times throughout the year. So the proposal would be probably twice a year, probably at the end of the fiscal year in August and probably at the February Board meeting, and if we do have any cases that are aged to that certain point.

I'm happy to answer any questions that you may have about that, but again, this relates to Enforcement's SOPs on prioritization of cases and bringing those longstanding cases to you of review.

MR. TREVIÑO: The agency did prioritize cases prior to this, didn't it? This just establishes a policy to make it more transparent. Is that correct?

MS. THOMPSON: That's correct, and just to refine and enhance some of the prioritization so that we're focusing on the greatest risk to public harm and to consumers.

MR. PALACIOS: Are there any further questions for Ms. Thompson on this item?

(No response.)

MR. PALACIOS: Hearing none, I'll entertain a motion to accept the recommendation.
MR. PAINTER: Mr. Chairman, I move that the Board approve the recommendation of the Legislative and Public Affairs Committee to approve the policy on TxDMV guidance on Enforcement case prioritization and complaint resolution, to implement Sunset Advisory Commission's recommendations 3.4 and 3.5.

MR. BARNWELL: Second.

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

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

Thank you very much, Ms. Love and Ms. Thompson, for your presentations.

Let's move on now to agenda item number 11, Finance and Audit, and I will turn it over to Sandra Menjivar and Linda Flores and their staff, Ms. Bankhead.

MS. MENJIVAR-SUDDEATH: Good morning. I'm Sandra Menjivar-Suddeath, Internal Audit director, and I'm presenting item 11.A which is the internal audit charter, I'm requesting approval for it, and it can be found on page 94 of your board book.

The internal audit charter defines the internal audit's purpose, authority, responsibility and position...
within the TxDMV. Our audit charter was last approved in 2016 and we review it internally every year. This year the audit charter was updated because the quality assurance program found that we had an opportunity to strengthen our charter by stating that we follow the definition of internal audit instead of just listing it. We also had updates to our internal audit standards, and we're aligning internal audit with the department's vision, mission and goals.

And those changes can be found on page 101 of your board book, and specifically there's a lot of changes but part of it is that we've updated the charter to actually match our style guide. Internal audit has developed its own style guide so now we are having all our documents be consistent. We have included a vision, mission and goals section of the internal audit charter. We've added a scope area which better defines what you can expect from internal audit when it comes to audits that we do. And then we've added a quality assurance and improvement section which kind of provides more information to the Board on what you can expect from us on an annual basis.

So with that, I'm open to any questions; if not, I request approval of the internal audit charter.

MR. TREVIÑO: Ms. Menjivar, staff helped you
create this document, this was not something internal
audit just created on its own. Right?

MS. MENJIVAR-SUDEATH: No. It was a
collaborative effort with my staff and it also was sent
out to the executive director and deputy executive
director for their review, as Ms. Brewster has to sign off
on the charter as well.

MR. TREVIÑO: Great. And everyone was
supportive?

MS. MENJIVAR-SUDEATH: Of course, always.

MR. TREVIÑO: And you feel that staff sees
internal audit as a useful tool for making the agency more
responsive and better serve the needs of Texas.

MS. MENJIVAR-SUDEATH: Yes, sir. And
actually, in the briefing item we'll go over some of the
performance measures that we've developed to actually
start getting that information from staff.

MR. TREVIÑO: Great. Well, I want to commend
you on this work. It's very thorough, excellent.

MR. PALACIOS: Any further questions for Ms.
Menjivar?

(No response.)

MR. PALACIOS: Hearing none, I will entertain a
motion to accept the recommended internal audit charter.

MS. HARDY: I move that the Board approve the
MS. CARAWAY: Second.

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

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

This is one of the most unanimous meetings I've ever attended. It's great.

(General talking and laughter.)

MR. PALACIOS: Please proceed.

MS. MENJIVAR-SUDEATH: Thank you. I'm presenting item 11.B which is on page 111 of your board books. This is a briefing item only, it's the Internal Audit Division status. It includes the five internal audit engagements that we are working on are completed, and five external audit engagements that we are coordinating.

The first item on the Internal Audit Division status is the fiscal year 2018 internal audit activities report. That is on page 112 of your board book. This is a required report that must be submitted to the State Auditor's Office, Sunset Commission, Legislative Budget Board, and the Governor's Office by November 1, 2018. The report is also required to be posted on our website and we
will be doing that after this meeting.

We are required to provide information on our fiscal year audit plan, fiscal year 2018 audit plan, any consulting and non-audit services, which we call advisory services, that were conducted in fiscal year 2018, our external quality assurance information which is our peer review, our fiscal year 2019 internal audit plan, any external audit services that have been procured by the department, and any information on reporting suspected fraud and abuse.

Something just to note in the report, although we did not procure any external audits, we were audited five times in fiscal year 2018 by external services, and that trend is still continuing with this year.

The next item on the Internal Audit Division status is our actual quality assurance and improvement program report, and that is on page 136 of your board book. Traditionally the quality assurance and improvement program has just been an overview and information on our compliance with our audit standards which are the Institute of Internal Audit's International Professional Practice Framework, the Generally Accepted Government Auditing Standards, and Texas Government Code 2102.

But in the past year I've been working with Ms. Brewster, the Finance and Audit chair and our Board chair

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(512) 450-0342
to actually provide a more comprehensive quality assurance and improvement program by developing key performance indicators for internal audit, as well as helping develop the trajectory for internal audit going forward. We developed 10 performance measures for the year and we've started reporting out on fiscal year 2018 but we'll report out truly in FY19.

In addition, the report is actually going to include information on our fraud, waste and abuse allegations and dispositions. This is another activity that internal audit does that we have not been communicating what exactly happens with those fraud, waste and abuse allegations we receive.

One thing to note in the report, as we reviewed our compliance with audit standards, we did have an opportunity, as I mentioned in the previous item, to improve our audit charter, so that has been resolved.

So our key performance indicators going forward, so as I said, we've developed ten. Out of the ten, eight are provided in the report. There's two that we did not fully put into place, implement in FY18 and that was just because of the timing of when we developed the key performance indicators. The two that we'll be reporting going forward will be percentage of staff working on operational plans, because we do participate in
the agency's operation initiatives, as well as percent of
clients that believe our audit recommendations were useful
and beneficial after implementation. So after our
internal audit recommendations are fully implemented, we
will be sending out a survey to those that implemented to
obtain their feedback if our audit recommendations
actually met what they needed and actually were useful for
them, to make sure that we are providing good
recommendations.

So our first performance measure is the
internal audit recommendations implementation rate, so
although we report this implementation out, it is an
agency-wide measure, so we review how many internal audit
recommendations are actually implemented throughout the
year. Our key performance indicator is 80 percent for the
year, this year the agency actually implemented 94 percent
which is an increase from last year when we only
implemented 85 percent, which both of those numbers are
very high and one of the highest I've seen in any state
agency.

The next one is more of an internal audit key
performance indicator and it's our completion for our
audit plan, so our goal is to have 80 percent complete by
the end of the fiscal year. So in fiscal year 2018 we had
82 percent audits fully completed and two audits in
reporting, so we actually went beyond our measure. Now, the two audits that were in reporting have actually been completed since then and we will be providing that information to you in executive session.

The next key performance indicator is the engagement budget, so we set in our internal audit plan and allocate a certain amount of hours for each audit or advisory service. To ensure that we're actually meeting those, we want to measure how well we're actually estimating that. This past year we actually started using a new program to help us better estimate the hours that would be given to each audit and these are the results, so our goal is to be within 10 percent of the estimated budget. For completed projects we were within 2 percent and for projects that were still ongoing, which were the two audits in reporting, we were within 8 percent. So we're actually doing really well on completing our audits within the allotted hours.

Our next one is our survey, so after each internal audit engagement we provide a survey to the clients that participate in the audit or advisory service to obtain their information. There's three performance that we obtain through the survey. The first is audit knowledge, the percent of client surveys that agree that the audit had sufficient knowledge about the audit area,
so did we do a good enough job understanding the area. The next one is clear communication, did we have clear and timely communication on the audit results and reports. And the final is customer satisfaction.

Our goal is to be within 80 percent for all of these, and as you can tell, we did meet and surpass those measures. I'm very happy to see that people feel we actually understand the audit area, 91 percent, because obviously we can't issue recommendations if we don't understand the area well. But we do have some work to do on customer satisfaction; we still are above the measure but it's not where I want to be, so we'll be working on that this year.

Our final two key performance indicators are educational efforts and staff certification. So for people to really understand what internal audit does and the value that we can bring, we are trying to get more educational efforts out there both for internal stakeholders and external stakeholders. So our goal is to have two educational efforts per year, last year we actually did eight. It was not anticipated to do that many but we had opportunities so we went ahead and did them.

And they included things like reaching out to the county auditors, as well as working with B.G. Young
doing Internal Audit Month, the month of May is Internal Audit Month so we had an open house so invited everyone to come in, have some coffee, pan dulce, and breakfast tacos with us to kind of meet us and greet us. And then we went and met with Enforcement Division, Vehicle Titles and Registration, as well as Consumer Relations Division to kind of just give information on who we are and what we do.

We also want to make sure that our staff are properly certified and have the ability and knowledge to do the audit work, so we are measuring ourselves to make sure we have the appropriate certifications. So these are four out of the five certifications; the only certification we do not have is certified public accountant, and we will not be having that any time soon because none of my staff are interested in that.

(General laughter.)

MS. MENJIVAR-SUDEATH: However we do have staff currently working on getting their IT certifications, their fraud certifications, as well as the internal audit certifications, and to be at a high level at our agency you have to have a certified internal auditor or certified public accountant.

And the next item, this is not a key performance indicator but this is more to show you the
trajectory where internal audit is going. So this is
called the Institute of Internal Auditor's Capability
Model for Public Sector. This model defines what is
fundamentally needed for an effective internal audit
function in the public sector. It's supposed to describe
the path for internal audit to help with governance to
meet the governance needs of the agency and the board, as
well as professional expectations.

The model is composed of five maturity levels,
similar to what we do in our audit reports, we have five
maturity levels, and in this past year we asked a peer
review to provide us an objective overview on where we
were on the capability model so that we could benchmark
and start from there. They actually had rated us at a
level two which is infrastructure because of the fact that
we did not have performance measures, so since then we've
been really actively working on building our performance
measures, providing more information, things like that,
and at the end of the year we were actually at a level
three, integrated, and we're hoping to get to a level five
which is optimizing, and as you can tell from the stars
that's where we want to go.

And we've done a lot to complete it, anything
that's in green is things that we internally believe we've
completed, and yellow means that we're in progress, and
white means we have not started it and we'll eventually start it. So the next year we'll provide an update on where we are on this and provide this image for a comparison from FY18 and 19.

The final item on the quality assurance and improvement program is our fraud, waste and abuse referrals. So we receive fraud, waste and abuse complaints from two main sources. One is internal, they can be anonymous, they can be emails, they can be phone calls, people can stop by our offices. The other one is the State Auditor's Office. The State Auditor's Office has a hotline complaint line and when they receive complaints they forward them to the agency depending on the severity and the issue it is.

And most of the complaints we receive from the hotline are actually more consumer related issues, and so that's why we broke out the 16 complaints from the State Auditor's Office in that next pie chart. So you can tell most of them are dealer related, someone bought a car, they had an issue with the odometer, and usually we refer those to Enforcement Division, or depending on the issue we may refer them to the CID.

So we also track what we do with any of the fraud, waste and abuse allegations received in the year. This is an overall view of the fraud, waste and abuse
allegations we received this past fiscal year. As you can tell, we did investigate several of them, we did substantiate four, there are two pending meaning that we're still currently investigating two, and we did refer several to divisions. And anything that's substantiated or not substantiated, if we do an investigation we do provide a disposition, a memorandum to the executive director and copy the Finance and Audit Committee chair, the Board chair and the division affected so they know exactly what was our overall conclusion, our investigation plan and if it is substantiated we also refer it to human resources for next steps.

So the next item on the Internal Audit Division status is just our fourth quarter verified internal audit followup, so we had a 75 percent implementation rate in the fourth quarter. There were two recommendations that were not fully implemented. Both of those are in red in the chart. Now, the divisions did state that those were fully implemented, because they were priority high that means we go back and retest. Based on the retesting they were not fully implemented so we are working with divisions to get a new implementation date for that.

The other items on the Internal Audit Division status are our current engagements, the Lemon Law investigation resolution process and the employee
classification and hiring audits. These audits will be done in January 2019 and we are in planning.

The final thing is our external audit coordination. Like I said, this year we're continuing our trend of having a lot of external audits. The U.S. Federal Highway Administration will be doing a review of the Motor Carrier Division, looking at the heavy vehicle use tax in November. The State Auditor's Office is still continuing their audit on contract management, and we anticipate their audit report to be released between December and February. The Comptroller of Public Accounts has released their post-payment audit and we are tracking those recommendations in our system. And the State Office of Risk Management will be doing a field visit in Houston in October.

So that concludes my presentation. Is there any questions?

MR. GRAHAM: Mr. Chairman.

MR. PALACIOS: Yes.

MR. GRAHAM: I have a question, and I'm not sure this is the appropriate time to ask it, but it was regarding an audit on some information we were given on an audit on the eLICENSING.

MS. MENJIVAR-SUDEATH: That is a confidential audit because of the results so we will be talking about
that in the executive session, so feel free to ask me anything, or ask my staff, actually.

MR. GRAHAM: You got it. We'll defer. Thank you.

MR. TREVIÑO: Ms. Menjivar, first of all, I'd like to commend you on your pronunciation of pan dulce, that was very good, did a great job on that.

But would you say that this QA KPI process is standard among state agencies in the way you're approaching this? Because this seems pretty comprehensive.

MS. MENJIVAR-SUDDEATH: Not necessarily. I think key performance indicators are pretty typical of any internal audit function, but taking it to the capability model is definitely something that is being done by the leaders in internal audit for public sector but not every agency is doing that. I can only think of one right now, which is Health and Human Services Commission that is actually using the capability model and reporting out to their commission on how they're trajectoring and what they're going to do to accomplish it.

MR. TREVIÑO: It seems very thorough and also very coordinated with the rest of the department, so I just want to commend you on that.

MS. MENJIVAR-SUDDEATH: Thank you so much.
MR. PALACIOS: Okay. Are there any more questions for Ms. Menjivar?

(No response.)

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

Let's move on to the next item, Ms. Flores and Ms. Bankhead.

MS. FLORES: For the record, my name is Linda Flores, and I am a certified public accountant in the State of Texas. It takes a special person and a special backbone to achieve that license.

MR. PALACIOS: She won't take that sitting down.

(General laughter.)

MS. FLORES: I do appreciate everything that Ms. Suddeath provides and brings to the agency, as well as a couple of chuckles every once in a while.

This presentation is similar to what was provided to the Legislative Budget Board and the Governor's Office in August. This was the briefing that we had intended to provide to the Board back in August, and wanted to circle back with you to identify the things that we did submit. And for the record, in front of you is the actual document and what it looks like for the submission to the Legislative Budget Board through their
online system. This is a numbers-driven request, and so if you're a numbers person you're going to love it, if you're not, then we have this presentation to kind of give you some context.

We did start out with some accomplishments that we were able to achieve during the current biennium. As you've heard before, Hurricane Harvey threw the state for a loop, including vehicles not the road, and we were able to work with the Governor's Office in acquiring some waivers to allow some flexibility.

Just to give you some context, we issued 220,000 salvage titles between October and December, and that was 2-1/2 times more than we had done in other years. Another kind of context is we normally collect about $3 million in revenue from salvage titles and in '18 it was $4 million. So you know, the hurricane did cause a serious spike for the year.

MR. BARNWELL: Linda, when you say that it was 2-1/2 times more than during the same time period for the previous year, so it was 250 percent, 2-1/2 times, but it was for the same three-month period of time?

MS. FLORES: Yes, sir, correct.

So Hurricane Harvey hit in August, we started to see the spikes in October, November and December. Those were substantially higher than what we normally
receive in those same months for the previous year, and that was where I was trying to compare 3 million on an average year for salvage titles versus 4 million this last fiscal year '18. So obviously we received a lot more revenue, we issued a lot more titles for salvage vehicles, but we were also able to do this within the statutory requirement that we have to turn those things around within five days.

So we were able to acquire some temporary staff. We had at one time, I think, more than twelve individuals working on processing salvage titles for VTR. We had a couple upstairs actually depositing the checks that we were receiving. We don't expect to see that again, however, any given storm will cause the same kind of ripple effect, if you will.

MR. BARNWELL: Thank you.

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

MR. PALACIOS: Yes, please.

MS. BREWSTER: We actually had about 20 temporary employees that were hired and we were able to do that because we were able to get some emergency grant funds through the Association of Motor Vehicle Administrators. The funding didn't cover everything but certainly it helped a lot.

MS. FLORES: We received $125,000 from AMVA.
MR. BARNWELL: So we had an additional 20 employees to handle these additional 100,000 -- what was it, about 100-, 150,000 additional during that three-month period.

MS. FLORES: The extra money, the reimbursement we got from AMVA was $125,000.

MR. BARNWELL: Yes, $125,000, but the number of titles?

MS. FLORES: We processed over 500,000 titles. That's in total for the year, this was just for those three months.

MR. BARNWELL: So we had 20 extra employees for those salvage titles.

MS. FLORES: Correct.

MR. BARNWELL: How many employees do we have normally handling salvage titles?

MS. FLORES: I will defer to Jeremiah but I believe it's about five FTEs.

MS. BREWSTER: That's correct.

MR. BARNWELL: So for a 250 percent increase in number of titles we had to have a 800 percent increase in number of employees. I don't understand the math here.

MS. FLORES: I will defer to Mr. Jeremiah.

MR. PREWITT: Temporary.

MS. FLORES: They were temps.
MR. PREWITT: And it was sort of a surge, wasn't it? I mean, it was just a huge onslaught of titles in a short period of time.

MR. BARNWELL: Well, it wasn't that huge. They're handling a huge number -- let me tell you, the staff here does a great job handling a huge number every year anyway. This is not that big of a deal and I'm just wondering why there's all this hoo-ha about Harvey because I thought it was a heck of a lot more than this, and so I'm surprised it was what it was and I'm also surprised that you needed 20 temps -- if that's the number -- to handle that influx.

MR. KUNTZ: For the record, Jeremiah Kuntz, director of Vehicle Titles and Registration Division. So at our peak we had 20 temporary workers that came in. So if you look at the way that the spike occurred, it really came up to a peak and it came back down. We did the same thing with our temporary workers, so we monitored daily how many salvage titles were coming in and we made decisions on when to start cutting people loose as well. So we did not have 20 temporary workers over the entire time.

MR. BARNWELL: So what I really need to do is not look at this over a quarter, I need to look at this almost on a weekly basis.
MR. KUNTZ: Exactly. We looked at it daily really. We had a daily report that was coming out, we were monitoring those levels every day, we scaled up and then scaled back down immediately as we saw we needed to.

MR. BARNWELL: I knew you'd have a good explanation for that. So the quarterly period is simply too broad to give me a sense of what was really going on here.

Let me tell you about gas for a minute -- I've got a lot of gas. What we have is people say, well, I only use this much per day. Well, I don't care how much you use per day, it's the peak hourly consumption that makes all the difference, so we have to size gas mains and transmission lines to handle 10X what a daily is because in an hour everybody is taking a shower, they're cooking or they're running their heater or whatever, and that's that peak alley.

So this picture here -- this number here to me is rather ineffective because it's over too big a period of time, and what I really wanted to see is a compression to show the extraordinary amount of work that staff had to do in a very brief amount of time in order to meet the five-day mandate in the law. So that's why I'm asking these questions. If you had 20 people for 90 days, then that's a waste of time and money because you're able to do
normal with only five. So that's why I was asking that question, and thank you for that explanation.

MR. PALACIOS: Absolutely.

MS. FLORES: I was going to say in order to give a little context, finance also watched it every day as to what we were processing, so on October 2, 2017 we received 9,000 applications on that one day, when we normally would receive maybe 1,400 in a given day.

MR. BARNWELL: Yes. See, that's a really significant number. If I'm selling this to people who don't understand it, then I want to show them that extraordinary spike in title applications and show how well that the staff was able to pivot and hire these temps and get that job done, and you did it. I didn't understand these numbers here, they didn't make sense to me.

MR. KUNTZ: Yes, sir. And to add on to that, we were also in very close contact with the insurance industry. Quint Thompson, our chief of titles, was holding weekly meetings with the insurance industry. He had a conference call with representatives from many, many insurance companies and we would actually get a gauge from them as to what they saw coming forward so that we could help predict what was going to be coming the next week to make sure that we had sufficient staff.
MR. BARNWELL: I think that the department did an outstanding job, and the proactive nature of it. You weren't reacting to oh, my God, look what just came in the mail, you were being proactive saying what's coming down the pike, what's happening with these insurance companies, what other information can I gather to tell me what I'm fixing to run into, because it was a rolling ball of butcher knives, as a coach with UT said one time. So hats off to the department, I think you did a great job on it.

Thank you.

MR. PALACIOS: Thank you, Mr. Kuntz, for your input.

Please proceed.

MS. FLORES: Moving on, so the other things that we were able to accomplish during the current biennium were addressing some activities to help us combat fraud. The legislature, during the 85th session, did provide us additional funding for 13 new full-time employees. We created the Compliance and Investigations Division. Mr. Menke was able to put all of his folks in place by June of this year, so that was a major accomplishment. They've also participated in several investigations and their current portfolio is in excess of an $8 million investigation for activities out there in the state, which I don't have any information specifically...
on, and if it's a current investigation, I don't think I can talk about it.

We also did create some new dashboards for Mr. Menke. One of the things that he requested is he needed some reports so we had some capital dollars, actually, and we were able to provide him with six additional reports. And it is a continuous project, he has identified some other things he would like to see so we're working on that as well.

eLICENSING, this particular project, as you've heard over and over, has received multiple awards and so that was one of the things that we did highlight to the joint hearing that was held in August.

We're also moving forward with working with the Department of Information Resources on initiatives to identify vulnerabilities in our IT applications, and we're working to identify procedures that would ensure that our motor vehicle records remain secure.

Customer service improvements. We're working to standardize the queuing systems in the regional service centers, and I think that is something that we continuously try to work on. We're working to improve making appointments to allow people to virtually get in line. That's something that a lot of other private sector individuals like to use, so we're trying to get in line
with that.

We initiated a kiosk project, and I think that's one of the things y'all will be talking about later. We'd like to have these self-service units in offices in the tax assessor-collectors across the state, so we're hoping that that will provide another means for individuals to renew their registrations and obtain other services through the agency.

We've identified some call center upgrades that we're working on that will help us with our telephone system. And we've got a couple of projects that are in the works. One of them is to improve the external website for the agency, so when you go to our agency's website it will only take you a couple of clicks to get to the page that you're looking for.

eTITLES is the final phase of the DMV's webDEALER project that is also in the works. And webLIEN is another project that will help provide lien holders with a self-service web-enabled alternative for the addition or removal of liens.

Separation activities include moving Bull Creek. They are fully on the campus. We were appropriated additional funding to accomplish that. We did that on time and we didn't use all of our budget so we did save some money there. And we have taken a proactive
approach to the Sunset Commission's recommendations and many of those have already been addressed.

Overall, the agency submitted a baseline appropriations request of $321.5 million. This accommodates 779 staff members for the agency. And your material on page 171 reflects the breakout and percentages by dollars of what's included in our base. It continues paying staff, it keeps our lights on, we have funding for the RTS application, and all of the public-facing core functions, as well as the technology infrastructure asset that we currently possess. And then it also provides funding for indirect administration which includes things such as human resources, payroll, mail room, support operations. That baseline does include $10 million that we received for this biennium that carries into the next biennium for repairs associated with the campus.

Our exceptional items request total $19.2 million, and this includes five different items: information technology improvements at $2.7-; FTEs staff people associated with IT, $1.9 million; consumer protection and tracking, $567,500; customer service enhancements, $904,000 and nine FTEs; as well as the ABTPA Board's number one item of $13.1 million.

Just to give you a little background, the first item at $2.7-, IT infrastructure, the agency has deployed
several new applications and has added some complexity to
the RTS system, the registration and titling system, so
it's created opportunities for us to try to develop more
environments to allow people to be in the system in
different instances of the system, so that somebody can be
in there testing a new process without affecting
production. So we've heard from the tax assessors that it
would be nice to have an instance where their staff can
actually go in there and learn a new process, perhaps,
without affecting the actual production, actually
processing registration renewals. This amount would
provide for that enhancement, if you will.

MR. TREVIÑO: Ms. Flores, on the infrastructure
pieces that we're discussing here, are there any
specifically around IT security? Are there any statewide
benchmarks that we have to reach or certain --

MS. HARDY: Thresholds?

MR. TREVIÑO: Exactly. In terms of IT
security, I'm talking about cyber risks, those types of
things, especially around the data, the integrity of our
data. I was just wondering if in preparing the budget
that there were certain things that we had to meet,
achieve, meet or achieve.

MS. FLORES: What we did receive was during the
current biennium we did receive $400,000 to shore up our
cybersecurity processes, and we're working with the Department of Information Resources to do that, as well as I think there were some internal dollars that we were also allocating. It's almost a million dollars total: $400,000 that we were actually appropriated, plus another $700,000 within our base to address those cybersecurity issues, because that has come to light that there are some vulnerabilities. So I don't know if Mike Higginbotham wants to address if there are actual benchmarks associated with that; I cannot speak to that.

MR. TREVIÑO: You mentioned the Department of Information Security, and so do they opine or do they have any certificates, meeting all standards?

MR. JOSH KUNTZ: Good morning. For the record, my name is Josh Kuntz. I'm the information security officer for the agency.

You're asking about benchmarks, and so the Department of Information Resources has a Texas cybersecurity framework. It's 40 controls that were taken from federal and the National Institute of Standards and Technology 800.53 series. The Texas cybersecurity framework has a maturity rating based on a scale of zero to five, zero being you're not doing anything in those controls, five being continuous process improvement. The agency goes through biennial assessment of their program
based on those controls and that maturity model, and the
last time we went through the assessment we were at three
which means we are solidly doing all these processes as we
should with a sight towards getting better, measurable in
the continuous process improvement for those items.

MR. TREVIÑO: Great. And where do you think we
stand now? Do you think we've made some progress to
three-five or heading towards a four?

MR. JOSH KUNTZ: So we're currently undergoing
our biennial assessment. We finished up the interview
work with that with the DIR vendor last week, and from his
initial assessment he said we're probably in a solid four
to four and a half.

MR. TREVIÑO: Excellent, excellent.

MR. JOSH KUNTZ: I think that's a little
aggressive. I'm a little more conservative, I would say
that we have a lot more places to improve, but that's
being self-critical.

MR. TREVIÑO: It might be a good idea in the
near future that we get an update on cyber risks just to
see where we stand as an agency on that. It's a hot topic
and something that I think we all benefit from hearing
about. Thank you.

MR. JOSH KUNTZ: Absolutely.

MR. TREVIÑO: Thank you very much.
MS. BREWSTER: Mr. Chairman, if I may? Mr. Kuntz will be giving an update to you all on some of those efforts in executive session today.

MR. TREVIÑO: Thank you very much, Ms. Brewster.

MR. PALACIOS: Thank you, Mr. Kuntz.

MS. FLORES: Moving on, the second exceptional item has to do with the staff that we need in order to help support those applications and all of those efforts in IT. We are asking for new staff to help support all of our enhancement in IT.

Item number 3 is consumer protection and tracking. This addresses several Sunset recommendations and it provides for a proactive risk-based approach to enforcement and fraud through the construction of a public-facing database of case histories for motor vehicle enforcement data, as well as improving reporting of enforcement data. And it also provides compliance and investigations with software tools that they're requesting to help in the detection of fraud, waste and abuse.

The fourth item is $904,000, nine FTEs in consumer relations. The agency has experienced increases in the public trying to reach us by phone, by email, and in order to meet that increase, we utilized the regional service center staff and we diverted some of those phone
calls to those regional staff. Well, that in turn had another consequence in that the regional service staff was not able to take phone calls from the county, as well as process questions or transactions at the counter. So we are asking for nine new FTEs to bring those things back in-house that were there originally and to allow our regional service staff to go back to their primary function which was to support the public and the counties.

The fifth item is the $13.1 million. Again, this is a Sunset recommendation that would -- it does require statutory change, it would require that the statute enlarge the ABTPA's scope of authority to address criminal violations in title and odometer fraud. The fiscal impact to this is $13.1 million. Just as a refresher, primarily most of ABTPA's appropriations, all but about a million a year, is passed on to local police enforcement divisions across the state, so these dollars would actually go out to our local PDs to help them with the task forces that they operate.

And that concludes all of the exceptional items for the agency.

We will have another opportunity moving forward when session starts. As you know, bill filing begins in November, the session actually starts in January. We will see a recommended budget for the department come out in
January. We'll know whether or not these exceptional items are funded or not funded. At that point it's a proposal. We'll have another go at it, we have another opportunity to modify our request that we will be able to justify during session, so if something does change, we will inform the Board and get your input as to how y'all would like to proceed.

Thank you very much.

MR. PALACIOS: Thank you, Ms. Flores.

Are there any additional questions on the exceptional items that Ms. Flores and Ms. Bankhead have presented?

(No response.)

MR. PALACIOS: Okay. Please move on to the next item.

MR. BARNWELL: Before we get started, I'd just like to say that I applaud your ability to predict the future a thousand years, one in time millennium in the future.

MS. BANKHEAD: Oh, my gosh.

MR. BARNWELL: Oh, you didn't mean to do that?

MS. BANKHEAD: No, I didn't.

MR. GRAHAM: Just stay with the story: exceptional, just simply exceptional.

MR. BARNWELL: These are in today's dollars so
don't be afraid.

MR. GRAHAM: Barney, I'm going to be gone but I know you'll be here to take care of that.

(General laughter.)

MS. BANKHEAD: Good morning. For the record, my name is Renita Bankhead, assistant CFO, and predictor of the future. I am here to present the financial summary for the fourth quarter fiscal year 2018, not 3018. This is a briefing item, we will not be requesting any Board action.

The state fiscal year begins on September 1 and it ends at August 31. This presentation is a summary of year-end revenue collection, expenditures and budget balances. The financial reports will be presented to you probably in February when we finish all of our financials, so this is basically a different presentation than that one, so you'll be getting that one later. These materials are in your board books on page 181.

So starting off, DMV Fund highlights. Based on some of the stuff that we've already talked about this morning, our DMV Fund exceeded our projections by 8.7 percent. The main driver of that is associated with the continued increase in the number of registered vehicles. The other things are, as you can see there, oversize/overweight permits and the impact to titles from
Hurricane Harvey which we just talked about.

The processing and handling fee, I'll just say this, even though our overall DMV Fund increased, it was above projections, the processing and handling fee is pretty much what we had assumed it would be, so the driver is really not the processing and handling fee, it's really oversize/overweight and our registrations.

This is a comparison of our DMV Fund revenues versus our expenditures, and the balance still continue to exceed our obligations, and the fee collections totaled $179 million. That's including $12 million in collections for fees for credit cards and other kind of obligations such as that. The expenditures totaled $123.8 million, and that leaves us with a balance of about $97 million, which was higher than what we had talked about before.

When we add in encumbrances which are obligations that are reserved, when you put in a purchase order you reserve the fund, we call those encumbrances, we had not been including those before because we were just showing you cash, what comes in, what goes out, cash is cash. But now we have to include those encumbrances because those things will still happen before we finish closing out our books, so what you add that in, it brings down our balance to about $85 million, but that's still above what we thought it would be. The main drivers for
that are basically the fact that we had higher revenues
plus there were some things that we budgeted for that
didn't happen, and we'll talk about that in a few minutes.

My Plates continues to provide more revenue to
general revenue. $6.6 million has been added to general
revenue since the August 2017 guarantee was met. So they
have to meet a certain guarantee of $15 million, then
we've done another $6.6- in addition to that.

Moving on to expenditures, our operating budget
expenditures and encumbrances totaled $138.2 million for
79 percent of the approved budget. Most of our operating
costs are in salaries, professional fees and other
operating expenses, as we call it. The other operating
expenses are primarily to support the agency's core
mission which is contract services for plate production
and printing and mailing of vehicle registration and
renewal information, so that's what's really in that
operating expense bar, that's what's driving that number.

Also included is capital budget, and most of
that is pretty much in professional fees, and that's $24.2
million, and I have a graph right here for that. Much of
that is allocated to our automation projects, our
expenditures for automation. That's about $13 million.
And the other technology projects, most of that is our
data center services contract with the Department of
Information Resources, and that's about $7.8 million.

And if you need any additional information on the capital budget, that begins on page 191.

So finally, just to kind of talk about our year-end budget balances, we ended the year at 8/31 with $38.7 million in budget balances. $16.7 million of that is capital budget balances that we can carry forward to '19, so that leaves us with about $21 million. The biggest portion of that is salary lapse, we have vacant positions. We also, as Linda mentioned a minute ago, we saved $1.3 million because we didn't have to go outside to relocate Bull Creek, we could relocate them here on the campus, so we saved $1.3 million for that.

We had some savings because of license plate production, we kind of ramped down on that a little bit, about $3.7 million. We still have a 12-month inventory of license plates, so we just didn't spend that money because pretty much of it is just capacity, we don't have a place to store all those license plates, so we just saved on that.

And then we had another $1.8 million related to the Rider 6 for My Plates vendor payments, and that is based on the revenue that comes in for My Plates and then we pay it out to the vendor for the advertising and all of that kind of thing, and so it's kind of revenue neutral,
so as the revenue goes down, the expenditures go down.

But the legislature gives us authority to spend up to a certain amount and if you don't spend that amount, you have to kind of use that as a lapse, so it's really authority that's lapsed.

The operating budget balance, that $20 million, also includes $4.5 million in headquarters maintenance that we asked for last biennium that we haven't been able to spend because we're still working with TxDOT to take over this facility. We have submitted a request to the Legislative Budget Board to be able to carry forward $2.2 million of that and we're still waiting to hear from them on that, we're hoping to hear from them on that very soon.

So any remaining funds that remain in our budget, those go back to the DMV Fund and that money is used to support our appropriations request that we just asked for, so the fact that we have money in our fund means that we will be able to request that money to finance our appropriation, so the legislature will use that money to finance any exceptional items they give us or any baseline items.

And that concludes my presentation. Questions?

MR. TREVIÑO: Ms. Bankhead, Ms. Flores, does the state or anybody pay a rate on our cash balances? Is there a cash management program in place through the
state? Because these are significant balances.

    MS. FLORES: Yes, sir. The state's treasury
department has a staff associated with cash management.
We are able to earn and retain our interest earnings on
that fund balance, so that is included in our
miscellaneous. And that is unusual, most funds are not
allowed to retain their interest earnings, so the fact
that this fund does is a good thing.

    MR. TREVIÑO: Great, excellent.
And the P&H fee, the online renewals didn't

    MS. FLORES: No, sir.

    MR. TREVIÑO: Any thoughts on that?

    MS. FLORES: Actually, we are taking an
approach to survey, if you will, put out a survey in order
for us to explore why we are not getting the adoption
rates that we had hoped to achieve. I think we're like at
18 percent and we were hoping by now to be north of 20-
something percent adoption rate. I know the executive
office is working to put together a survey to help us
understand why the public is not using the online
approach.

    MR. PALACIOS: Thank you, Ms. Bankhead and Ms.
Flores, for your presentation on the fourth quarter
financial summary.
Are there any questions on this issue?

(No response.)

MR. PALACIOS: Thank you very much, ladies.

Okay. We are now going to move on, we're going to go out of order here, we're going to go into executive session and save agenda item number 12 until after we return from executive session.

So we're going into closed session now, it is 10:03 a.m. on October 4, 2018. We'll go into closed session under Texas Government Code Sections 551.071, 551.074 and 551.089. For those of you in attendance, I anticipate being in executive session for about an hour. We'll reconvene in open session after that.

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

(Whereupon, at 10:03 a.m., the meeting was recessed, to reconvene this same day, Thursday, October 4, 2018, following conclusion of the executive session.)

MR. PALACIOS: It is approximately 11:54 a.m. on October 4, 2018, and the Board of the Texas Department of Motor Vehicles is now in open session. We want to note that no action was taken in closed session.

All right. So let's move on now to the last agenda item, item 12, Projects and Operations. Mr. O'Quinn and Mr. Menke.
MR. O'QUINN: For the record, Jonathan O'Quinn. I'm the deputy chief information officer, and today I'll be speaking on item 12.A.

MR. BARNWELL: Can you speak up just a little bit, please, sir?

MR. O'QUINN: How's that?

This agenda item is related to the kiosk project. This project will pilot self-service kiosks around the state that would process registration renewals and actually print registration stickers onsite. The top two goals for this is to better serve the citizens of the State of Texas by offering registration renewals outside of normal business hours, as well as to reduce wait times for county offices during those regular business hours. This project will gather data for approximately a year during the course of the pilot to substantiate the findings and to prove out the benefit to the citizens of Texas.

Staff have been working on the request for proposals and have informed us that they anticipate completion of the RFP in the coming weeks. So in preparation for that, this agenda item request is to request decision to delegate signature authority to the executive director to solicit bids for, negotiate, execute, award and sign the contract, renewals or
amendments of the kiosk project contract at an amount not
to exceed any appropriation continued in the current state
biennial budget for this item.

    I can give you some additional background and
answer questions. If not, I'd like to ask for approval.

    MR. PALACIOS: Okay. Are there any questions
for Mr. O'Quinn?

    (No response.)

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

    MR. TREVIÑO: I think it's a great idea to try
and improve customer service using this process, so I
commend you guys for going through the exercise. So with
that, I would like to move that the Board approve the
delegation of signature authority to the executive
director, after consultation with the Board chairman, to
solicit bids for, negotiate, execute, award and sign the
contract, renewals or amendments of the kiosk pilot
contract, at an amount not to exceed any appropriation
contained in the current state biennial budget for this
item.

    MS. HARDY: Second.

    MR. PALACIOS: Okay. We have a motion by Board
Member Treviño, a second by Board Member Hardy to approve
the delegation of signature. All those in favor please
signify by raising your right hand.

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

Thank you, Mr. O'Quinn.

Mr. Menke.

MR. MENKE: Good morning. For the record, Tim Menke. I'm the director of the Compliance and Investigations Division. I want to thank the Board for giving me an opportunity to give a quick update on activities in CID, which is the Compliance and Investigations Division.

Just a quick reminder, there are two sections within the division. The one section on the compliance side has to do with our field service representatives. They ensure compliance within tax assessor-collector offices, look for vulnerabilities, work with the tax assessor-collectors on best practices. On the other side of the division we have the special investigations section, with a criminal intelligence analyst and investigators. They engage in criminal investigations, not only internally but also working with our stakeholders, our law enforcement partners.

Our hiring has been completed, as Ms. Flores mentioned earlier; we were fully staffed as of June. We had one backfill in El Paso because we have an FSR
promoted to manager. That backfill has been completed and that person will start very soon. She's a retired DPS agent, so we've got some quality people coming onboard.

Our internal training is on track, is on schedule. We had all of our staff come in in July for a three-day training section. It was kind of a 101 training to expose them to some of the new data that they will be looking at. That coincided with the first release of the three scheduled releases of reports focusing in on fraud and outliers. That project is also on track and under budget, and we expect the total of nine COGNOS reports that will assist our investigators to be completed by 12/31.

A second release is expected to go out next week and that is on time, and we will have some additional training for our investigators and FSRs in January once the total release takes place. That will be intermediate training.

They will then go back and conduct further investigations and field reviews, and then advanced training will take place in July of next year to implement some of the new tools that Ms. Flores had talked about that we expect to procure in the near future.

We've had regular contact with law enforcement stakeholders, especially the fusion centers. Because we
only have four investigators and a lead investigator, it's important to get the word out to the law enforcement community that we exist and we're here to help them, and the best way to do that is through the fusion centers because federal, state, local law enforcement have access to the eight fusion and intelligence centers throughout the state, and by working closely with the fusion centers, we can leverage our information and our background so law enforcement can access it and know that are there to help them.

And the word is getting out. Just since June 1, after we were fully staffed, we've had nearly 300 requests for assistance from law enforcement. That request includes assisting them with records checks, interviewing subjects, providing information for affidavits for probable cause for search and arrest.

Our investigators have been involved in about a dozen search operations, they've been involved in over 20 arrests, not that they're actually laying hands on and arresting folks because we don't have commissioned authority, but providing information necessary for probable cause for those arrests.

We've established a law enforcement working group. That working group met for the first time in July, we will meet again October 23. We have representation
from state, county, local law enforcement, some of the federal law enforcement includes FBI, Secret Service, Homeland Security, all the fusion centers, major metropolitan police departments.

We also have representation from the Department of Public Safety, criminal investigations division, patrol division, driver's license division, and we just touch on topics of their interest so that we have law enforcement input as we move further with the operations of CID, and it's important to have that input.

The types of investigations we're conducting are numerous. Our three main priorities, if you recall, are public safety, public corruption, and return on investment, and that drives our decision-making process when accepting cases to work.

Our portfolio, Ms. Flores mentioned earlier, was approximately $8 million. That's increased in the short time since I provided that information, we're well over $12 million -- well over $10 million, close to $12 million in the schemes associated with the investigations we're currently investigating.

Those areas include odometer rollbacks, title registration fraud, we have some public corruption cases, we have internal criminal investigations, as well as investigations regarding tax assessor employees.
inappropriately and intentionally misusing equipment. So there's a full variety of investigative activity.

Our field service representatives are also very busy. Just since August 1 they've conducted 165 tax assessor office reviews, and that's with only ten. We had on FSR out on maternity leave and we had one backfill, so basically we had ten FSRs conducting that type of work. That puts us well on track for 900 to 1,000 tax assessor-collector office reviews within the year.

So that's just a brief overview as to where we stand. I'm comfortable where we are on our projects; we are on time and under budget. And I'd be happy to answer any questions.

(General talking and laughter.)

MR. PALACIOS: Thank you for your briefing, Mr. Menke.

MR. MENKE: Thank you.

MR. PALACIOS: Really appreciate it.

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

MR. PALACIOS: Yes.

MS. BREWSTER: I just want to commend Tim and his team. Tim has done a great job getting this office set up in a very short amount of time and they have really hit the ground running, and what it shows me is, one, we have a great group of people in our Compliance and
Investigations Division, but two, it's very needed. And so I just want to publicly thank Tim and the rest of the Compliance and Investigations Division for the work that they're doing.

MR. MENKE: Thank you.

MR. PALACIOS: Thank you very much.

Okay. Let's move on now. We won't have another executive session.

Public comment, I've not received any comment cards for anyone wishing to provide public comment. So give that, I think we're on item number 16, so at this point I will entertain a motion to adjourn this meeting.

MR. PREWITT: So moved.

MR. TREVIÑO: Second.

MR. PALACIOS: Not so fast. Meeting adjourned.

(Whereupon, at 12:05 p.m., the meeting was adjourned.)
CERTIFICATE

MEETING OF:   TxDMV Board
LOCATION:    Austin, Texas
DATE:        October 3, 2018

I do hereby certify that the foregoing pages, numbers 1 through 102, 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 11, 2018

/s/ Nancy H. King
(Transcriber)

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