TEXAS DEPARTMENT OF MOTOR VEHICLES
BOARD MEETING

Thursday,
February 8, 2018

Lone Star Room
Building 1
4000 Jackson Avenue
Austin, Texas

BOARD MEMBERS:

Raymond Palacios, Chair
Blake Ingram, Vice Chair
Robert "Barney" Barnwell, III
Luanne Caraway
Brett Graham
Kate Hardy
Gary Painter
Guillermo "Memo" Treviño
Johnny Walker
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   - Advisory Service on Law Enforcement Training Oversight by Tx. Commission on Law Enforcement (TCOLE)

RULES - ADOPTION
Title 43, Texas Administrative Code

9. Chapter 209, Finance
   New, §209.24
   (Relating to charges for public information)
   (Proposal Published November 10, 2017 - 42 Tex. Reg. 6346)

10. Chapter 210, Contract Management
    Amendments, §210.22
    (Relating to the Historically Underutilized Business Program)
    (Proposal Published November 10, 2017 - 42 Tex. Reg. 6347)

11. Chapter 215, Motor Vehicle Distribution
    Amendments, §215.210
    (Relating to compliance with order granting relief for warranty performance obligations)
    (Proposal Published November 10, 2017 - 42 Tex. Reg. 6348)

12. Chapter 215, Motor Vehicle Distribution
    Amendments, §215.144
    (Proposal Published December 22, 2017 - 42 Tex. Reg. 7366)
    Chapter 217, Vehicle Titles and Registration
    Amendments, §§217.71-217.73; and New, §217.74
    (Proposal Published December 22, 2017 - 42 Tex. Reg. 7372)
    Chapter 221, Salvage Vehicle Dealers, Salvage Pool Operators and Salvage Vehicle Rebuilders
    Amendments, §221.72
    (Proposal Published December 22, 2017 - 42 Tex. Reg. 7378)
    (Relating to document retention requirements for users of webDealer, including webSalvage)

13. Chapter 217, Vehicle Titles and Registration
    • Amendments, §217.2
    (Relating to clarification of definitions of All-Terrain Vehicle (ATV) and Recreational
Off-highway Vehicle (ROV))
  (Proposal Published December 22, 2017 - 42 Tex. Reg. 7369)
  • Amendments, §217.41
    (Relating to HB 1790 on application for new disabled placard following seizure of placard)
    (Proposal Published December 22, 2017 - 42 Tex. Reg. 7371)
  • Amendments, §217.123 and §217.124
    (Relating to charges for motor vehicle records; waiving fees for governmental entities)
    (Proposal Published December 22, 2017 - 42 Tex. Reg. 7375)

14. Chapter 217, Vehicle Titles and Registration
Amendments, §§217.43, 217.45, and 217.46
(Relating to amending registration expiration dates to 12 months for consistency)
(Proposal Published December 1, 2017 - 42 Tex. Reg. 6777)

15. Chapter 217, Vehicle Titles and Registration
Amendments, §217.168 and §217.185
(Relating to petition for rulemaking on dealer deputy compensation)
(Proposal Published November 10, 2017 - 42 Tex. Reg. 6351)

16. Chapter 217, Vehicle Titles and Registration
Amendments, §217.54
(Relating to HB 1793 - modifying the language regarding the payment of inspection fees and SB 2075 - clarifying the situations in which the one-time fee is due)
(Proposal Published November 10, 2017 - 42 Tex. Reg. 6349)

17. Chapter 219, Oversize and Overweight Vehicles and Loads
(Relating to modernizing the permitting process via electronic submissions and rule language cleanup)
(Proposal Published November 10, 2017 - 42 Tex. Reg. 6353)

RULES - PROPOSAL
Title 43, Texas Administrative Code

18. Chapter 217, Vehicle Titles and Registration
Amendments, §217.122 and §217.123
New, §§217.125 - 217.130
(Relating to motor vehicle record information and DPPA)

19. Chapter 218, Motor Carriers
Amendments, §218.13
(Relating to the requirement for sole proprietor applicants to scan a copy of their identification document into the eLINC system, as well as rule language cleanup regarding HB 3254)

20. Chapter 219, Oversize and Overweight Vehicles and Loads
(Relating to definitions and clarification of statutory language)

EXECUTIVE SESSION

21. 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:
   • Section 551.071
   • Section 551.074
   • Section 551.089

22. Action Items from Executive Session
none

23. Public Comment
none

24. Adjournment
131
MR. PALACIOS: Good morning, everybody. It's a great day in Austin, Texas. So happy to have everyone here with us today.

My name is Raymond Palacios, and I'm pleased to open the Board meeting of the Texas Department of Motor Vehicles. It is 8:01 a.m., and I'm now calling the Board meeting for February 8, 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 the Secretary of State on January 31, 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's administrative rules, 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 then
red when your time is over. Individuals cannot accumulate
time from other speakers. Comments should be pertinent to
the issues stated on the comment sheet. When addressing
the Board, please state your name and affiliation for the
record.

Before we begin today, I'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 the authority to supervise the conduct of the
meetings. This includes the authority to determine when a
speaker is being disruptive of the meeting or otherwise
violating the timing or presentation rules I just
discussed.

And now I'd like to have a roll call of the
members to establish a quorum.

Board Member Caraway?

MS. CARAWAY: Present.

MR. PALACIOS: Board Member Graham?

MR. GRAHAM: Present.

MR. PALACIOS: Board Member Hardy?
MS. HARDY: Present.

MR. PALACIOS: Board Member Ingram?

MR. INGRAM: Present.

MR. PALACIOS: Board Member Painter?

MR. PAINTER: Present.

MR. PALACIOS: Board Member Treviño?

MR. TREVIÑO: Here.

MR. PALACIOS: Board Member Walker?

MR. WALKER: Here.

MR. PALACIOS: Board Member Barnwell?

(No response.)

MR. PALACIOS: Let the record reflect that Board Member Barnwell is absent today. And also let the record reflect that I, Raymond Palacios, am here too. We have a quorum.

Now I'd like to continue with the tradition we started at the last Board meeting. Would you please rise to honor our country with the Pledge of Allegiance.

(The Pledge of Allegiance was recited.)

MR. PALACIOS: Thank you.

We'll begin today with agenda item 3.A, Section 1001.023 of the Transportation Code sets out the duties of the Board chair and vice chair. One of the duties of the chair is to report to the governor on the state of affairs of the department. The report is in a final draft and
will be submitted to Governor Abbott very soon. This report includes updates on the agency's key accomplishments, revenues, expenditures, 2017 performance data, operations, facilities, technological improvements through enterprise projects, and significant legislation enacted by the 85th Legislature. The report will be distributed to legislators as we meet with them and their staff.

Board members will be provided a hard copy once the report is complete and submitted. It will also be posted on the agency website, both external and internal, for all to access and read. Please reference the report whenever you need to communicate to others about the agency, as well as information on where the report can be found. On the public website at the bottom of the page it will be located under Learn More and Reports and Data.

All right. Moving along here. I'm very happy to announce the hiring of our new Board liaison. Her name is Carrie Fortner, and she's here with us today. In her new role she'll be assisting the Board with daily administrative support, research and communications. Carrie's first official date will be on Monday, February 12. She's here today. Carrie, where are you? There she is.

All right. Welcome, Carrie. So happy to have
you here.

(Applause.)

MR. PALACIOS: Carrie joins us from the Department of Public Safety where she spent the past six years providing communications, training and legislative support for controlled substance, handgun licensing, metals recycling and vehicle inspection. Her prior state agency experience includes working with three state boards focused on criminal justice policy, criminal street gang identification and the private security industry. Before her state service, Carrie worked in media and advertising. She is a seventh generation Texan and a graduate of the University of North Texas.

Again, welcome, Carrie. We look forward to working with you.

Now, with that, I will turn this now over to our esteemed executive director, Whitney Brewster, for her report.

MS. BREWSTER: Thank you, Chairman Palacios.

If acceptable, I'd like to start with item 4.B.

MR. PALACIOS: Sure.

MS. BREWSTER: My update regarding the ongoing Sunset review will be rather brief today, but because this is such an important effort within the agency, I just want to make sure that the Board and interested parties are in
the know when it comes to this important effort.

Our staff is continuing to meet with the Sunset Commission on a regular basis to answer their questions and to provide information that they request from the agency. We are still in the Sunset staff evaluation phase, and that will result in a Sunset staff report that we are still expecting sometime in April, is what we've been told. The staff report will identify any problem areas, make specific recommendations for positive changes, either to laws governing the agency's operations or in the form of management directives to agency leadership.

Once that phase is complete, the Sunset Commission will conduct a public hearing to take testimony on the staff report and the agency overall. After that, the commission will meet again to vote on what changes they will ultimately recommend to the legislature. At this time we're not sure about the timing of those hearings but we will certainly keep you updated as we learn any additional information.

I will say this continues to be a positive process for the department, and we are anxiously awaiting any recommendations that come from Sunset on agency improvements, really looking forward to those things.

With that, I'm happy to answer any questions on this item.
(No response.)

MS. BREWSTER: All right. I will move on to item 4.C, hurricane response efforts.

As of January 29, we have issued 379 emergency relief permits, and this allows overweight vehicles to deliver supplies to and remove debris from designated disaster areas.

A little information on expenditures. As of the end of December, we have spent approximately $191,000 related to Hurricane Harvey efforts, and that includes salaries for additional temporary employees, overtime, as well as materials, specifically consumables for titling.

Also, just a little bit of information about our temporary employees. We did have a total of 21 temporary employees to assist with efforts, they are hired in October, and they were to assist with the increased volume of title applications that we were receiving and to ensure that the department complies with the statutory to issue titles within five days of receipt — five days of application. Applications were processed at an average of four days in October, three days in November, and four days in December.

The volume of applications continues to decrease from the peak season in October, and we have now scaled back to having about six temporary employees on
board to help process the increased number that we're still seeing. We're not seeing as many but it still is an increased amount that are coming into the agency.

As of December 31, actually as of Friday, we had received just at 300,000 salvage and non-repairable applications, and actually, that's the number that has been issued by the agency. The department observed an average percent increase of 131 percent in salvage and non-repairable title applications for the months of October through December, when compared to the same period in 2016.

MR. WALKER: What was the percentage?
MS. BREWSTER: To the same time period in 2016, October to December.

MR. WALKER: What was the number?
MS. BREWSTER: 131 percent increase.

MR. WALKER: 131 percent?
MS. BREWSTER: Yes, sir.

Ms. Flores will get into revenue collections later on in her presentation, but with that, I will conclude my comments and try to answer any questions that the members have.

(No response.)

MS. BREWSTER: I am very pleased to announce the hiring of Timothy Menke.
Tim Menke, if you don't mind standing up and
letting everybody see your face.

He is our new director of the new Compliance
and Investigations Division for the department. If the
Board will recall, we received a legislative appropriation
to create a special investigations unit, which we are
calling the Compliance and Investigations Division, to
help strengthen the agency’s efforts to prevent and detect
fraud and better ensure compliance with statute and
regulations. The division will process complaints and
investigate allegations of fraud related to motor vehicle
title and registration, provide greater support for law
enforcement, and work on compliance with both our service
centers as well as the tax assessor-collector offices to
ensure better compliance, again, with statute and
regulation.

Prior to joining TxDMV, Tim served as vice
president for program integrity for Meridian Healthcare
Solutions, and was responsible for designing programs to
eliminate fraud, waste and abuse in federal contracts and
ensuring compliance with federal and state regulations.
He also has served as the assistant deputy inspector for
investigations for the Texas Health and Human Services
Commission, and he is a 26-year veteran of being a federal
agent, specializing in fraud investigations at the United
States Department of State and United States Department of Health and Human Services. He was also the deputy inspector general at HHS. So Mr. Menke has great experience, we're really lucky to have him on board.

He has already hit the ground running, he's met with county auditors, he's met with tax assessor-collectors, law enforcement, and bridging that communication gap between the agency and law enforcement so that we can better investigate the criminal activities that are going on across the state as it applies to the items that I mentioned.

So I want to extend a warm welcome to Tim, and if you'll join me in welcoming him, that would be great. Thank you.

(Applause.)

MR. PALACIOS: I'd just like to follow up and welcome you, Tim, to this agency. This is a very, very important step in the history of this agency in fulfilling its mission, and this is remarkable that Tim was able to come on board to begin this new division of the agency in light of the legislature that we had last session in which there were budget cuts throughout the state, but in spite of that, I have to commend the legislature, the members of the DMV and this Board for pushing this forward. It just highlights the importance of what we're doing here at DMV.
in protecting our stakeholders, protecting citizens throughout Texas.

This division will pay great dividends, and we're very, very exciting to have you on board, Tim, and know we're going to do great things. So welcome.

MS. BREWSTER: At this time we'd like to recognize our recent retirees and employees who have reached a state service milestone. We celebrate these employees as a show of our appreciation for their years of service to the citizens of the State of Texas.

I want to welcome the family and friends of our celebrants who have joined us this morning. We very much appreciate the support that you have provided over the years by sharing your loved ones with our agency.

Martha Yancey, from our Human Resources Division, will read the announcements.

Chairman Palacios and Board members, if you wouldn't mind joining me at the front of the dais.

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

And today we have an employee who has reached a state service milestone of 35 years, Linda Kirksey.

(Applause.)

MS. YANCEY: Linda currently serves in the Vehicle Titles and Registration Division as the
department's chief of registration. Linda started her career at the Wichita Falls Regional Service Center where she served for 20 years. She left Wichita Falls to assume her current position where she has served for 15 years and has the distinction of being the longest tenured chief of registration in TxDOT and TxDMV history.

We thank her for her dedication and congratulate her on her 35 years of state service.

(Applause; pause for presentation and photos.)

MS. YANCEY: Now, the following employees also reached a state service milestone but were unable to join us this morning. 20 years: Tana Keeling, Human Resources Division; 25 years: Jennifer Schrier, Consumer Relations Division; Sara Byers, Motor Carrier Division; Brenesa Brown, Vehicle Titles and Registration Division; 30 years is Tammy Briggs, Information Technology Services Division.

And last, employees who recently retired from the agency are Terri Tuttle Moyer, and Todd Pederson.

Thank you.

(Applause.)

MS. BREWSTER: Mr. Chairman, that concludes my report.

MR. PALACIOS: Thank you, Ms. Brewster.

MR. TREVIÑO: Mr. Chairman, I've got a question for Ms. Brewster.
Whitney, have we seen an increase in fraud
around salvage and flooded vehicles after the hurricane?

MS. BREWSTER: Member Treviño, we know that
that exists. Certainly I would defer that question
specifically to either our Enforcement Division director,
Corrie Thompson, or our division director, Jeremiah Kuntz,
with Vehicle Titles and Registration.

I can tell you after an event like Hurricane
Harvey, we are very conscientious of the fraud that
occurs, and that's why we have taken great efforts to
educate the public as best we can. We've developed an
insert that goes in the renewal registration notices to
encourage people to make sure they are getting that
vehicle both inspected and doing a title check, which is
the ability for a consumer to go to the agency's website
and type in the VIN of the vehicle that they are
considering purchasing so that they can see whether or not
that vehicle has a brand on it.

I can tell you the primary reason why we
brought on those additional temporary employees, in
addition to meeting the statutory requirement, is to get
as quickly as possible in the registration and titling
system the brands that are associated with those vehicles
so that people aren't purchasing those unknowingly, those
flooded vehicles. But specifically to your question,
Member Treviño, you have two very capable folks up there to answer your questions.

MS. THOMPSON: Good morning, Chairman, Board members. For the record, Corrie Thompson, director of Enforcement.

I will say that in response to Hurricane Harvey we have not seen an overt increase in the number of complaints received on flood vehicles to date. That's not to say that we will not see that in the future, but to date we have not seen an increase.

MR. TREVIÑO: Great. Jeremiah, anything?

MR. KUNTZ: I would echo what Ms. Brewster conveyed which is the best way to prevent that from happening is for all of those salvage titles to be entered into our database so that we can brand those titles and prevent an unknowing person from purchasing that vehicle and having no clue that it had been involved in a flood.

There's obviously vehicles that are going to be flood vehicles that don't apply for salvage titles. We had this testimony actually in the House Transportation Committee yesterday, this topic came up, and one of the things that we relayed to the committee is that in an insurance claim where there is a full coverage insurance policy, we are highly confident that the insurance companies are bringing those vehicles in to get salvage
titles so that they can dispose of those vehicles properly. However, individuals that do not have full coverage insurance, that have some lower level liability insurance or no insurance, it is very difficult to compel those folks to come in and actually apply for a salvage or non-repairable vehicle.

That's really where the main risk is associated with flood vehicles, and what we have got on our website are tips for anybody that's purchasing a vehicle for things to be on the lookout for: rust in the seatbelts, any definitive water line that you can see on the door panels or on the outside of the vehicle. One of the other telltale signs that we see a lot of times is a vehicle that has been overly cleaned. Somebody that has gone painstakingly through and detailed a vehicle very well may have been a flood vehicle because they were trying to clean it up to get all of those telltale signs out of there.

We always highly encourage anybody that's purchasing a used vehicle to bring it to a mechanic and ensure that they have that vehicle fully looked through, check the oil to make sure that there's not any water that's showing up in the oil, in the transmission fluid, those places, because those would be other indicators that something had happened to that vehicle.
MR. TREVIÑO: Great. Thank you very much.

MR. GRAHAM: Quick question. Where on our site -- you talked about the tips for consumers, where on our site do we post that?

MS. THOMPSON: There's actually a smart buyer series house on our website. If you go to the search box at the top right of TxDMV.gov and you were to type in smart buyer, you would return a number of series of documents for helpful tips for buyers. In addition to the flood vehicle documentation, we also have one on odometer fraud, vehicle repairs, tips for buying new vehicles, tips for buying used vehicles. Flood damage is in there as well.

MR. GRAHAM: Thank you.

MR. WALKER: Can those salvage titles not be converted back to a normal title once they've been ASE certified?

MR. KUNTZ: So there's two titles that result out of this flood event. So we have salvage vehicles. A salvage vehicle, the repairs exceed the cash value of that vehicle, so the example I would give is a $5,000 vehicle that has an estimate of repairs of $5,200, that would be considered a salvage vehicle. It can be rebuilt, it has to go through the rebuild process, you have to demonstrate during the rebuilt application process receipts and
repairs that were made to that vehicle to show that you have brought it back to roadworthiness, and it must pass a vehicle safety inspection. A non-repairable vehicle, however, the only residual value of that vehicle is as scrap or parts, and those vehicles cannot be repaired and can never be registered for operation back on the roadway. We definitely have quite a number of non-repairable vehicles that are coming out of the Harvey event. Those vehicles are heading to the scrap yards to be parted out or to be crushed.

MR. PALACIOS: Just to be clear on Board Member Walker's question, if that vehicle is repaired, it goes from salvage to the next phase, it's still a branded title.

MR. KUNTZ: Even though you receive a blue title through the rebuilt process, that blue title still carries the rebuilt salvage brand on it, so any subsequent buyer will still be able to see that at some point in time that vehicle was salvage but it was repaired and brought back to life.

MR. PALACIOS: Okay. In a case in which a vehicle is not insured, I know there are -- well, let's go to a vehicle that is insured, there are third party companies, Auto Check, the other one I don't remember, where a consumer can go and determine whether or not a
vehicle has been either salvaged or it's branded. Is there any other way within our database that a consumer can go to to verify whether or not a VIN number has a salvage title on it?

MR. KUNTZ: So with our participation in NMVTIS, we actually have on our website the approved vendors that provide title histories or I guess the title checks. There's a nominal fee, I believe it starts at like $2.99, some of them are maybe as high as like $7, but for that they will give you information about those vehicles. Some of the ones that you see commercials for all the time are CARFAX, so you can go on our website, we have links to those particular companies that provide those records that are certified through the Department of Justice to provide that information. Some of those companies provide just our data, some like Car Fax will also aggregate other data to give you potential odometer fraud readings, those kinds of things. So yes, that's where we direct folks to do those title checks.

MR. WALKER: So, Jeremiah, there's hundreds of thousands of cars a year, regardless of the flood or not, that go from Texas down to Mexico, so is there any protection for a Mexican citizen that a car leaves here, gets shipped down to Mexico and sold down there, do they know it's a flooded car or not?
MR. KUNTZ: Well, I can't speak to Mexico's title requirements. I know that once we've issued a salvage or non-repairable title, I'm not sure if Mexico requires that that title be presented there in order to obtain ownership documentation in Mexico, but that would be available to them.

MR. WALKER: But let's say I don't go get a salvage title, let's just say that my car was flooded and I take it to auction and it sells at auction regardless of a salvage title or whatever, and now somebody from Mexico buys that car and ships it down to Mexico.

MR. KUNTZ: I wouldn't be able to speak to what Mexico's requirements are.

MR. WALKER: So we don't know and we don't care what happens.

MR. DUNCAN: We can follow up on that, Member Walker, if you like.

MR. WALKER: I was just curious. I know a lot of cars go there.

MR. DUNCAN: My understanding currently, because we've had some issues with this, is that the Mexican government has instituted a block such that vehicles cannot cross the border unless they are currently operable in the country of origin. So it can't go from Texas to Mexico if it's inoperable, it has to have current
registration and be operable, but I could check on that
just to be certain and we could get you a report.

MR. WALKER: You can still have current
registration on it and still ship it to Mexico if it's a
flooded car.

MR. DUNCAN: If it's non-rebuildable salvage --

MR. WALKER: No, no. If it was flooded, it
still has an operable title to it.

MR. DUNCAN: If it had a blue title, yes.

MR. KUNTZ: If it did, yes. Now, the one thing
I will say, as far as Texas is concerned, once a vehicle
leaves the United States, it has been exported, we brand
those as export only and that is the same in our mind as a
non-repairable vehicle at that point. Even if it leaves
the United States in an operable state, those are branded
as export only and they cannot come back into the United
States and be registered back in the United States.

MS. BREWSTER: Mr. Chairman.

MR. PALACIOS: Yes.

MS. BREWSTER: To address Member Graham's
question about where on the website, in addition to typing
in Smart Buyer, you can also in the search bar type in
Hurricane Harvey, and it will pull up all information
related to the agency's efforts to assist consumers with
if their vehicle has been flooded what they need to do, as
well as how to obtain a title check.

    Thank you.

MR. PALACIOS: Thank you.

Any more questions on this issue?

(No response.)

MR. PALACIOS: If not, we'll move on to briefings and action items. So, Jeremiah, please stay where you are. We're going to move a little bit out of order. Since Jeremiah needs to be at the Capitol this morning for some legislative items that are before the House and Senate, so if there's no objection, we'll take items 7, 12 through 15 and 18 in order to accommodate Mr. Kuntz's schedule.

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

I'll start with item number 7.A. That is a new specialty license plate, we are seeking approval from the Board of two license plates. I'll start with the first one which is the Red Racing Stripes license plate. We received no negative comments. We did do a e-view on this, 260 individuals said that they liked the plate design and 51 did not.

One of the things that you'll see on this board also -- sorry, I should have started with this -- we have
added all of the plates so that you can see all of the
different plate designs. Historically we've only brought
the passenger vehicle plate to the Board for view, but
we've gone ahead and added all of the different plates so
you can see the design on all of the different options
that will be available for this license plate design.

The other thing that you will notice -- and I
will try and take this out really quickly -- is we have
included in your board packet this infographic which just
has some basic information in case you wanted to know some
basic information about the plate program, how many plates
we currently have, we've got that information for you so
that you can make an informed decision.

MS. BREWSTER: Mr. Chairman, that's on page 13
of the members' materials.

MR. KUNTZ: The next license plate is Route 66
license plate. We received 154 likes and 152 dislikes on
this license plate. One thing that I will note, there are
numerous other states that have a Route 66 license plate,
Arizona, Illinois, New Mexico and Oklahoma also have
variations of a Route 66 license plate. We have a very
small section of Route 66 up in the very northern part of
the State of Texas, but this would allow individuals that
are interested in a Route 66 license plate to obtain that
as well.
MR. WALKER: Are these all specialty plates from MyPlates?

MR. KUNTZ: These are MyPlates plates, yes. And that concludes my presentation.

MR. PALACIOS: All right. Is there a preference to take these all as a whole? If there's no objections, would someone like to make a motion?

MR. TREVIÑO: I move we accept these.

MR. PAINTER: Second.

MR. PALACIOS: We have a motion by Board Member Treviño and a second by Board Member Painter to accept the plates. All those in favor please signify by raising your right hand.

(A show of hands: Members Caraway, Graham, Hardy, Ingram, Painter, Treviño and Walker.)

MR. PALACIOS: All opposed.

(A show of hands: Member Palacios.)

MR. PALACIOS: Motion carries.

All right. Let's move on to the next item.

MR. KUNTZ: We'll take up agenda item number 12, I believe is the next one I have. These are rules that are for final adoption; we are seeking the Board's decision on final adoption of these.

These rules relate to the retention of original titles when a dealership or salvage dealer is processing
in our webDealer or webSalvage applications. These amendments are to Chapter 217 of our Administrative Code. They were published for public comment on December 22, the comment period closed on January 22, we received no comments on these rules. They already existed for dealers to retain the original title documents, we've added that for salvage dealers that are applying for salvage titles, and we've reorganized all of this into one area, so that's why the dealers are brought back into this where we tried to consolidate all of those record retention issues around webDealer and webSalvage into one area.

That concludes my presentation on agenda item number 12.

MS. CARAWAY: I move that the Board approve the adoption of amendments to Chapter 215, Chapter 217 and Chapter 221, and New Section 217.74, as recommended by staff.

MR. INGRAM: Second.

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

(A show of hands.)

MR. PALACIOS: Motion carries unanimously.

MR. KUNTZ: So the next agenda item is 13. There are three rules that I'll be covering here. All of
these are for final adoption and these are amendments to 217.2, 217.41 and 217.123 and 217.124.

The first are amendments to 217.2. These relate to the definition of an ATV and ROV.

These were clarifying amendments to our administrative rules that clarified that ATVs are intended for recreational off-highway use and it's for primarily recreational use, ATVs we amended for non-recreational use. There's a distinction there that we are trying to derive between those types of vehicles that are actually manufactured for off-highway recreational use or non-recreational use. This is to try and attempt to carve out those things like vehicles that you would see in an airport. We would not want to consider those an all terrain vehicle, and so we're trying to carve out that those are not for recreational use, those are for non-recreational use.

And these are for final adoption and we received no comments on these.

MR. PALACIOS: I have a question. So the effect being that these vehicles would not require registration or titling?

MR. KUNTZ: So on ATVs we require titling, they cannot be registered. We are specifically defining that recreational versus non-recreational use so that those
airport type vehicles would not be required to have a
title. We've had issues where people have inquired about
whether or not they required title or not.

MR. WALKER: Why do you call it an ROV if it's
at an airport?

MR. KUNTZ: So under the definitions in
statute, they potentially could fall under some of these
definitions, however, they're not ever used for
recreational use which is why we're clarifying that an ATV
is for recreational off-highway use. Technically, an
airport is off-highway but it's not recreational use and
that's why we're trying to further clarify that these only
apply to recreational use.

MS. HARDY: And these are the vehicles inside
the airport transporting people around the terminal and
passengers?

MR. KUNTZ: Exactly.

MR. WALKER: Not the tugs moving the airplanes,
not the luggage baggage carts.

MR. KUNTZ: No. Although those would still
fall outside those definitions.

MR. WALKER: What's the situation on them?

MR. KUNTZ: They're not going to be an ATV as
well, they're not recreational use.

MR. WALKER: Are they going to be titled?
MR. KUNTZ: No.

MR. WALKER: So you're going to title the ones that haul the people up and down?

MR. KUNTZ: No. That's that we're saying is those would not fall under that definition of an ATV, none of those vehicles would, they would not be required to be titled.

MR. WALKER: Okay.

MR. KUNTZ: The next rule under agenda item number 13 is amendments to 217.41. This is rules that were related to statutes that passed during the last legislative session, HB 1790.

We are cleaning up a process that we had for seized handicapped placards. There was an appeals process that existed prior to HB 1790 that required somebody that had their handicapped placard seized to appeal to the department in order to get it returned to them. It just created an administrative back-and-forth through letters.

What we have done here through HB 1790 is stated that if a placard is seized that an individual that is still entitled to that placard can reapply with the county tax assessor-collector to obtain a new placard, so they would have to just back through the process to reapply for a new placard.

MR. WALKER: So I get it that we issue those.
Number one is who seizes it; number two is if you've had it seized why wouldn't you just walk in the tax assessor office and say, Hey, I lost my tag, can I get a new one?

   MR. KUNTZ: That's what was going on and so that's why we have clarified this process. So in an example that I would have for you, a grandmother that has a right to use a handicapped placard, grandson uses the vehicle and parks in a handicapped spot, law enforcement seizes that placard, then the grandmother would still be able to go back into a county office and reapply to re-

   obtain a handicapped placard.

   MS. CARAWAY: And would that require a new doctor's statement?

   MR. KUNTZ: Yes. They would be reapplying as if they did not have a handicapped placard before.

   MS. CARAWAY: Starting over.

   MR. KUNTZ: Yes.

   MR. WALKER: What if that same grandmother walks into the office and says, I don't know what happened to my placard, it's just disappeared, now what happens?

   MR. KUNTZ: They would show whatever evidence they need to obtain a replacement.

   MR. PAINTER: I think, also, under this particular statute it says that a law enforcement officer that seizes a placard must email DMV to let them know what
MR. KUNTZ: Correct. And we've had a process by which they have notified the department in the past, and so they would continue to just notify the department so that we can mark those records. We've basically done away with somebody submitting an appeal to the department.

MR. WALKER: What do you do? If Jeremiah walks in and says I need a new placard, what do you do?

MS. CARAWAY: (Mic not on) Normally if it's been purchased in our county before and we have that doctor's permit, we're going to reissue the -- sorry.

(Mic on) We would not require a new doctor's permit, doctor's signature if it's lost, but if it's been seized, if it's been marked in the system, then we would.

MR. WALKER: So what has stimulated us to go about going through this procedure, what's created it? If it's been going on for a long time?

MR. DUNCAN: The process was not being followed. The process in statute was that the person who had their placard seized was supposed to come to us and request a hearing. In a handful of counties, the counties were directing the people to do that, and so we were getting large numbers from Bexar County, as I recall, somewhere in northeast Texas, Tyler, I think, so there was just a handful of counties that were actually following
the statute and everybody else was doing the practical you
come in and prove to me that you're entitled to a placard.
  So we really just wanted the statute to be more
streamlined and more effective because some people were
waiting months and months to get their placards back and
that doesn't make a lot of sense. And it was a paper
exercise, their appeal to us was a paper document and we
would respond with a paper order that they would sign and
agree to. It just really was not much of a hearing
process, it really wasn't worth going through it.

    MR. WALKER: It seems to me like we're
cluttering up the law books to take and fix a problem
that's really not a problem out there. I mean, common
sense tells you how to go get it done.

    MR. KUNTZ: From our perspective, we've cleaned
up the law books.

    MR. DUNCAN: Uncluttered it.

    MR. KUNTZ: We have taken a process out that
was not useful.

    MR. DUNCAN: Yes, and wasn't working. This
will be a lot easier. And everybody understands how to
get a placard because they got one in the first place.

    MR. KUNTZ: Part of the challenge that we had
with this process actually goes back to what Sheriff
Painter actually raised which was law enforcement was
required to notify us of a seized placard. In many instances what we would see is that a placard would be seized, the same day that individual would go into a county office to get a replacement, law enforcement hadn't even notified the department yet that the placard had been seized, so they would obtain a replacement before the seizure was even noted in the record and they would have short-circuited the whole process which is why we just said this process is not actually working the way it was intended to work.

MR. WALKER: I'll bet you we have no history of how many have been seized, do we?

MR. KUNTZ: We have history of how many have been seized that have been sent to the department.

MR. WALKER: And how many is that?

MR. KUNTZ: I would have to get the numbers on it.

MR. WALKER: I'd like to see that number.

MR. KUNTZ: We'll get them.

The next item?

MR. PALACIOS: Yes.

MR. KUNTZ: So the next item is amendments to 217.123 and 217.124. This relates to the charges for our motor vehicle records and title histories that we provide.

It also has provisions related to who can obtain those
documents from the department for free.

Basically we have waived the fees for

governmental entities and law enforcement. We have also
clarified the identification requirements for law
enforcement that are obtaining these records when they are
in their official capacity in a law enforcement
investigation. So we have outlined the different fees
that will be assessed. These fees are the same as what we
have been contractually utilizing when somebody was
obtaining our files. We had contractual fees so we are
codifying those in our administrative rules so that
everybody is fully aware of what fees they will be
assessed when they're obtaining our records.

We did receive one comment from the El Paso
County Tax Assessor-Collector relating to the credentials
that law enforcement must present. The question was
whether or not a business card from law enforcement would
suffice as law enforcement credentials. The answer to
that is no. Law enforcement credentials would be their
badge or their identification document that they have been
issued from their law enforcement entity. And so there
was no changes that were necessary in the rule in response
to that comment.

With that, that completes my presentation on

agenda item 13.
MR. INGRAM: Jeremiah, I have a quick question on the last item. Not knowing what the prices were previously and the fact that we're adding it now so it's for everyone to see, somewhere in the back of my mind I thought that on a per-pull use that this was going to be higher, but then now you're saying that it's exactly the same that we've been charging.

MR. KUNTZ: These fees that we have put in here are a codification of what was in our contracts for individuals that get like our weekly files. We did not have all of the different weekly files listed in the administrative rule and so that's why we've gone ahead and added all of those to our administrative rule.

MR. INGRAM: So then nothing has changed other than we're just putting it in black and white.

MR. KUNTZ: Correct. And you can see much of the strikeout language has been just moved over and the fees are all the same from what was stricken.

And my general counsel is reminding me, also clarifying who is getting those for free. We did not have a clearly defined administrative rule over governmental entities being able to obtain our records for free, through practice we did provide those records for free to governmental entities, and so we are codifying when they get our weekly files, they can get those for free. They
must data mine them themselves, however, if they are requiring the department to do either a batch inquiry or look up and do certified title histories that they would still have to pay for those services.

MR. WALKER: So we have already approved this for posting, this is for adoption.

MR. KUNTZ: For final adoption, yes, sir.

MR. WALKER: And so nothing has changed since we agreed to post. Right?

MR. KUNTZ: Correct. We received the one comment, that was it.

MR. PALACIOS: Are there any more questions on any of these three items under item number 13?

(No response.)

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

MR. TREVIÑO: Mr. Chairman, I move that the Board approve the adoption of amendments to Chapter 217, sections 217.2, 217.41, 217.123 and 217.124, as recommended by staff.

MR. PAINTER: Second.

MR. PALACIOS: Okay. We have a motion by Board Member Treviño, second by Board Member Painter to adopt the rules. All those in favor please signify by raising your right hand.
(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

Please proceed.

MR. KUNTZ: Agenda item number 14, this agenda item we are seeking approval for amendments to 217.43, 217.45 and 217.46. These are rules that were previously published, these are for final adoption.

What we are doing in these rules is clarifying some issues relating to license plates as well as trying to put all of our license plates -- we've had an ongoing effort over many years of trying to get all of our license plates onto staggered expiration dates. We still had many license plates that still expired in March, and so we are trying to continue that effort to move some additional license plates to an ongoing 12-month period that's staggered. So if somebody comes in in January, they would be issued 12 months of registration rather than coming in and only being able to renew in March.

We have also clarified certain license plates are not eligible to be personalized, that being the golf cart or package delivery vehicles. We are also clarifying that fertilizer license plates will only be issued one license plate instead of two.

We received no comments. The comment period closed on January 2.
MR. PALACIOS: Are there any questions on this item?

MR. WALKER: I have a question. Somewhere I read last night, and now I'm lost, that says we're adding fertilizer trailers to this with one plate for the back.

MR. KUNTZ: It's taking them out of being issued two license plates so that they'll only be issued one.

MR. WALKER: There was something I read last night that says that fertilizer trailers were exempt under another deal we're posting, and I don't remember what it was. It was talking about those in another statute we're passing that says they're exempt if they're being pulled down the highway from the farm to the farm, and for animal husbandry use under one of the areas. Wouldn't that be a conflict? I don't remember where it was now. Maybe I read it wrong, I'll just ignore it, but in one of my readings last night there as a mention of agriculture, animal husbandry equipment and exemptions when being used going from the farm hauling the stuff down the road to the next place.

MR. KUNTZ: I'm looking for it.

MR. PALACIOS: Board Member Walker, if this is an issue that would --

MR. WALKER: No, no. Let's just pass it and
I'll find it.

MR. PALACIOS: Okay. Because if it would influence your decision, we can defer this; otherwise, we'll move forward.

MR. WALKER: No.

MR. PALACIOS: All right. Are there any other questions?

(No response.)

MR. PALACIOS: If not, I will entertain a motion to adopt.

MS. HARDY: I move that the Board approve the adoption of the amendments to Chapter 217, Sections 217.43, 217.45 and 217.46, as recommended by staff.

MR. GRAHAM: Second.

MR. PALACIOS: Okay. We have a motion by Board Member Hardy, second by Board Member Graham to adopt the amendment. All those in favor please signify by raising your right hand.

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

Please proceed.

MR. KUNTZ: The next agenda item is agenda item number 15. These are amendments to 217.168, 217.185. These are rules that are for final adoption; staff is seeking approval for these.
These rules relate to the processing and handling fee as it relates to a dealer deputy. When the processing and handling fee was originally passed, $1 from the processing and handling fee was able to retained by a dealer deputy when a dealer deputy processed the transaction. This rule would allow for that $1 to go to the county tax assessor-collector, bringing their compensation from $1.30 to $2.30, as it is for walk-ins, mail-ins and other transactions that they process.

We did receive comments on this, all of the comments received were in favor of the adoption. We received comments from eight tax assessor-collectors and seven dealer associations around the state, which included also the Texas Automobile Dealers Association and various sub-associations for the individual cities or areas around the state.

The one thing I will note on this rule is relating to the actual implementation date of it. In order to fully implement this provision of the administrative rule, the webDealer application has to be programmed in order to handle that the dollar is going to the county rather than being retained by the dealership. In order to accomplish that, the department anticipates the publication of the adoption by April of 2018 in order for us to make sure that it aligns with the webDealer
application changes that are necessary to fully implement this rule.

MR. DUNCAN: And so just to let you all know the mechanics of that, the way rules become effective in Texas is they're effective 20 days after you send them to the Texas Register for publication, so we anticipate in this case that what we would do is upon the Board's approval we would sit on the package basically until VTR and IT tell us yes, the programming is going to go, it's going to be effective, then we would send the rule, and that way they exactly coincide. The programming and the effective date of the rule would probably hit over a weekend because that's when we tend to do those RTS updates.

MS. CARAWAY: So April or May time frame?

MR. KUNTZ: I'll get the exact date on the programming.

MS. CARAWAY: That's fine.

MR. INGRAM: So you believe the programming could be complete and the rule could be implemented sometime between April and May is what you're saying.

MR. KUNTZ: Yes. We're anticipating April but I'll go back and verify the actual date of that release.

MS. BREWSTER: And, Mr. Chairman, we will also make sure that we communicate that out to the tax
assessor-collector community because I know that they're very interested in this, as well as the dealer community.

MR. WALKER: Okay. I have my question now. So I found what I was talking about. It says that fertilizer trailers are exempt from a title, so do we issue a license plate for something without a title?

MR. KUNTZ: Yes.

MR. WALKER: Then that answers the question, because it was under the last thing you did. It's exempt from title is what it says. Okay. At least I did read the board packet, just maybe if I was watching the basketball game. A&M won last night, by the way, that's why I've got my maroon.

MR. KUNTZ: And so we do have a transaction called a registration purposes only. Those are transactions where registration is issued without a title, and there are numerous instances where that occurs.

MR. WALKER: Okay.

MR. PALACIOS: Okay. Back to agenda item 15. Are you finished with your presentation on item 15?

MR. KUNTZ: I've completed my presentation, yes.

MR. PALACIOS: Are there any questions?

(No response.)

MR. PALACIOS: Hearing none, I will entertain a
motion to adopt the amendments.

MR. DUNCAN: Do you have a comment card?

MR. PALACIOS: Oh, yes. We do have somebody that would like to comment on this. Mr. Steven Palacios, are you in the audience? Please come forward.

MR. WALKER: You related to him?

MR. PALACIOS: No relation.

MR. STEVEN PALACIOS: My name is Steven Palacios. I'm the chief deputy with the Bexar County Tax Office. Bexar does support the $1 which has been staying with the dealer deputy and now for it to go to the TAC to keep the full $2.30.

We wish to thank the dealer association for working with us and supporting our position. We would also like to thank the DMV staff for recognizing the issue and listening to the tax assessors and the dealers. And I thank the Board for the consideration of adopting the rule. We hope to continue to work with the Board and DMV staff on future enhancement of the rules.

That's it. Thank you.

MR. PALACIOS: Thank you for your comments.

Are there any other questions on this item?

(No response.)

MR. PALACIOS: Hearing none, I'll entertain a motion to adopt the amendments.
MR. INGRAM: Mr. Chairman, I'd move that the Board approve the adoption of amendments to Chapter 217, Section 217.168 and 217.185, as recommended by staff.

MR. PAINTER: Second.

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

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

MR. INGRAM: I personally would like to echo my thanks to the staff for taking a look at this and making this happen quickly, and I know that it's important to our tax assessor-collector partners and it's also important to the dealers. So thank you.

MR. PALACIOS: Okay. So we're moving to item number 18 now.

MR. KUNTZ: Item number 18, we are recommending the approval. This is rules for proposal to publish, so we are seeking approval to publish amendments to 217.125 through 217.130.

We just finished in the final adoption some rules related to motor vehicle information and the fees associated with them. We are reopening some of those rules to actually address the actual vetting of
individuals that are requesting those motor vehicle records and files from the department. So what you see here are some additional amendments that would differentiate between a person who is requesting records and one that receives motor vehicle records directly from the department with one who receives records from a reseller or re-discloser. We have had numerous instances, we know, there are individuals who purchase our database and then re-disclose that to specific industry groups. They do some reformatting of the data, but we are going ahead and differentiating between somebody who receives records directly from us or somebody that has received re-disclosed records.

We are also allowing the department to accept identification documents not otherwise enumerated. If there's additional documentation we want to request of somebody, we're asking for the ability to request additional identification documents from individuals, potentially documentation that would demonstrate that they actually work for an insurance company or some kind of credentials that would show that they are who they say they are. Some of the individuals that are allowed to receive these are like private investigators. We would potentially want to see their actual private investigator credentials to ensure that they actually are a private
investigator and serving in their official capacity when they obtain our records.

We also have rules that would require additional documentation when requesting motor vehicle records. Some individuals claim to have contracts with insurance companies or other individuals and say that they are acting on their behalf. We would require that they prove that up, show us that they have a contract with an insurance company and they're serving on their behalf. We want to make sure that when we are providing this documentation that we are only providing these motor vehicle records to individuals that actually have a right to receive them, and so we are trying to increase our vetting efforts to ensure that individuals that don't have a right to these records are not able to obtain them.

We would limit the unlawful resale or re-disclosure of motor vehicle records, define what records must be maintained by somebody who is re-disclosing or reselling them. We are adding a records retention requirement for anybody that is re-disclosing these records to retain documentation on who they have re-disclosed those records to for, I believe, it's five years in this rule. So again, we are trying to increase our efforts to be able to verify what is going on with our records once they leave the department.
We also are putting in place a requirement that if somebody has re-disclosed those record that the department may go in and actually review or demand that they submit their documentation on who they have provided documents to so that we can do an audit or review of who they have been actually re-disclosing motor vehicle records. Providing a process for reestablishing access, as well, so if we ever terminate somebody for not following these rules, we have actually added in a process by which they can request to be reinstated and what they would have to show as additional information to ensure that they do not violate our rules again if they should be turned back on to receive motor vehicle records.

With that, that concludes my presentation, and I'll entertain questions.

MR. PALACIOS: Member Walker.

MR. WALKER: So I have no earthly idea, Gary, help me out here. If you are an undercover, not a police officer but he said a private investigator, does that require a license of some sort?

MR. PAINTER: Yes. You have to be licensed in the State of Texas.

MR. WALKER: You made a mention of different people. Is there a list of who we're going to disclose these to and what credentials they have?
MR. KUNTZ: The list of individuals who are able to obtain -- actually, it's a list of permitted uses, that is enumerated in statute, it's actually in 730.007, actually subpart (2).

MR. WALKER: So do we have that?

MR. KUNTZ: What you see actually is not, I've actually got it, I can bring it up to the dais if you'd like.

MR. WALKER: You made comments that you were going to give it to people who have use for those things. Wouldn't that want to be in this statute here that says who has authority?

MR. KUNTZ: It already is.

MR. DUNCAN: It's in statute.

MR. KUNTZ: It's in statute.

MR. WALKER: But it's not in this particular preamble here, though.

MR. DUNCAN: Member Walker, David Duncan, general counsel.

So Chapter 730 of the Texas Transportation Code is the Texas Motor Vehicle Record Disclosure Act, it contains the list of what are called permitted releases, permitted reasons for release of these records. We can't change those but what we've done is we've prescribed for each exception here's what we need to see to prove that
you're qualified to receive records under that exception. That's what this is it takes that language and goes beyond it to set the standards for what they're required to show us to prove that they're in a research occupation or that they work for an insurance company.

MR. WALKER: But we've had some problems in the past with people getting hold of some our lists and our information that they should be getting hold of, and so when I asked yesterday in a meeting that we had about what happens if you catch this guy, the answer was that we turn off their access to our information but that there's no fines, penalties or punishments for going out here and doing stuff that is not legal to be doing. So how do we address that particular part of this issue where it's been getting out there, people get hold of information that they shouldn't have and we do nothing other than turn somebody off.

MR. DUNCAN: There are two answers to that question, and I'll approach that from two different directions.

One is there are penalties in federal -- it's called the Driver Privacy Protection Act -- in federal law if someone has their personal information released, they can actually file a federal lawsuit and seek damages. There are quite a few of those lawsuits pending around the
country, there are a couple in Texas, there's a major one in Wisconsin and there are two major ones in Florida. And of course, they're being brought as class actions, they'll get large groups of people together that all received a certain type of mailing and they'll realize that that came from the state's DMV list and that that's against the law, and so they'll sue these companies, and they don't just sue one company, they sue 15 or 20 different companies. And so those are having some effect, we're seeing some companies express some serious hesitation. So that's under the federal law and there are some remedies.

Back to your question about what we could do, one of the things I wanted to point out is that in the last legislative session, Senator Kolkhorst introduced a bill, Senate Bill 1013, and it would have done some of the things that we're doing here. We actually felt that under Chapter 730, the Texas statute, we had the authority to do some of what Senator Kolkhorst was going to tell us to do anyway, so we're doing that, but her bill also would have given us some penalty authority. We don't have any under 730 or under our statutes where we could actually get civil penalties, we could refer to Corrie's group, Enforcement.

And Senator Kolkhorst has expressed an interest in bringing that up in the next session, and we will keep
her apprised of these rules and what we're doing with these rules and the reaction that we get because she has definitely expressed an interest in bringing this back up and in getting us some teeth, if you would, to enforce these requirements.

MR. WALKER: I'm just concerned about who really should be getting information that the department has that are private records and really don't need to be getting out there to a whole lot of people, in my mind. It belongs to the State of Texas, it belongs to this agency, it's not something that we ought to just be allowing every Tom, Dick and Harry to go out here and have access to. And so where are we putting some meat and bones in this proposed here that's going to prevent somebody from coming in, the wrong people getting it.

And I heard you say we're going to check their credentials but are we going to do enough, because we've already had some issues where records have been getting out of the agency that shouldn't be getting out to people who have that. For example, I get stuff in the mail all the time at my office on my vehicles that my warranty is fixing to expire on my vehicle and I need to renew, and it's a fraud deal, just somebody trying to sell me an extended warranty program but they word them such today that it's like Ford is writing me a letter saying it's
expired. I mean, how do we prevent that kind of stuff from going on out there with these records getting out?

MR. DUNCAN: That's the genesis of these rules is we are putting some discreet criteria. The rules have been thin for years and we feel like one of the other things that this rule does is it allows us to tell people no and it sets the criteria for when you tell people no, you can't have access to our records. I'm not saying we haven't done it, we have. Jeremiah and I discuss it and we discuss it with Whitney and we just decide we're going to tell people no sometimes.

MR. WALKER: So I guess the better question I need to ask then, are we doing enough here to prevent or are we just scratching the surface on keeping private records from getting into hands of people that don't need access to our records?

MS. BREWSTER: Member Walker.

MR. WALKER: Yes, ma'am.

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

MR. PALACIOS: Yes.

MS. BREWSTER: I think we're doing as much as we can within the existing statutory allowances. I think it's definitely worthy of further discussion as we get closer to the legislative session regarding any Board recommendations that you would like to make to the
legislature to include in the 86th Legislature, and
certainly the agency would be very supportive of any
efforts that move forward in tightening the release of
people's personal information.

MR. INGRAM: I have one comment, and it's just
a comment, it's not really a question. And I know this is
just for publication, but when I look at some of the
requirements for the resellers, it looks like that there's
going to be some burden on the resellers. And I'm not
opposed to it, I'm not saying that I'm against the burden,
I'm just saying that there's going to be some issues about
tracking and I think there's going to be some serious IT
issues with trying to fix systems so that they can track
the individual usage. There might need to be a long
implementation date on this just because of the efforts to
get that in place.

You're smiling and you're like, yeah, whatever,
I don't care.

MR. DUNCAN: No, no, that's not it at all. We
are well aware that we are going to get comments on this
rule and we expect that they may request some other
adjustments to the rule or some timing adjustments, as you
referred.

MR. INGRAM: Okay.

MR. KUNTZ: The reason for me smiling is
because in recent history the incidents that we have discovered where there has been misuse, it has in both instances been where a reseller is involved and they have re-disclosed that information and the person they re-disclosed it to misused the data. What we do in those instances is we hold the original purchaser responsible for that, but we have terminated access to two companies in recent months because we have discovered that they had re-disclosed it to somebody else.

Unfortunately, that is really where the crux of this is at is the re-disclosure is where it starts to get out into the wild and people lose control of those records because they're selling their list, if you will, to somebody else. We are needing to put much tighter reins on that to ensure that if somebody does that, that it is trackable and we can see where it went.

MR. INGRAM: Understood.

MR. WALKER: So why don't we get more specific about who has access to how many records? How many records does ABC Insurance Company need? Why do they need the list of registered vehicles, why don't they need only one particular item, maybe, and not the whole list?

MR. KUNTZ: I will answer it this way: a majority of the people that access our records, access our records one at a time.
MR. WALKER: But it's the list that's getting out there that's the problem.

MR. KUNTZ: We have very few individuals who have our master file and the weekly updates. I would agree with you that is definitely where there is a much higher risk for misuse and malfeasance. We are definitely more stringent on who gets that major list. Most of the people that have our master file are governmental entities. These are the toll roads, other entities that have a definite use for the information, it's very clear to us that they have a use for the information, and it's easy for us to determine, yes, they can be provided access to it. But when we have private individuals or private companies that come in wanting our master file, yes, we will give that much more scrutiny than if we had a request from a governmental entity for that master.

MR. WALKER: Let me ask you a question. Tell me why any insurance company or anybody needs a list of everybody who bought a car this year. Why do you need that for legitimate reasons?

MR. KUNTZ: Most of the time what I would say is they could access our data through the individual record lookup, and I would say that most of them do. Some of those entities may have their own systems. We definitely are looking at that exact issue and whether or
not those individuals really need the master file and weekly updates versus just getting them one vehicle at a time.

I will say this, though, there are some tradeoffs from an IT perspective. There are BOTs, some of these companies that are re-disclosers actually have BOTs that actually hit our motor vehicle inquiry system and they do it in rapid pace, so they will hit our system through a BOT that will sit there and just keep running license plates on our system and it will cause system issues on our motor vehicle records. That is actually the system that also processes for law enforcement, so we have to be very careful about making sure that people that are going to be actually users of the data that they're not using some kind of BOT to actually hammer our system to where it has performance issues.

MR. WALKER: Well, I get it why Gary needs access to know who owns this abandoned car at the end of the lane, but I don't get it why does General Motors need to know everybody who bought a Ford vehicle this year or the insurance company wanting to know who bought insurance, or whoever it might be. But those are the lists that need to quit getting circulated because that's where the abuse is going on out there.

MR. KUNTZ: Most of the time when General
Motors, Toyota, any of the major manufacturers are getting our list, the full list, is when they have recalls, and that's generally what you're seeing, and that is a permitted purpose specifically under state and federal law.

MR. WALKER: And I'm not picking on General Motors, I promise.

MS. HARDY: Oh, no, no, no.

(General laughter.)

MR. KUNTZ: That is a specific permitted purpose.

MR. WALKER: There's some insurance companies that really need to be accountable as to why they're getting these lists and selling it to other people, making money off of our technology and our lists, and personally, I don't want my information being sold out there on the open market to these insurance companies and peddling it out on the streets.

MS. HARDY: So it's okay sale for resale, we can eliminate or mitigate sale for resale, so if we sell it to Allstate or any insurance company, do we say today that there's no sale for resale, or not?

MR. KUNTZ: They can resell it, but if they resell it, it must be sold for one of the permitted purposes, and the obligation is on them to ensure that
when they re-disclosed it, it was re-disclosed for one of those permitted purposes.

MR. PALACIOS: Now, Jeremiah, is that provision within statute or is that something that we could amend, this resale?

MR. DUNCAN: That's in statute.

MR. PALACIOS: Statute. Okay.

MR. INGRAM: And it might help the Board members if you list the reasons. It seems like there might be some confusion about that.

MR. KUNTZ: Sure. I will go through them, it is (a) through (k).

So a permitted purpose is personal information obtained by an agency in connection with motor vehicle records may be disclosed to any requester by an agency if the requester provides the requester's name and address and any proof that the information required by the agency -- and this is where you've got the permitted purposes -- and represents that the use of the personal information will be strictly limited to:

Use by a governmental agency, including any court, law enforcement agency in carrying out its functions, or a private person or entity acting on behalf of a governmental entity in carrying out its functions of the agency;
Use in connection with a matter of motor vehicle or motor vehicle operator safety, motor vehicle theft, motor vehicle product alterations, recalls, or advisories, performance monitoring of motor vehicles, motor vehicle parts or motor vehicle dealers, motor vehicle research activities including survey research, or removal of non-owner records from an original owner record of motor vehicle manufacturers.

(c) Use in normal course of business by a legitimate business or an authorized agent of a business.

Again, these are very broad.

MR. WALKER: That's everybody.

MR. KUNTZ: But only to verify the accuracy of personal information submitted by the individual to the business or agent of the business, and if the information is not correct, to obtain the correct information for the sole purpose of preventing fraud by pursuing a legal remedy against or recovering on debt or security interest against an individual.

So that's going to be your banks, your insurance companies verifying the address that you've provided to them.

MR. INGRAM: Your finance companies.

MR. KUNTZ: Correct, yes.

MR. WALKER: But it says any legitimate
business.

MR. KUNTZ: yes.

MR. WALKER: Any legitimate business is ABC Manufacturing that's got a state certificate of operating in the State of Texas.

MR. KUNTZ: Correct, as long as the only thing they're doing is verifying the information that was provided to them.

MR. WALKER: I need to verify that Johnny Walker's vehicle title is such-and-such because he said this on his application for employment.

MR. KUNTZ: Yes, legitimate purpose.

MR. WALKER: Then the statute needs to be changed.

MR. KUNTZ: I'm only at (d).

(General laughter.)

MR. PALACIOS: Member Walker, other Board members, I think we all concur that this is a very, very important matter, and I know the frustration lies in we only have so many things within our purview that we can amend and change for stricter enforcement, ultimately, if we're going to tighten this up. As you go through that list, a lot of those entities already have access to this. General Motors already has access to all their customers; to your point, why do they need Ford's information,
they're not recalling Fords. The insurance companies, the
finance companies already have this information without
accessing our database.

So what it tells me now is there is, I guess, a
push now to broaden, they're not just going after their
customer base, they're going after a broader base, and
that's the question of why. Unfortunately, that's not
within our purview to answer these questions, this is the
legislature.

So I would just say I know we have spent a lot
of time, staff has, in looking at these rules, seeing how
we can tighten these up at the request of Senator
Kolkhorst -- I know she had this issue. It would be my
hope that we can adopt these rules and then going forward
continue to meet with the legislature to see if there is
anything else that they can do to enhance these, and as
well, we can take other passes at this as we see abuses
down the line.

But I do believe what you're requiring or what
you're suggesting right now will definitely help the
issue, it will require a lot more, I guess, oversight. I
guess I'm just thinking now how are we going to do all
this, you're talking about now more recordkeeping, more
auditing and so forth, which is going to tax your
division. Will these audits and so forth be handled by
your people or is this going to the audit staff?

MR. KUNTZ: That is something we will still have to work out. The main part that my division handles right now is the vetting of these contracts, so anybody that is applying to receive these, those applications come through the VTR Division, and so we vet those contracts for access. So really, what we're trying to do is with these rules particularly is really stiffen up the vetting process to try and hopefully prevent the need to do a whole lot of auditing on the back-end. But there's a lot of work to do on this particular matter for sure.

MR. INGRAM: But it will definitely give you the tools when you need to audit that you can go back and try to find the key problem. Right? And that's the big thing that you're adding here and I think that's a good plus.

But I will caution the Board that there are many uses that you're not thinking of that the information does need to go out there. Banks don't have all the information, finance companies don't have the information that they need. So I think where it really runs into a problem is when you've got a reseller that then sells it to an individual or a company that then uses it for marketing. So I think the marketing angle is where it really falls apart, I think that's where everybody gets
really incensed.

MR. KUNTZ: That is specifically not on a permitted use under state or federal law. Use of that information for marketing purposes is explicitly prohibited.

MR. PALACIOS: And I think that's what most of us are concerned with because we know that in many cases that's what's happening.

MR. KUNTZ: And it's the hardest thing to try and prevent. That's what we're trying to make sure doesn't happen.

MR. PALACIOS: Okay. Do we have any more questions on this matter?

(No response.)

MR. PALACIOS: If not, I will entertain a motion to adopt the amendment.

MR. PAINTER: Mr. Chairman, I make a motion that the Board approve the proposed amendments to Chapter 217, Sections 217.122 and 217.123, and proposed New Sections 217.125 through 217.130, for publication in the Texas Register for public comment.

MS. HARDY: Second.

MR. TREVIÑO: Second.

MR. PALACIOS: Okay. We have a motion by Sheriff Painter, second by Board Member Hardy and Board
Member Treviño to approve the proposed amendments. All
those in favor please signify by raising your right hand.

   (A show of hands.)

MR. PALACIOS: Motion passes unanimously.

Thank you very much.

MR. KUNTZ: I had one more thing to go back on,
and that was the question on handicapped placards, how
many seizures, we do have that information now. In 2015
there were 799 placards that were seized and reported to
the department, in 2016 it had gone down to 455, by 2017
it had gone down to 415. Now, again, those are placards
that were seized that were reported by law enforcement to
the department, I do not know how many were seized that
were not reported.

MR. WALKER: Thank you, Jeremiah. Quick
action.

MR. DUNCAN: Thanks to Ginnie's staff for
jumping right on that and getting us those numbers.

MR. PALACIOS: Thank you.

Thank you, Mr. Kuntz.

MR. KUNTZ: Thank you.

MR. PALACIOS: Good luck on The Hill.

Let's move on now. We'll go back, I want to
move out of order a little bit here. We have somebody
who's registered for public comment.
Mr. Gober, Mr. Giles Gober, are you here?

Would you like to come forward, please?

MR. GOBER: [INAUDIBLE - SPEAKING FROM AUDIENCE.]

MR. PALACIOS: So you have something you'd like to distribute in addition to your three minutes.

MR. DUNCAN: Members, while he's getting set up to do public comment and while we're getting the clock ready, I'd just like to remind you all that when we do public comment, because it's not something that's been posted under the Texas Open Meetings Act, it's not something that the Board can deliberate. So if you find the topic is something you'd like to discuss further, we can set it for a future Board meeting.

Thank you.

MR. PALACIOS: Thank you.

MR. WALKER: It's not on something that's on our agenda?

MR. DUNCAN: Correct.

MR. PALACIOS: Please proceed.

MR. GOBER: I'm a resident of Louisiana, and I've purchased three vehicles through the State of Texas. All three of them were compelled to have inspections done according to your policy under the Two Steps One Sticker.

Mr. Duncan and I have exchanged emails where
Mr. Duncan has agreed that state law exempts these cars from having to have an inspection. That means by compelling dealers to assist you in collecting that fee, there is a theft being committed according to Texas Penal Code 31.03, it's a Class C misdemeanor, petty theft. It's not right.

Texarkana lies across State Line Road from Texarkana, Arkansas. You buy a new car there, you're going to get clipped $16.75 to register a Texas inspection to drive 30 feet into Arkansas where there is no inspection required at all. It doesn't make any sense. The law strictly forbids the cars from being pulled under to an inspection. You need to change the policy. It's there in black and white, there's no room for discussion.

Mr. Palacios, you have a dealership, you get a lot of cars in, you've got somebody on your staff who is certified to do the inspections, he runs through them and inspects them and says they're ready to go. When you sell the car you register the inspection; up until then, you've covered this cost just under your cost of operations. The cost of doing business is built into the sales price of the vehicle. The $16.75 is not, that goes to the Texas Mobility Fund, that is a clip, it needs to stop. It is against Texas law to force that on people. As a public servant, it goes from a Class C misdemeanor to a Class B
misdemeanor. As an official of this state to watch it happen, it goes from a Class B misdemeanor to official oppression which is a Class A misdemeanor. Y'all need to get to this, you need to stop it.

I don't know how many cars go through Texas every year getting sold to out-of-state buyers. You're in El Paso, am I right?

MR. PALACIOS: Yes, sir.

MR. GOBER: How many New Mexico residents come in there and buy cars?

MR. PALACIOS: A few.

MR. GOBER: Quite a few. You go to Texarkana, Texas, you're going to find a bunch of people from Arkansas buying them there. Other places like Houston, where I went --

MR. PALACIOS: Mr. Gober, your time is expired but we appreciate your comments. Thank you.

MR. GOBER: Who do I give these to?

MR. DUNCAN: I'll take them, sir, I'll get them distributed.

MR. PALACIOS: Okay. Let's move on now back in order to agenda item number 5, the Automobile Burglary and Theft Prevention Authority. Mr. Wilson, are you with us?

Good morning, Mr. Wilson.

MR. WILSON: I'm Bryan Wilson, director of the
Automobile Burglary and Theft Prevention Authority. I believe the action that will be coming before you this morning will be a committee recommendation.

Of course, the Automobile Burglary and Theft Prevention Authority is a governor-appointed board that is separate and distinct from this one, but the appropriations for that entity come through the Texas Department of Motor Vehicles as a specific line item that they manage mostly through grants but there's some administrative costs.

Because of that, the ABTPA Board received about a million and a half dollar cut this year and some other issues in trying to manage it. They cannot directly ask the Legislative Budget Board for this authority so they passed a resolution or action to request that you, on their behalf, ask for this action that's authorized under the Appropriations Act, to allow in the biennium to carry forward unexpended balances. The grants are made early in the year, actually before the fiscal year begins.

About 85 percent of the funds are for staff, about 85 percent of our grants are for highly specialized and skilled motor vehicle theft investigators within police and sheriff offices throughout the state. Those investigators when they retire or when they turn over or if they get transferred to another unit, it can take
months, 90 days, six months based on civil service rules in the different departments, so oftentimes, because we're reimbursing the departments for the expenditures they make, we can end up with a significant lapse.

So the ABTPA Board is asking this Board to request from the Legislative Budget Board -- wow, that's a lot of boards -- the ability to carry forward these funds within this current biennium.

MS. CARAWAY: Mr. Chairman, the Finance and Audit Committee did meet yesterday and discussed this, and I will move that the Board approve the following recommendation of the Finance and Audit Committee, and that is to request from the Legislative Budget Board the authority for the Auto Burglary and Theft Prevention Authority to transfer any unexpended and unobligated balances, up to $500,000, remaining as of August 31, 2018 for the same purposes for the fiscal year beginning September 1, 2018.

MR. INGRAM: Second.

MR. PALACIOS: Okay. We have a motion by Board Member Caraway, a second by Board Member Ingram to accept the recommendation from the Finance and Audit Committee regarding the ABTPA to transfer the unexpended funds going forward from 2018 to the fiscal year beginning September 1, 2018. All those in favor please --
MR. WALKER: Question.

MR. PALACIOS: Oh, you have discussion. Go ahead. I'm sorry.

MR. WALKER: In her proposal she said up to $500,000 of unexpendable balance. Why wouldn't we say any unexpendable balance to be transferred? Why limit it to $500-? If there's $600,000 unexpendable, why wouldn't we request that it all be transferred into Auto Burglary?

MR. PALACIOS: Would you like to address that?

MR. WILSON: We looked over it the last time, but I guess Linda met with the Legislative Budget Board and they said they wanted a specific dollar amount in this request. We looked over the average of the last three years, it was about $360- average over the three years, so we went with $500- which was about the highest value that we'd seen.

MR. WALKER: But didn't we just hear comment that there's $800,000 of unexpended? Wasn't that a number we just mentioned? So what do you think the exact amount of the unexpended balance is going to be this year?

MR. WILSON: I don't know today because part of the strategy that the ABTPA Board took on was to extend by 90 days the grant period that we were concluding. My rough estimate is about $200,000, but sometimes grantees -- I mean, we rigorously review these
expenditures, only pay for allowable expenses, only
reimburse proper expenses.

MR. WALKER: So the $500,000 is going to take
and capture?

MR. WILSON: It will.

MR. WALKER: That's my question.

MR. PALACIOS: Are there any other questions on
this matter?

(No response.)

MR. PALACIOS: We have a motion on the floor.
All those in favor please signify by raising your right
hand.

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

Thank you, Mr. Wilson.

Let's move on to agenda item number 6. Mr.
O'Quinn.

MR. O'QUINN: Good morning. For the record,
Jonathan O'Quinn, the interim chief information officer
for the Department of Motor Vehicles.

The action being requested under agenda item 6
is to request the approval from the Board to delegate
authority to the executive director to solicit and
eventually execute a contract to obtain standard
presumptive value calculation services from a third party

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vendor. The standard presumptive value of a vehicle is required in order to calculate the 6.25 percent sales tax owed to the state as part of a private party sales of a used vehicle.

The department currently utilizes two services for standard presumptive value: one is a web service that's consumed by our public website, as well as our registration and title system, RTS; and then we have a backup solution installed on every county work station in case that web service is unavailable at any time. The RTS uses the SPB calculator service for every used car transaction through the county offices, as well as the public website sees about over 750,000 members of the public utilize that service every year.

So that ends my presentation on the standard presumptive value. Are there any questions I can answer?

MR. INGRAM: I have one question, just a clarification. You said every single transaction.

MR. O'QUINN: Used car transaction, sir, yes.

MR. INGRAM: Right. Including dealer transactions?

MR. O'QUINN: These are for private party sales about not specifically exempting dealer transactions.

MR. INGRAM: Okay. Just making sure.

MR. GRAHAM: That would be of interest to you,
wouldn't it?

(General laughter.)

MR. GRAHAM: Mr. Chairman, I move that the Board approve the following recommendation of the Finance and Audit Committee -- oh, were you finished with your presentation?

MR. O'QUINN: Yes, I was finished with the presentation.

MR. GRAHAM: Okay. We have a motion by Board Member Graham.

MR. GRAHAM: Well, I need to read the motion.

MR. PALACIOS: I'm sorry. Go ahead.

MR. GRAHAM: Mr. Chairman, I move that the Board approve the following recommendation of the Finance and Audit Committee: Delegation to the executive director, after consultation with the Board chairman, to solicit bids for, negotiate, execute, award and sign the contract, renewals or amendments to the standard presumptive value calculator contract, at an amount not to exceed any appropriation contained in the current state biennial budget for this item.

MR. WALKER: Second.

MR. PALACIOS: Okay. Motion by Board Member Graham, second by Board Member Walker. I will also note that this item was discussed yesterday at the Finance and
Audit Committee, so this is a recommendation that they
would like to move forward as well.

I would like to ask, I guess, for a vote. All
those in favor of the recommendation please signify by
raising your right hand.

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

Thank you, Mr. O'Quinn.

MR. O'QUINN: Thank you, Chairman.

MR. PALACIOS: Okay. Moving right along to
agenda item number 8, our Finance and Audit Committee
presentation, item A, 2017 end of year reports.

MS. CARAWAY: We did have our Finance and Audit
Committee meeting yesterday and you heard the two
recommendations we just had, and then, of course, we had
the presentation by Ms. Flores and her team, as well as
Sandra Menjivar-Suddeath, and they will do those same
presentations today. So Ms. Flores.

MS. FLORES: And with your indulgence, I think
we'll do a more short version, if you will, of our
presentation.

MS. CARAWAY: Sounds good.

MS. FLORES: For the record, Linda Flores,
chief financial officer for the agency. My staff are all
here at the table, Sergio.
With your indulgence, we did provide the Finance Committee additional information on our end of year reports, the balance sheet and the income statement, primarily because the official report that's submitted to the Comptroller does not include prior year comparisons, however, internally we are required to do a variance analysis of both the balance sheet and the income statement. So what Sergio passed out to you is that information. It looks a work paper, so my apologies for that, but we wanted to make sure that the Board had that information as well.

Oh, the other thing I should also mention is on your table in a large white envelope is the official reports that were submitted to the Comptroller's Office and our oversight agencies.

And with that, I'll turn it over to Mr. Rey.

MR. REY: Good morning, Mr. Palacios, Board members.

Today will be an overview of the annual financial report, and this was submitted on November 20 to our oversight agencies, and what I'd like to highlight today is the fact that in this year's report we have moved over into the Texas Department of Motor Vehicles Fund, so it's our primary source of funding, and therefore, had a significant impact on our reporting. Our fund balance
increased by $30 million and that, in essence, was a net
difference between the reduction in our general revenue
appropriations and our increase in our cash in the state
treasury based on the revenue and the fees from the TxDMV
Fund fees that were previously in general revenue.

So that's the total assets, and of course, the
liabilities, again, the decrease in our liabilities had
to do with the timing of our accounts payable and our
vouchers payable, as well as we have fewer material items
that had to be reported back for 2017.

On our income statement, again, we have the
impacts of the Texas Department of Motor Vehicles Fund
changes. Our increases were primarily in the category of
license fees and permits, where we had an increase of $160
million of the fees. The other $3 million were in other
revenue categories and that total of $163-, again, from
the fees that were previously in the general revenue. The
significant reduction in legislative appropriations is,
again, the fact that our funding source is now DMV and not
the general revenue fund.

As far as expenditures are concerned, a normal
year of expenditures with the one category having the
significant impact was the materials and supplies which
had an increase there attributed to changes in our postage
costs and increased cost in our computer equipment
supplies, like toner, so each of those had $5-1/2 million of increases. Our item of decrease was the professional services fees which we reduced by $3 million, and that was because of the completion of major projects throughout the year, specifically eLICENSING. That's pretty much the overview of the annual financial report.

In the annual report of nonfinancial data, those are eight reports or schedules that we’re required to present to the Governor's Office. Of significance, again, the item that I want to cover here in our slide is the professional fees which demonstrates that $3 million.

MR. GRAHAM: Can I interrupt you just a moment? I just have a quick question before we leave that section.

MR. REY: Yes, sir.

MR. GRAHAM: This shows the variance on license fees -- hold on, that's the wrong line, back up -- professional fees and services shows -- now I've lost my spot after I set it down -- materials and supplies, my question will be what was budgeted for 2017 in that line item versus the variance. Would you have that readily available?

MR. REY: From a budgeted perspective?

MR. GRAHAM: Yes. I mean, I see the variance between '16 and '17, I'm just curious what was actually budgeted. Obviously, it was a $12 million difference in
the line item, and I would just be curious what the budgeted figure was.

MS. FLORES: I don't have that report with me but I can certainly get that.

MR. GRAHAM: Okay. No problem. And I probably have it somewhere in here but I couldn't find it.

Thank you. Please proceed.

MR. REY: No problem, sir.

Again, on the professional fees, the impacts here as far the reduction is concerned is our data processing services, again, from completion of projects like the ELICENSING and AMSIT projects throughout '17 that led to that reduction on data processing services. Our computer services statewide technology category, the increase comes from the fact of now that we are in the Data Service Center, we've completely moved into those servers from the Data Service Center.

Well, that concludes my presentation on the annual financial report and the nonfinancial. Again, it's primarily the Texas DMV Fund at this point. That concludes my presentation. Any other questions that I can assist you with?

(No response.)

MR. PALACIOS: Thank you, Mr. Rey.

MS. FLORES: So moving on, agenda item 8.B, now
we're moving from end of year reports over to the first quarter financial activities for fiscal year 2018, and I'll let Ms. Bankhead address that topic.

You will notice in your book materials, which start on page 72 of your board book, the report itself looks very different from what you're used to, and our staff has taken this opportunity to incorporate some new things. Hopefully this is better information at a glance for our staff as well as for the Board, and I will let Ms. Bankhead address those improvements.

MS. BANKHEAD: Good morning, Chairman Palacios. For the record, my name is Renita Bankhead, assistant CFO, and I'm going to talk about the changes in our report just briefly.

We are now using a dashboard format and it does include all the same information that was there before but we have a few new items that are included. There was a separate DMV Fund report prior to this, we've incorporated that into the report. We have some additional information about the processing and handling fee, and then some additional information about revenue categories. We've also expanded the amount of information that's included for budget, we have a little graphic for FTEs, and we have some information about prior year budgeted expenditures. So those are some of the new things that we have included.
in the report.

So I'm going to turn this over to Linda and she's going to talk about revenues.

MS. FLORES: Very quickly, on page 72 of your board materials, we do have the same information that you're used to seeing for revenues, however, now you've got some arrows, red and green, that kind of tell you where we're at.

This particular slide in front of you reflects how we're doing on our projections for all of our fees, and as you can see, on motor vehicle registration our projection is down, but the primary reason for that is you will see the converse arrow green going up for processing and handling fee. Last year we had a dollar for automation fee that was going into that category called motor vehicle registration. When the processing and handling fee went into place, it switched and it's now coming in through processing and handling fee. But again, this is how we're doing against our own internal projection.

Motor Carrier is doing better than what we anticipated them to do. We're not hitting those record permit sales that we had several years ago, but we are doing better than what we even anticipated for the current fiscal year.
This particular slide shows the revenue collections versus expenditures, and as you can tell, we are certainly covering all of our obligations with the revenue we're collecting, so that is a major plus for the agency.

MyPlates, on page 74, I believe, of your material, you still see this graph that you've seen in the past. MyPlates did meet their $50 million obligation to the State of Texas in the fall, and they continue to deposit more than what they're required to do for the state. The contract does end in November 2019 and staff is already taking steps to have a workgroup to talk about the next year's contract.

Overall collections, again, you can see all the ups and the downs. Motor credentialing is down primarily because the rates for the UCR truckers were not established until January of this year, where normally they're established in October, so we are starting to see those fees come in and we do anticipate that we'll make up for it by the end of the fiscal year.

Miscellaneous revenue, some of this revenue includes very small minute revenue. We do anticipate that we're going to hit our targets by the end of the year.

And with that, we'll turn to the expenditure side of the house.
MS. BANKHEAD: Renita Bankhead again, of your staff.

The expenditures, this information begins on page 76 of your materials. The total department budget at this point at the end of the first quarter was $171.4 million, that's an increase of $3.1 million over the approved budget of $168.3-. The adjustments included two carryforwards from the prior year. One of them was the remainder of the automation after we finished up with all of our bills and everything, and the other one was for the Bull Creek relocation, we didn't move that money forward until after the year had started.

As you can see, the graph on the left on the slide here, the majority of our budget is funded from the TxDMV Fund. The remaining parts are general revenue which consists of ABTPA and a little unexpended balance from prior years, and the Fund 6 is unexpended balance in automation for the prior year, and most of that is in RTS refactoring.

Also, on page 76 of your materials we talk about first quarter obligations. The expenditures and encumbrances as of the end of the first quarter total about $84 million, that's about half of the approved budget. The largest drivers there are salaries, of course. In November we reported 95 vacancies; as of the
end of January, that number has gone down to 79 vacancies so we are filling positions now that the hiring freeze is over.

Professional fees, if you look at the graph on the slide to the right, profession fees category includes RTS refactoring and the Data Center. The other operating expenses, the largest driver there is contract services, which is about $23 million, and that's for associated costs for the license plates, printing of renewals, postage, that kind of thing.

Prior year, this is something new that we've added this year. We've had it before but we've gone back an extra year, but the largest drivers here over the last three years have been capital projects. As our capital projects, we've started to finish our projects and RTS is winding down, those costs are dropping, so that's the largest driver on these changes between the years for the budget, encumbrances and remaining budget as of the end of the first quarter. And this slide shows the end of the first quarter for the two prior years.

Next, beginning on page 78 of your materials is information on the capital budget. The other capital projects include the vehicles that we've requested, both the new and replacement vehicles for the agency and the new vehicles for the new Compliance and Investigations
Division. The Comptroller in November awarded the new vehicle contract, so now we can begin the process of purchasing the vehicles, the replacement vehicles that we've requested.

Other technology projects includes almost everything else. Agency growth and enhancements, the biggest piece of that is the Data Center Services contract. Also, on page 72 -- which is not a slide here but you'll see that big square in the middle -- that's automation projects. On page 72 of your materials is detailed information on the automation projects. RTS refactoring is also the major driver within automation, with $5.7 million in obligations, followed by webDealer and eLICENSING. Also included is the budget status at this point for the planned automation initiatives. That budget status really just shows the budgeted amounts, but as the year goes on, we'll be able to show how much is being expended for those initiatives, and that's on page 72 of your documentation.

And that concludes my presentation. Do you have a question?

MR. WALKER: So they've released our funds, the $900,000 for the capital purchases of the vehicles, and so we can make those purchases now?

MS. BANKHEAD: Yes, we can.
MR. WALKER: What is the procedure on how we do that? I mean, do we go get bids on that from somebody in the agency? How do we decide whether we're going to buy a Chevrolet versus a Ford or a Toyota? How do we make those determinations.

MS. BANKHEAD: There is a vehicle plan that the agency has to put together and we have to follow the guidelines of the Comptroller. The Comptroller is the one that goes out and makes the bid for the vehicles and then we select from the list of vehicles that the Comptroller provides.

MR. WALKER: So how are we as an agency going to determine that we want to buy, I don't know, a Ford versus a Chevrolet or whatever? How do we make that determination within the agency?

MS. FLORES: For the record, what we have done internally is canvassed our divisions who utilize those cars. And just as a reminder, we got 17 replacements this year, 16 replacements next year, and four new ones for the new Compliance and Investigations unit, so we are going to acquire 21 vehicles this year.

What we did is we asked our end-users, Enforcement, VTR, what kind of vehicle would you prefer in the field and doing what you need to do. They gave us their information and we've put together a plan, and we
are acquiring, I believe, it's 21 sedans this year for both headquarters and the regions, I think we might even have some SUVs in place or on the plan, and a couple of trucks. So we actually asked our folks what would you prefer. They've been driving some large Crown Victorias, I know, out there, so sedans work for the most part, in some instances we need a little bigger car. So once we know what kind of car they want, we go look at the list that's available to be acquired, and we go from there.

MR. WALKER: So do all these cars have the same financial impact to the agency? I mean, say, Renita wants a Cadillac whatever, and somebody else wants --

MR. PALACIOS: She should get it.

MS. BREWSTER: There are no Cadillacs on the list, Member Walker.

MR. WALKER: Do what?

MS. BREWSTER: There are no Cadillacs on the list, Mr. Walker.

MR. PALACIOS: Sorry, Renita.

(General laughter.)

MS. HARDY: I would think they standardize the specifications based on the requests.

MS. FLORES: They do. It's going to have your basics.

MS. HARDY: And then dealers will bid on it.
MR. WALKER: So I guess is that really the best way, just ask our employees what you want to drive, or should the agency not make a determination that says --

MS. BREWSTER: May I address that, please?

MR. PALACIOS: Yes, please.

MS. BREWSTER: When Ms. Flores was saying what the agency staff prefers, I think what she meant to say is what is the need in terms of a vehicle: are they going to be transporting goods or are they just going to be transporting themselves. And so we then look, based on that information, is that a real need, and if so, we move forward looking at the list.

For instance, our regional service centers transport sometimes license plates to various areas within their region, they need a little more cargo space, and so we look at, okay, is there an appropriate vehicle that would allow for that. So it's not I, Whitney Brewster, would love to drive X vehicle, it is based on need.

MR. WALKER: I guess that's not my point. My point is should that decision be being made at that particular level in the agency or should it be being made by management.

MS. BREWSTER: Member Walker, it's made at the executive level.

MR. WALKER: Okay, okay. Because she sounded
like the employees were picking what they wanted to buy.

MS. BREWSTER: That is to determine the ultimate plan that then moves forward for what is ultimately recommended, and then I review it, along with Deputy Executive Director Shelly Mellott, and then determine if it is approved.

MS. FLORES: And for the record, we also look at the cost that has been provided to us, because when we were going through the legislative session, it was an estimate on our part. We used a $25,000 per vehicle cost.

MR. WALKER: They make a $25,000 vehicle today?

MS. FLORES: That was our estimate. The actual contract with the State of Texas is lower than that, so we are able to acquire what we need.

MR. WALKER: I need to get on your list where I can buy through you all because I can't buy anything that cheap.

(General laughter.)

MS. FLORES: Any other questions?

MR. INGRAM: I have one comment in just that the new format is lovely, and I don't just like it, I love it. So I thought it was a great job putting together the new format.

MR. WALKER: Yes.

MS. FLORES: We appreciate that.
MR. INGRAM: Very nice job.

I have one question, just as a personal, how are you putting that together? Is that being done through CAPPS or is that being done? Are you doing that manually, just all of that?

MS. FLORES: Yes, sir. CAPPS doesn't have any kind of reports that look like this.

MR. INGRAM: Really.

MS. FLORES: No, sir.

MR. INGRAM: We paid $4 million for it.

MS. FLORES: Yes, sir, we did. Thank you for reminding me.

MR. INGRAM: I know that we didn't have a choice on paying for it.

MS. FLORES: No, sir, we had no choice. Thank you for reminding me.

(General laughter.)

MR. TREVIÑO: Ms. Flores, Ms. Bankhead, is there anything in the first quarter that would lead you to believe that we're not going to hit our revenue numbers or our cost numbers, anything on the budget that makes you uncomfortable, or do you feel that we're going to have a bang-up year?

MS. FLORES: We are going to have an exceptional year, Board Member Treviño, I guarantee it.
(General talking and laughter.)

MR. PALACIOS: Well, on that note, Ms. Flores, we're on pace right now. I guess through November we had a $15 million surplus. Do you anticipate that pace will continue throughout for the rest of the fiscal year?

MS. FLORES: No, sir. I think as we move forward with some of those projects that we're hoping to complete this year, I think our surplus will go down from there, and as we get more into the year and we're paying our bills more regularly. The first quarter is always kind of a low quarter, and then we kind of catch up. I know last year we did have at the end of the year a large lapse. We do everything we can to ensure that we use our dollars properly. We'll have a midyear review coming up after this month, and so we'll take into account what needs we haven't met so far and kind of redirect our dollars so that we do use our dollars as fiscally prudent as we can in order to have a bang-up year.

MR. PALACIOS: Great. Okay. Please proceed.

MR. INGRAM: Just as a note, I've been here seven years and I've never heard Linda say we're going to have a bang-up year, an exceptional year.

MS. BANKHEAD: That concludes this presentation, we'll move on to the next one. Operating budget contracts, and this is a response to an inquiry at
the August Board meeting about contracts, so we put
together some information about contracts.

The statewide contracts are negotiated and
monitored by oversight agencies such as the Comptroller of
Public Accounts and the Department of Information
Resources. TxDMV does not have specific authority to bid
for contracts but we do have a little bit of leeway as far
as contracts that are competitively bid for information
resources over $5 million, we can competitively bid for
those.

Beginning on page 82 of your materials are the
standard practices to ensure best value. These standard
practices are set in Government Code. They not only
consider cost but contractor performance, quality,
reliability.

MR. PALACIOS: Excuse the interruption, Ms.
Bankhead. I just want to state for the record it's 10:04
a.m., and Board Member Caraway has left.

Please proceed.

MS. BANKHEAD: I'm going to go back and repeat
my last sentence. It not only looks at cost, but
contractor performance, quality, reliability and cost of
future maintenance. There's also additional criteria
listed on page 83, and that's related to automated
information systems which also considers rice but
compatibility with existing systems, capacity for expansion, technical support requirements, and maintenance and support. So the state already has these criteria set out to make sure that their contracts that they bid on overall for the state follow specific guidelines to make sure that state dollars are spent efficiently and effectively and in a cost-effective manner.

There are preferences given to specific vendors for procurement of certain items. An example of that is the Texas State Use Program. This is a set-aside purchasing program for commodities and services, basically your consumables and that kind of thing, and it's for services from community rehabilitation programs which employ disabled Texans. Agencies are required to use these services, and you'll see they're under TIBH, and it used to be called Texas Industries for the Blind and Handicapped, so now they're called the Central Nonprofit Agency.

The prices for the commodities and the services are set by the Texas Workforce Commission. So basically what happens for statewide contracts is the oversight agencies, they do all the legwork, they go out, they make the bids, they come up with the list, they find the prices, they use statewide economies of scale to be able to determine that. The agencies, on the other hand, take
advantage of that by going to these lists and selecting vendors from that list.

So when you look at the information that we've provided -- and I'm not going to go through all of that -- but when you look at the information beginning on page 84 of your materials, this is the list from the August Board meeting, and it includes all the contracts that were considered at that Board meeting. We've also included some FY17 actual expenses, we've included the procurement method, the authority for the procurement, either by ruler statute, and the best value determinate, how best value is determined for this particular type of contract.

We included a column for comparable prices, but in many cases we cannot provide comparable prices because if we're not allowed to procure these items, we can't go out on the open market and bid for them so we couldn't get comparable prices. At the very end of that table is a list of about four contracts that we did have comparable prices for. And the other reason why we didn't have prices is some of those items are proprietary or sole source, so they're the only people we can go to for those items.

So unless there are any questions, that concludes my presentation on contracts.

MR. PALACIOS: Are there any questions for Ms.
MR. TREVIÑO: Ms. Bankhead, in recent memory have we had any problems with contracts or any issues in the contracting process -- in recent memory?

MS. BANKHEAD: In recent memory, no, we have not. Our purchasing staff, they monitor the contracts, they follow all the rules and procedures, they're all certified, our procurement director is certified, and the contracts that we have go through legal review and the go through executive review as well.

MR. TREVIÑO: Great. Thank you very much.

MS. FLORES: So just for the record, unlike some other agencies that have made the paper in the news, a lot of times we are required to tell our staff no because of state law and certain criteria that we have to follow, so sometimes we're not the most popular folks in the division.

MR. PALACIOS: Okay. Any other questions on this item?

(No response.)

MR. PALACIOS: If not, we'll move on to the facilities update.

MS. FLORES: And joining me is Ms. Ann Pierce and she's going to give you a very brief update on the last move that we had. Our Bull Creek staff, Motor
Carrier staff, they are off of the Bull Creek campus and they are now located on Camp Hubbard.

MS. PIERCE: Good morning, Chairman, Palacios, Board members and Ms. Brewster. For the record, Ann Pierce, deputy division director of Finance and Administrative Services.

On January 12 and 13 we had a two-day move scheduled to relocate the Motor Carrier Division staff from the property that we were leasing back through TxDOT -- or TxDOT leased back on behalf of us through Milestone, who bought the property. We have to be off the property by the end of this month. The project itself has been a multi-faceted project that has been going on for about a year and a half now. Phase one was actually deconstruction and reconstruction of the 5th floor at Building 6 here on the Camp Hubbard campus, and as you can see, their new area looks really nice, and you'll see a very happy Motor Carrier Division director, Jimmy Archer, there. His staff was equally pleased with their new location. This is the first time that all of Motor Carrier has been in one building, one location together.

The move itself also involved building of the modular. We had to meet with the Texas Correctional Industries who we worked with to do the manufacturing of all the product and the design of the layout for the
product to make sure it met employee needs, and then we had that built.

The third phase was the move itself and it was not your typical move like you are used to hearing from us about where we're moving 12 to 32 regional employees, this involved 115 employees and a great volume of equipment. We actually were very lucky, it was coordinated quite well. It involved members from the IT team, the Facilities Services team, during the construction phases we worked with TxDOT and their contractors, during the modular build we worked with the Texas Correctional Industries, and then, of course, all of the people from the Motor Carrier Division participated in moving and coordinating with our vendor to get packed and relocated.

And we had a late night on Friday, we kept business operations going throughout the day, and we finished it ahead of schedule and did not have to come in on Saturday. We got everybody settled in which was very nice that everybody cooperated so well. We're very pleased with the move, and for the first time in the history of the agency, we have our entire headquarters operations on the same campus, so we wanted to celebrate that.

And that concludes the update.

MS. FLORES: What about the salvage?
MS. PIERCE: Oh, our last phase we will be finishing tomorrow. We have gone through the old location and we've Repurpose items that were left behind and we've torn down the modular and gotten it all coordinated, and it's gone through the auction process and it's being picked up today and tomorrow, and we're working with the Texas Facilities Commission for that final phase, and by Monday we'll be turning the property back over to TxDOT.

MS. FLORES: So ahead of time, in budget, and they're happy.

That concludes our presentation.

MR. PALACIOS: Well, thank you very much, Ms. Pierce, Ms. Flores. Congratulations on a job well done. I haven't had a chance to go out there, but hopefully if I have time today I'd love to see the facility.

Let's move on now to the Internal Audit portion of this presentation, to be given by Ms. Sandra Menjivar-Suddeath.

MS. MENJIVAR-SUDDEATH: Good morning. For the record, Sandra Menjivar-Suddeath, Internal Audit director, and I am presenting item 8.E which is the peer review process. It's a briefing item only and it's on page 93 of your board book.

The board book contains information related to the peer review engagement letter, our self-assessment.
report that is required for peer review, as well as some
questions and answers related to peer review, but on a
high level, the peer review is a required activity that we
have to go through, so they are auditing us. The peer
review reviews our compliance with applicable auditing
standards, which those auditing standards are the
Generally Accepted Government Auditing Standards that are
promulgated by the Government Accountability Office, the
International Standards for the Professional Practice of
Auditing which are developed by the Institute of Internal
Auditors, and the Texas Government Code 2102 which is the
Internal Auditing Act. The Act has specific requirements
related to my position, as well as where we sit in
relation to the agency board and the executive director.

The last peer review was in 2015 where we
received an overall rating of a pass which is the highest
you can receive. There’s only three possible ratings: a
pass, a pass with deficiencies, or a fail.

This year our peer review team is done from the
Texas Workforce Commission, his name is Harold Rogers, he
is the project lead on it, and then Patrick McKinney from
the Texas Department of Transportation is the peer review
member. Both of these members participate in a group
called SAIAF which is the State Agency of Internal Audit
Forum. The review is done through SAIAF which means that
it is a no charge fee to us, as well as other state agencies.

The peer review team from February to May will be reviewing submitted documentation which includes that self-assessment report, they will be interviewing Internal Audit staff, they'll interview and survey select executive management from the DMV, as well as Board members, and they will actually be reviewing our audit files to make sure that we're meeting the audit standards for auditing.

Approximately around May we will receive a draft report from the peer review team with our rating. I'll review that report and consult with the Board chair as well as the Finance and Audit Committee chair, on any recommendations they may have. Then they will present that report probably in the May-June period to all the Board members.

Are there any questions?

(No response.)

MS. MENJIVAR-SUDEATH: Okay. Well, with that, I will move on to the next item which is 8.F, the Internal Audit Division status, and that's on page 111 of your board book.

There are six items on the internal audit status. The first one is related to the fraud, waste and abuse risk assessment. This is an advisory service to
identify and rank fraud, waste and abuse risks for the
department. We are in field work with that and we
anticipate finishing this in August 2018 and we are on
track for that one.

The next item is the fiscal year 2018 internal
audit followup. This is a year-long project as well.
This is to verify outstanding internal audit
recommendations to make sure that they've been fully
implemented or providing us new due dates. We're
currently evaluating recommendations that were due between
December 1, 2017 and February 28, 2018. We will provide a
memo to the Board after the end of the quarter, kind of
summarizing which ones were implemented and which ones
were not, which ones had new revised due dates. We will
have a summary report at the end of August with all the
quarters and all the ones that have been implemented this
year.

The next item is the travel and training audit.
This is an audit to determine if travel and training
requests have appropriate approvals and justifications, as
well as determining if requests are appropriate and meet
the need of the DMV. We're also evaluating board travel
policies and getting best practices from other agencies.
We're in field work on this and we anticipate releasing
this report in late April 2018.
The next item is a new item, it's a management request. This is an advisory service requested by the Enforcement Division. The advisory agreement should be on page 135 of your board book. The Enforcement Division has requested that Internal Audit review their Texas Commission for Law Enforcement training compliance. For our training to be used by law enforcement for their credit certifications, it has to go through a TCOLE training review and be in compliance with requirements, and so we're reviewing that and providing potential feedback to the Enforcement Division on how we can ensure compliance going forward. It is not an audit and so there won't be a rating, there may be recommendations but those recommendations would be just suggestions to improve the function. And we're in planning o that one and we do anticipate ending that as well in late April.

The next two items are the completed items. The first one is the TxDMV Fund audit. That is on page 113 of your board book. The Internal Audit Division conducted an audit to determine if appropriate revenues are being deposited to the DMV Fund as well as correct amounts of revenue being transferred to the county. We overall found that there are processes in place to ensure that money is being deposited correctly into the DMV Fund as well as being distributed to the counties, however, those
processes are not being documented and so we asked Finance and Administrative Services to actually document those processes.

In addition, we found that there's not monitoring of the data table changes. When there's a change to the DMV Fund, there is testing and review in the testing environment, but once it goes into production there's no post-validation of it, and you want to make sure that post-validation occurs because sometimes changes in a testing environment do not reflect the actual changes in a production environment. And so Finance has agreed to that audit recommendation and they are reviewing that and developing a process for that.

Are there any questions on the DMV Fund audit report?

MR. TREVIÑO: Did you find any material instances of problems when you did that with the verification process?

MS. MENJIVAR-SUDEATH: No, we didn't. One thing to note is we weren't able to do a complete transaction review, the cradle to grave, because the reporting wasn't there. It would have taken about 1,500 hours to actually get that report, and so we decided to look at the processes that existed to kind of get the validation. That is a similar result that the State
Auditors had when they looked at RTS in previous audits.

Moving on to the last audit, the public information request process audit, this was an audit to determine if open records requests, also known as public information requests, are handled consistently and in accordance with state law. In addition, we were looking at whether the costs were appropriate. We overall found that the costs were appropriate and things were handled consistently in accordance to law.

We did make two audit recommendations. The first audit recommendation was related to consolidating the reporting function. Because our open records go through various intake points, the reporting was being manually input into the Attorney General's website which caused a couple of minor issues, so by consolidating all the reporting we'd have some efficiencies gained for the agency as well as making sure that our data was accurate.

We also recommended that the Office of General Counsel provide more guidance to some of the public information coordinators related to certain activities, including when to accept law enforcement requests or what they need for law enforcement requests, as well as when the executive director needs to be aware of an open records request.

Any questions on that audit?

(No response.)
MS. MENJIVAR-SUDDEATH: Okay. Well, that concludes my item. Thank you.

MR. PALACIOS: Thank you very much.

MR. TREVIÑO: I have one more question, Ms. Menjivar-Suddeath. There was a lot of discussion on access to data, and I just wanted to get your thoughts and comments on that from an audit perspective.

MS. MENJIVAR-SUDDEATH: Are you talking particularly to us being able to get the data for the DMV Fund?

MR. TREVIÑO: No. I was talking specifically about people's access to our internal data that may use it for legitimate purposes but then resell it for purposes that aren't legitimate.

MR. PALACIOS: Pardon the interruption. Let the record reflect it's 10:21, Board Member Ingram has temporarily stepped out.

MS. MENJIVAR-SUDDEATH: In 2017 we actually published an audit on the Driver Privacy Protection Act, which the rules that were discussed earlier incorporated some of that information. Generally what we found is the department was doing everything they could related to protecting the data, but because of the statute, specifically the 730 that was mentioned, the Motor Vehicle Act that was mentioned earlier, there really wasn't much
enforcement actions that they could take. The actual law says if you self-certify, you are required to have the information.

Now, even though that was the law, the department was trying to do some things to actually protect that information, and hopefully with the new rules that will add more protection on that and be able to say no to people that shouldn't have our data.

MR. TREVIÑO: But auditing that, will that require a lot more resources in your department to make sure that this is compliant?

MS. MENJIVAR-SUDEATH: Yes. If it was tasked to Internal Audit to do that review, I think we'd have to discuss resources.

MR. TREVIÑO: Great. Thank you.

MS. MENJIVAR-SUDEATH: Thank you.

MR. PALACIOS: Thank you, Sandra. Let's move on to rules adoption, back to agenda item number 9, and we'll bring Ms. Flores back. Hello again.

MS. FLORES: This is item number 9, and we are asking for approval of adoption of rule under Title 43, Texas Administrative Code, Chapter 209, Finance.

This is a charge for public information. This proposal was published on the Texas Register on November
10, 2017, the comment period closed on December 11, and no comments were received. This modifies the agency's rules to coincide and adopt the attorney General's rules regarding charges for public information.

And I'm available to answer any questions.

MR. WALKER: So move that the Board approve the adoption of the amendments to 209 under Section 209.24.

MR. TREVIÑO: Second.

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

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

Thank you.

Move on to item number 10.

MS. FLORES: Item number 10, again staff is asking for approval of proposed amendments to the department's rules.

This is a cleanup. Again, this is to correct a citation to the Comptroller of Public Accounts, Historically Underutilized Businesses rules. We're required to adopt the Comptroller's rules related to administering Government Code Chapter 2161, and we had this provision in our rules, however, the citation that we
had was technically in error because the Comptroller changed their rules. So this is just, again, cleanup.

The item was published in the Register on November 10, comment period closed on December 11, and no comments were received.

MR. WALKER: Question. I read this three times last night. After reading it three times, I still could not figure out what it was that changed that requires us to make a new posting. Can you explain to me what the change was?

MR. DUNCAN: I can do that.

MR. PALACIOS: Before you answer, pardon one more interruption. It's 10:25 and Board Member Graham has returned.

Please proceed.

MR. DUNCAN: Member Walker, David Duncan, general counsel.

So the Comptroller has a statute called the Historically Underutilized Business rule. When you're doing contracting in the state, if someone is going to use subcontractors on a state contract, they're required to do what's called a HUB plan, Historically Underutilized Business subcontracting plan. In the Comptroller's statute there's a requirement that every state agency follow the same guidance and the same rules that the
Comptroller does in implementing the program.

MR. WALKER: And that's under what code?

MR. DUNCAN: That's under Chapter 2161 of the Government Code, that's in the statute.

MR. WALKER: Do we operate under the Government Code?

MR. DUNCAN: Absolutely. Every state agency does.

MR. WALKER: Okay.

MR. DUNCAN: And then, so the easiest way to do that is to just adopt the Comptroller's rules on how to implement one of these programs by reference, which is what we had done. The Comptroller went in and reordered all their rules, they just changed the order of them, they didn't change any of the substance, they say the same thing, they just reordered the numbering. We had adopted it by reference so we said Subchapter B of their code and it changed to Subchapter D, so we just changed it to make sure that our reference is correct.

MR. WALKER: Well, why wouldn't we have just said that the agency adopts the standards under the Government Code under Section 2161 as posted?

MR. DUNCAN: It's a requirement, the Texas Register wouldn't accept something like that, if you're incorporating something by reference, you have to be
specific what you're incorporating.

    MR. WALKER: Because I looked like night and I read it back and forth trying to figure out what had changed and I couldn't figure out what changed.

    MR. DUNCAN: Really, really minor. Again, we're just correcting a reference in our rules.

    MR. PALACIOS: Okay. Are there any other questions on this item?

    (No response.)

    MR. PALACIOS: If not, I'll entertain a motion to adopt.

    MR. TREVIÑO: Mr. Chairman, I'd like to thank general counsel for that very thorough explanation of this rule. And with that, I would like to move that the Board approve the adoption of amendments to Chapter 210, Section 210.22, as recommended by staff.

    MR. PAINTER: Second.

    MR. PALACIOS: Okay. We have a motion by Board Member Treviño and second by Board Member Painter, after the crystal clear explanation from our counsel. Thank you very much. All those in favor please signify by raising your right hand.

    (A show of hands.)

    MR. PALACIOS: Motion carries unanimously.

    Let's move on to agenda item number to be given
by Ms. Corrie Thompson.

MS. THOMPSON: Good morning again, Chairman and Board members. Again, Corrie Thompson, for the record, director of Enforcement.

I have for you agenda item 11 which can be found on page 146 of your board books. It is a recommendation to approve adoption of amendments to Rule 215.210 for publication in the Texas Register.

This rule relates to compliance with orders granting relief for warranty performance obligations. We proposed this for publication for public comment back at the October Board meeting. The purpose of the amendment is to make the rule consistent with statute under 2301.610, and it is also to replace the acronym OEM with original equipment manufacturer, as OEM is not currently defined in Chapter 215 of the Administrative Code.

There is no fiscal impact associated with the amendment, and as I stated, it was published for public comment in the Register from November 10 of 2017 through December 11 of 2017, and we received no comments on the proposal.

If the Board adopts the amendments during the meeting, staff anticipates publication in the March 2 edition of the Register, with a March 8 effective date.

If there are no comments, I would recommend that the Board adopt the rule as written.
MR. PALACIOS: Are there any questions?

(No response.)

MR. PALACIOS: Hearing none, I'll entertain a motion to adopt the amendments.

MR. INGRAM: I move that the Board approve the adoption of amendments to Chapter 215, Section 215.210, as recommended by staff.

MR. PAINTER: Second.

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

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

Thank you, Ms. Thompson.

MS. THOMPSON: Thank you.

MR. PALACIOS: All right. Moving right along here, we have already covered 12 through 15, move on to item number 16 regarding Vehicles, Titles and Registration.

MS. AUCOIN: Good morning, Chairman.

MR. PALACIOS: Good morning.

MS. AUCOIN: Good morning, Board members. For the record, my name is Aline Aucoin, associate general counsel.
The department is requesting Board approval to adopt amendments to Section 217.54 regarding the registration of fleet vehicles. The materials begin on page 290 of your board books.

House Bill 1793 from the 85th Legislative Session amended a vehicle inspection statute to exempt certain commercial motor vehicles from the state inspection requirement if the vehicles received an inspection under the federal inspection requirements and the vehicles are not domiciled in Texas. If the vehicle qualifies for this exemption, the registrant must still pay the applicable inspection fee. The proposed amendments to Section 217.54 implement this statutory change by requiring the payment of the inspection fee even if the inspection occurred outside of Texas.

Senate Bill 2075 from the 85th Legislative Session amended our statute regarding extended registration of fleet vehicles by changing the $10 annual vehicle fee to a one-time fee. The proposed amendments to Section 217.54 clarify the situations in which the one-time fee of $10 per vehicle is due.

The department published the proposed amendments in the Texas Register and we received one comments from Mr. Ruben Gonzalez, the county tax assessor-collector for El Paso County, however, his comment does
not pertain to the proposed amendments to Section 217.54. He made statements about the registration of commercial fleets under the extended fleet registration program, he requested a statutory change and he asked the department questions. Because the comment does not pertain to the proposed amendments, we will not respond to the substance of his comment when we file the notice in the Texas Register, however, we will respond directly to Mr. Gonzalez.

And I can give you some examples of the information we have in our draft letter to respond to his comment. We were required by statute to implement the commercial fleet registration program which allows a registrant to register vehicles for up to eight years all at one time, and we implemented this program in 2010 because we were required by statute. The $10 vehicle fee is not a local fee, it's a fee that's deposited into the Texas Department of Motor Vehicles Fund.

Section 502.198 of the Transportation Code does not apply to local fees, so each county will still receive all of the applicable local fees for each year of the multi-year registration program, they just get that money at the initial registration and when they renew they get the money up front at a renewal as well. There are 73 vehicles registered in the multi-year fleet program in El
Paso County, and of those 73 vehicles, 46 are registered for one year, so it's as though like every other registration of vehicles registered for one year, and 27 are registered for five years.

I would be happy to answer any questions.

MR. WALKER: There is no refund on money if you decide to get rid of the vehicle or it's wrecked?

MS. AUCOIN: There is a process under the existing rule for a credit. A registrant can swap a vehicle out, there is a credit process.

MR. PALACIOS: Regarding Mr. Gonzalez's comments, I assume he was confused as to what these rules are? Because what you're telling me is there is no fiscal impact as far as his fleet of 73 units are concerned.

MS. AUCOIN: I guess I can't speculate on why he submitted a comment. I can definitely gather from his comments that he thought he had problems, maybe, with the extended commercial fleet program itself under the statute, but I think that our response to him will help him understand that some of his comments are not an issue.

MR. PALACIOS: Okay. Are there any other questions?

MR. TREVIÑO: That was the only comment you received. Right?

MS. AUCOIN: That was the only comment.
MR. PALACIOS: If there are no other comments, I will entertain a motion to adopt the amendment.

MS. HARDY: I move that the Board approve the adoption of amendments to Chapter 217, Section 217.54, as recommended by staff.

MR. WALKER: I second.

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

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

Thank you.

We have one more item that you're going to present to us on Chapter 219.

MS. AUCOIN: For the record, my name is Aline Aucoin, associate general counsel.

The department is requesting Board approval to adopt amendments to Chapter 219 regarding oversize and overweight vehicles and loads. The materials begin on page 304 of your board materials.

The amendments continue our progress in modernizing our permitting process by deleting references to faxes. The department currently accepts faxes but the goal is to eventually eliminate faxes and our permitting section will have a communication plan to implement this
if the Board approves the adoption of these amendments. The amendments also clean up the rules. For example, amendments improve terminology, correct errors and make the rules consistent with current practice. The department published the proposed amendments in the Texas Register and we did not receive any comments.

By law, the Board is required to consult with the Texas Transportation Commission prior to the adoption of certain rules regarding oversize and overweight permits for the operation of oil well servicing and drilling equipment, as well as cranes, also called unladen lift equipment motor vehicles. Department staff provided the Texas Department of Transportation staff with a copy of this rule package. The Texas Transportation Commission considered these amendments in their open meeting in December of 2017, TxDOT staff did not have any comments on our proposed amendments, and the Texas Transportation Commission did issue a minute order to document compliance with the statutory requirement to consult with them.

I would be happy to answer any questions.

MR. WALKER: Who is the Texas Transportation Commission?

MS. AUcoin: It's the governing board for the Texas Department of Transportation.

MR. WALKER: TxDOT?
MS. AUCOIN: TxDOT.

MR. WALKER: So why do we refer to them as two people when it's really one person?

MR. PALACIOS: It's their board, it's like the board of TxDOT. That's where Victor Vandergriff and Laura Ryan went.

MR. WALKER: I know they're on TxDOT's board, I didn't know it was the Texas Transportation Commission.

MR. DUNCAN: That's what it's called.

MR. WALKER: Okay.

MR. PALACIOS: Do we have any other questions on this matter, any comments?

(No response.)

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

MR. INGRAM: I move that the Board approve the adoption of amendments to Chapter 219, Sections 219.11, 219.42 through 219.45, and 219.62 through 219.64, as recommended by staff.

MR. PAINTER: Second.

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

(A show of hands.)
MR. PALACIOS: Motion passes unanimously.

Okay. We are making progress here.

MR. WALKER: I'm going to filibuster because you're not going to upset my record on getting out of here by 11:00.

MR. PALACIOS: What's that time?

MR. WALKER: I think 11:00 was the best time.

MR. PALACIOS: All right. We're getting there.

Item number 19. Please proceed.

MS. AUCOIN: For the record, my name is Aline Aucoin, associate general counsel.

The department is requesting Board approval to publish proposed amendments to Section 218.13 regarding the application for motor carrier operating authority. The materials begin on page 395 of your board materials.

The proposed amendments require a sole proprietor who is applying for operating authority to provide the department with a copy of an identification document from the list that's currently in our rules, the list of available or acceptable identification documents. We currently require the sole proprietor to provide us with a number on one of those identification documents, however, we want a copy of the actual identification document to help us verify the identity of the individuals who apply. This will help the department determine
whether the applicant is a potential chameleon carrier or reincarnated carrier which is a carrier that is trying to evade prior violations of the law by changing their name, changing their business, or affiliating with another company. Once the department processes the application to verify the identity of the applicant, the department will destroy the copy of the identification document.

Other amendments also clean up rule language to be consistent with House Bill 3254 from the 85th Legislative Session. The legislature amended the statute that requires a household goods carrier to file a tariff with the department which lists the maximum charges for their transportation services. The statute previously required the household goods carrier to provide a tariff for transportation services between municipalities. The legislature amended that statute and required the tariff for all transportation services, even if the transportation is within a municipality.

I would be happy to answer any questions.

MR. PALACIOS: All right. I don't hear any questions. Hearing no questions, I'll entertain a motion to approve the proposed amendments.

MR. GRAHAM: I move that the Board approve the proposed amendments to Chapter 218, Section 218.13, for publication in the Texas Register for public comment.
MR. TREVIÑO: Second.

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

(A show of hands.)

MR. PALACIOS: Motion passes unanimously.

MR. WALKER: Sometimes I've been raising my left hand and you've been counting it as unanimous. Does that count?

MR. PALACIOS: I really couldn't tell.

MR. GRAHAM: It's a stall tactic. Move on, Chairman. He's trying to drag it out, he doesn't want you to set the record.

(General laughter.)

MR. PALACIOS: Exactly. I think we're going to hit this eleven o'clock deadline that you put on the air, Board Member Graham.

All right. Last item, number 20.

MS. AUCTION: For the record, Aline Aucoin, associate general counsel.

The department is requesting Board approval to publish proposed amendments to Chapter 219 regarding the three new overweight permits which were authorized by the 85th Legislature. The materials begin on page 418 of your board books.
The purpose of the amendments is to implement House Bill 2319, Senate Bill 1383 and Senate Bill 1524 by defining the terms "roll stability support safety system" and "truck blind spot systems" and clarifying the terms "approximately 612 inches" and "approximately 647 inches." Industry needs clarification on these terms to obtain equipment that complies with the permit requirements. The three new permits are the North Texas Intermodal Permit, the Fluid Milk Transport Permit, and the Intermodal Shipping Container Port Permit.

After the department proposed the new rules to implement these three new permits in August, industry representatives starting calling our staff asking what these terms mean. These terms are subject to different interpretations from industry and enforcement, so we felt the need to move forward with clarifying and defining these terms.

We discussed the proposed definitions of the terms "roll stability support safety system" and "truck blind spot systems" with industry as well as the Texas Department of Public Safety. The discussions focused on safety. Our proposed definitions require the vehicle to have an actual system versus just the manual actions or perceptions of the driver because we feel that an actual system might be more accurate than a human being.
The proposed amendments to Section 219.34 and 219.36 clarify the terms "approximately 612 inches" and "approximately 647 inches." These are the authorized distances between the front axle of the truck tractor and the rear axle of the semi trailer in the combinations that are authorized to get these permits. The discussion of these terms focused on the availability of equipment that is currently in production as well as TxDOT's concerns about going below those numbers. TxDOT stated that the distances below these numbers could have a significant impact on their assessment of bridges and may result in additional load postings.

So one example of a call that we got from a motor carrier is a manufacturer told the motor carrier that they have equipment in production that exceeds the 612 inch requirement by 46 inches. We then conferred with TxDOT and DPS regarding the interpretation of both terms, the 612 inches and the 645 inches, and we also discussed this issue at TxDOT's oversize/overweight stakeholder workshop in November of 2017 when an industry representative asked for clarification on the meaning of these terms.

The department, TxDOT and DPS are all in agreement that the 612 inches and the 647 inches needs to be the minimum distance, that they can't go below.
However, we all agree that the distance can go above those numbers, the question is how high above should they go, what's the correct maximum. TxDOT did not suggest a maximum distance, however, they did state the longer the distance, the better. DPS pointed out the benefit of possibly not listing a maximum in case a manufacturer or a designer designs equipment that exceeds whatever maximum distance we decide to put in rule.

After the department drafted the proposed rule package, we received a call from the Texas Trucking Association requesting us to authorize up to 15 percent above the 612 inch requirement. They stated that they recently received a call from a manufacturer that designed equipment, and the 612 inches is for the 100,000 pound permit, and the manufacturer told them that they needed to go up to 689 inches. And TXTA also stated that on the 100,000 permit there are three axles at issue versus the 93,000 permit where there's two axles, so on the 612 inch they requested to go up to 15 percent above and on the 645 inch requirement they're only asking to go up to 10 percent above.

MR. WALKER: Is this on the weight or on the length?

MS. AUCOIN: The length, it's just on the length.
So the department's proposed amendments are drafted in compliance with the Texas Code Construction Act which says that a court may consider the objects sought to be attained as well as the consequences of particular construction of a statute. The proposed amendments establish the maximum distance of 10 percent for both the 612 and the 647 inch requirement, so the department's personnel and industry have an actual number, a clear maximum distance, however, we also stated in our preamble that we reserve the right to increase the maximum distance prior to adoption depending on whatever comments we receive.

Other amendments to Section 219.2 delete an incorrect statutory reference and update the language to be internally consistent.

I'll be happy to answer any questions.

MR. WALKER: I have two questions. Number one is this terminology only applies to this particular permit. Correct?

MS. AUCOIN: So the roll stability and the truck blind spot applies to all three.

MR. WALKER: Wait. Only to these particular permits.

MS. AUCOIN: Only to these.

MR. WALKER: It doesn't affect me hauling a 120
foot long load of conduit for somebody.

MS. AU Coin: So these terms only affect the three new permits, the roll stability and the truck blind spot.

MR. Walker: So the next question is on your roll stability, we have roll stability on our trucks, we called it roll stability, the manufacturer tells us it's a gyroscope in there. It will scare the ever living daylights out of a truck driver that doesn't know that it's on the truck because when the truck goes into a turn and he's going too fast on the freeway and there's a bend in the road, it takes control of the truck away from the driver and puts the brakes on the truck and he doesn't know it and all of a sudden it scares him.

But how do you define this in your rule here on roll stability?

MS. AU Coin: So the definition is found on page 438 of your board book, proposed new definition number 56 for roll stability support systems.

MR. Walker: So the definition is an electronic system.

MS. AU Coin: That's the start of it.

MR. Walker: So basically it's saying it can't be man stability, it has to be an electronic device of any kind on the truck.
MS. AUcoin: But it also has to perform the functions listed in our definition.

Mr. Walker: Right. But it doesn't say it has to be an Omnitracs or an Eaton, just any kind of electronic device that monitors those particular aspects.

Ms. Aucoin: Correct. We were very careful to draft the definition that accomplished the purpose but also did not give a monopoly to a particular manufacturer.

Mr. Walker: All that equipment that's doing this stuff has already been purchased; a company out of New Jersey got that whole contract.

Mr. Palacios: Okay. Are there any other questions? Any other comments on this matter?

(No response.)

Mr. Palacios: Hearing none, I will entertain a motion to approve the proposed amendments.

Mr. Walker: I so move that the Board approve the proposed amendments to Chapter 219, Sections 219.2, 219.34, 219.38, 219.36 for publication in the Texas Register for public comments.

Mr. Palacios: Thank you, Board Member Walker. Do I hear a second?

Mr. Painter: Second.

Mr. Palacios: Motion by Board Member Walker, second by Board Member Painter to approve the proposed amendments.
amendments. All those in favor please signify by raising your right hand. Mr. Aggie, okay.

(A show of hands.)

MR. PALACIOS: Motion carries unanimously.

Thank you, Ms. Aucoin.

Okay. We have one last item, we are moving to executive session. Let me make sure we covered everything because I know we went out of order.

All right. We are going to go into closed session. It is now 10:50 a.m. on February 8, 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 approximately 30 minutes. We'll reconvene in open session after that. With that, we're recessed from public meeting and going into executive session.

(Whereupon, at 10:50 a.m., the meeting was recessed, to reconvene this same day, Thursday, February 8, 2018, following conclusion of the executive session.)

MR. PALACIOS: Okay. It is now 11:30 a.m. on February 8, 2018. The Board of the Texas Department of Motor Vehicles is now back in open session. We want to note that no action was taken in closed session.

Okay. Given that we do not have any more items, we've taken all comments, I'll entertain a motion
to adjourn.

MR. TREVIÑO: So moved, Mr. Chairman.

MS. HARDY: So moved.

MR. PAINTER: Second.

MR. PALACIOS: All right. We're adjourned.

There you go, 11:30.

(Whereupon, at 11:30 a.m., the meeting was adjourned.)
CERTIFICATE

MEETING OF:       TxDMV Board
LOCATION:        Austin, Texas
DATE:            February 8, 2018

I do hereby certify that the foregoing pages, numbers 1 through 132, 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: 02/23/2018

/s/ Nancy H. King
(Transcriber)

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