TEXAS DEPARTMENT OF MOTOR VEHICLES

BOARD MEETING

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

Lone Star Room
Building 1
4000 Jackson Avenue
Austin, Texas

BOARD MEMBERS:

Guillermo "Memo" Treviño, Chair
Charles Bacarisse
Stacey Gillman
Brett Graham
Tammy McRae (absent)
Gary Painter
John M. Prewitt
Paul R. Scott
Shelley Washburn
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MR. TREVIÑO: Good morning, ladies and gentlemen. My name is Guillermo "Memo" Treviño, and I am pleased to open the Board meeting of the Texas Department of Motor Vehicles. It is -- I can't read the clock. Let's --

FEMALE VOICE: 8:34.

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

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

If you wish to address the Board or speak on an agenda item during today's meeting, please complete a speaker's sheet at the registration table. Please identify on the sheet the specific item you are interested in commenting on, and indicate if you wish to appear before the Board and present your comment, or if you only wish to have your 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 Department administrative rule, comments to the Board will be limited to three minutes.

To assist each speaker, a timer has been provided. The timer light will be green for the first two minutes, yellow for one minute and 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 and those in attendance of the rules of conduct at our Board meetings.

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

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

MR. BACARISSE: Here.

MR. TREVIÑO: Board member Gillman?
MS. GILLMAN: Here.

MR. TREVIÑO: Board member Graham?

MR. GRAHAM: Here.

MR. TREVIÑO: Board member Painter?

MR. PAINTER: Here.

MR. TREVIÑO: Board member Prewitt?

MR. PREWITT: Here.

MR. TREVIÑO: Board member Scott?

MR. SCOTT: Here.

MR. TREVIÑO: Board member Washburn?

MS. WASHBURN: Here.

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

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

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

MR. TREVIÑO: Okay. All right. We'll begin with Agenda Item 3-A. On March 26, 2019, Governor Abbott appointed Charles Bacarisse of Houston as a public representative, Stacey Gillman of Houston as a franchised auto dealer representative, Tammy McRae of Conroe as a tax
assessor-collector representative, and Shelley Washburn of Houston as a vehicle manufacturer distribution industry representative.

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

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

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

Please join me in welcoming our new Board members.

(Applause.)

MR. TREVIÑO: The State of Texas has high expectations. Okay. Now, so this is a great meeting
because we are welcoming some fantastic Board members, so it's very exciting, but I'm telling you, it's also very sad, because we will now to move Agenda Item 3-B.

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

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

I can't thank them enough for their reasoned approach to problems, but also for their good fellowship. It's really a sad thing for me to say goodbye, but I thank them, and I know that they will be of service in other areas to our state, to our great state.

Okay. So we will now -- should we honor them?
FEMALE VOICE: Let's do it.

MR. TREVIÑO: Do we honor them?

FEMALE VOICE: Yes.

MR. TREVIÑO: Let's honor them --

FEMALE VOICE: Yes.

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

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

(Pause for presentations and photos.)

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


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

MR. TREVIÑO: Stay, stay, stay.

MR. BARNWELL: Some of you may want to come along with me, because I'm going back to Houston. I want to say what an honor it's been to know the staff and meet you and see the commitment and dedication all of you have. The Board members I got to know because we were in meetings and talking about the issues of the day and different things.

So I know their commitment, but I just wanted to tell you, thank you for your commitment and dedication to this great Department that we have here, and I know the future is going to be even brighter within your continued hard work.
And the Board, congratulations to you. Memo, Charles, Brett, Stacey, Paul, and Shelley, and you over there, John Prewitt, thank you all for your commitment and your service, and we'll -- with that, we'll shuffle off into the sunset.

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

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

(General laughter.)

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

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

Texas is better served because of everything that you do and it has been an honor and a privilege to work with you. And so thank you very much for all the
support you've given me. What I'll miss most, honestly, is the camaraderie of the people that I've got to meet, including the Board members.

Congratulations to the new Board members.

MS. GILLMAN: Thank you.

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

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

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

I can't speak for the Board. I will never speak for the Board without their permission, so I can
only speak for myself, but I will miss them, their leadership, their counsel and their friendship greatly. But we'll still see each other, I hope.

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

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

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

(Applause.)

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

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

MR. GRAHAM: Mr. Chairman --

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

MR. TREVIÑO: Here, here.

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

MR. TREVIÑO: Here, here. Here, here.

(Applause.)

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

MR. GRAHAM: Amen.

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

The award is presented to individuals who show an exemplary commitment to raising awareness about mental health and encouraging to talk openly about it. Okay to Say is an award-winning public health awareness campaign
initiated by the Meadows Mental Health Policy Institute, which is a non-partisan policy research and development organization that strives to improve mental health services all over Texas.

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

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

(Applause.)

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

MR. TREVIÑO: Sure. Go ahead.

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

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

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

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

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

(Applause.)

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

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

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

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

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

(Applause.)

MR. GRAHAM: Sheriff, quick question. We were talking last night about maybe going to New Mexico and hanging out with Raymond Palacios and riding around,
shooting guns, having fun. If we get in trouble, does that -- that means that now your reach extends west. Right? So --

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

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


MR. PAINTER: Thank you. Appreciate it.

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

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

MR. GRAHAM: Absolutely. Be glad to.

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

MR. BACARISSE: I am.

MR. TREVIÑO: Great. Legislative and Public Affairs will be headed by Gary Painter, if you will serve
in that capacity as chair, and members Tammy McRae, Paul Scott, and Shelley Washburn. Projects and Operations, the Projects and Operations Committee will consist of John Prewitt.

John, if you're okay with that?

MR. PREWITT: Yes, sir.

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

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

MS. BREWSTER: Yes, sir.

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

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

This is a dashboard of the Agency's current standing with management recommendations. The Sunset Advisory Commission adopted 33 recommendations, 16 of
which were management actions, and management actions were effective immediately upon the vote of the Sunset Advisory Commission on August 29.

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

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

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

So there -- we are set to check off a couple more here in the very near future, but we're making great progress, and just wanted to make sure that the Board was
kept up to date, because this is such a big thing for the
Agency.

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

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

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

MR. TREVIÑO: Sure. Of course.

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

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

(No response.)

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

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

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

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

The legislation, HB 1959, also required us to look at the creation of a possible pilot, which according to the legislation, would be due by December 1, 2022. Phase 1 -- the proposed pilot had two phases. Phase 1 would be an off-road testing process to determine legibility for both -- to the human eye as well as
license-plate readers in ideal conditions.

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

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

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

It's been submitted to the Legislature in a
timely fashion, and it is posted on the TxDMV's website for review.

MR. TREVIÑO: Great.

MS. BREWSTER: Is there --

MR. TREVIÑO: Any questions on that?

MS. BREWSTER: All right.

MR. TREVIÑO: All right.

MS. BREWSTER: At this time, we would 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 Texas.

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

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

Thank you. Okay. Here we go. The following employees have reached 20 years of State service. First of all, we have Kenneth Fatheree. Here he comes. Oh,
thank you. Kenneth is in the Enforcement Division and has been an investigator for TxDMV since 2009.

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

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

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

(Applause.)

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

She has worked in all areas of the San Antonio Regional Service Center learning each task and becoming very proficient in everything she does. She is now a lead
and serves as a trainer for the new hires, a lead expert for IRP, and assigned and reassigned numbers.

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

Congratulations, Janie.

(Applause.)

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

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

(Applause.) (Pause.)

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

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

MR. TREVIÑO: Thank you very much for the succinct and great presentation. So now, moving right along, we are going into closed session. It is now 9:05 a.m. on May 2, 2019. We will go into closed session under
Texas Government Code, Sections 551.071, 551.074 and 551.089.

For those of you in the audience, I anticipate being in the executive session for approximately 30 minutes. Tracey, do you agree with that? About 30 minutes, and we will reconvene in open session after that. With that, we are recessed from the public meeting, and we are going into executive session.

Thank you.

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

(9:35 a.m.)

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

Okay. So now, we're moving into Agenda Item No. 6, contested cases. Daniel Avitia and Robert Rice will now address Agenda Item No. 6, contested case.

Gentlemen, good morning.

MR. AVITIA: Chairman, members, Ms. Brewster, good morning. For the record, Daniel Avitia, director of the Motor Vehicle Division. With me this morning is Mr.
Rob Rice. Mr. Rice is an attorney with the Enforcement Division and provided the legal support at the State Office of Administrative Hearings on this matter.

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

The ALJ in this case concluded that, based on the evidence presented and considering the applicable factors for licensure, this application should be denied. The ALJ found that the Board has the authority and legal grounds for denying the application due to the respondent's criminal history, which includes a conviction for a sexual crime committed while on a test drive with a female customer.

Specifically, the ALJ found the following factors do not weigh in favor of licensure for Mr. Barnett. The nature of Mr. Barnett's past criminal history and direct relationship to the duties and responsibilities of a license holder and the lack of
evidence presented by Mr. Barnett regarding his rehabilitative efforts.

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

filed exceptions only to correct the respondent's name.

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

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

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

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

MR. TREVIÑO: No. We can ask questions, I believe, of --
MR. GRAHAM: Okay.

MR. TREVIÑO: -- staff --

MR. GRAHAM: Okay.

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

MS. BREWSTER: Yes.

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

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

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

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

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

MR. GRAHAM:  Sure.

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

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

MR. TREVIÑO: Great question, member Graham.

So unless there's any further discussion, I would like to entertain a motion.

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

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

MR. PAINTER: Second.

MR. TREVIÑO: All in favor?

(A chorus of ayes.)

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

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

(A show of hands: Members Bacarisse, Gillman, Graham, Painter, Prewitt, Scott, Treviño, Washburn.)
FEMALE VOICE: Thank you.

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

MALE VOICE: Yes.

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

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

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

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

MR. WAGGONER: Yes.

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

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

MR. TREVIÑO: Okay. Great.

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

MR. TREVIÑO: Ms. Jordan?

MS. JORDAN: Hello.

MR. TREVIÑO: How are you?

MS. JORDAN: Just fine.

MR. TREVIÑO: Good morning. Okay.

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

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

So the -- we did recommend some changes to the PFD. If you look in your Board book starting on page 30, you can see the violations that were substantiated are
related to attaching a buyer's temporary tag to a motor vehicle. It did not have a valid report of inspection.

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

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

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

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

The rest of the conclusions of law relate to
the fact that the Board has two statutes under which it can recommend sanctions. The statute in the Transportation Code has a ceiling of $1,000 per violations, and the statute in the Occupations Code has a ceiling of $10,000 per violation.

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

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

However, the ALJ found six violations and based on evidence in the record, the amount proposed doesn't meet the -- would you say -- the guidelines or the policy and practice of the Enforcement Division. And so the penalty recommended by the Enforcement Division is $6,000, or $1,000 per violation, which is lower than recommended by the affidavit entered in the record, based on the fact that not all of the violations were substantiated by the
However, it is in line with the factors that the Enforcement Division considers when assessing or charging a civil penalty against a respondent. And I will yield the rest of my time for rebuttal, and I can answer any questions that you might have about the changes to the PFD.

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

(No response.)

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

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

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

MR. WAGGONER: Yeah.

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

MR. WAGGONER: Okay.

MR. TREVIÑO: Thank you very much.

MR. WAGGONER: I actually came down today to defend myself somewhat. I went to -- we had an ALJ go over everything before. It was supposed to be 13 violations. He went through and found six, and if you
look at the violations, what they are, the ALJ stated that, you know, he didn't see that I pose a threat to the public.

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

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

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

I was kind of confused when I had to come back here, this again. It just didn't make any sense to me. So that's it.
MR. TREVIÑO: Great. Are you done with your --
MR. WAGGONER: Yes. I'm done.
MR. TREVIÑO: -- comments?
MR. WAGGONER: Yes.
MR. TREVIÑO: Great. Well, thank you very much, Mr. Waggoner. Is there a discussion now? Does any of the members of the Board have any questions for Mr. Waggoner?
(No response.)
MR. TREVIÑO: So with that --
MR. BACARISSE: I just have a -- since I'm new, I have a --
MR. TREVIÑO: Sure, Charles.
MR. BACARISSE: -- sorry.
MR. TREVIÑO: Yes, sir.
MR. BACARISSE: I have --
MR. TREVIÑO: Member Bacaris, question. I know it's kind of hard sometimes, but --
MR. BACARISSE: I have a general question, since I'm new to the Board. When a business is notified that there are issues and as he was mentioning, some of them go back several years, but then he was notified of them all at once, technically, how does that work, with -- I don't know who I'm addressing this to, necessarily, perhaps our counsel staff.
You know, how do we go about deciding when --
what's the timing of when people are noticed when they've
had violations, multiple, single, you know, just help me
understand how that works, how the process works.

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

MR. BACARISSE: Sure.

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

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

After that, the respondents and the Department
can engage in negotiations to try to settle the matter,
but if we're not able to reach a agreement, the case is
docketed at the State Office of Administrative Hearings.
MR. BACARISSE: It goes to SOAH. Right.

MS. JORDAN: Right.

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

I mean, how does that work?

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

MR. BACARISSE: Okay.

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

MR. BACARISSE: Sure.

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

MR. BACARISSE: And what is that period typically?

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

MR. BACARISSE: Okay. Right. Thank you.

That's for my education.

MR. TREVIÑO: Thank you very much, Mr.
Bacaris. Mr. Graham, one more question though. I've got another. Ms. Washburn, could you explain to Mr. Waggoner why he's back here reviewing this case? So he says he wasn't sure why he's here.

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

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

MR. TREVIÑO: Great.

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

MR. TREVIÑO: Sure.

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

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

MR. TREVIÑO: Great. I just wanted to make sure that the record is clear, and Mr. Washburn, we really -- it's by statute and by law that we have to do
this. It's not something that we enjoy doing by any stretch of the imagination.

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

MR. GRAHAM: I do.

MR. TREVIÑO: Go ahead, member Graham.

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

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

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

But essentially, if -- the other complicating
factor is that, at the time this case was investigated, the Enforcement Division had a backlog of investigations to be completed, and so the time line of investigations were -- was elongated because of the -- of -- each investigator had more cases than they could timely complete.

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

The case went to hearing in the summer of 2018.

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

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

That went back to 2015. But the majority of the allegations cited in the notice of Department decision happened in the spring and summer of 2017. And so spring and summer of 2017 are the main violation dates. There obviously was an older investigation that had an older
The notice was sent out in the fall of 2017, and then the hearing proceeded a year later in 2018.

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

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

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

Yeah. Okay. Thank you.

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

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

MS. JORDAN: $1,200.

MR. SCOTT: Total?

MS. JORDAN: Yes.
MR. SCOTT: And forfeiture --

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

MR. SCOTT: Right.

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

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

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

MR. SCOTT: So there's a difference between the
fine -- there's - in neither case are there sanctions on
the license?

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

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

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

MS. JORDAN: Penalty.

MR. SCOTT: -- there's no --
MS. JORDAN: Yeah.

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

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

MR. SCOTT: Okay.

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

MR. SCOTT: Right.

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

MR. SCOTT: Okay. Thank you.

MS. JORDAN: Yes, sir.

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

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

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

MS. JORDAN: I would -- what I would say is that the penalties recommended by staff do, in our estimation, fit into the -- you know, where this case would fall on the spectrum, whereas the $1,200 recommended by the ALJ is not something that we would find for a case like this without some accompanying mitigating factors,
and the Judge didn't find any mitigating factors in this case.

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

(No response.)

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

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

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

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

MR. TREVIÑO: You've got it?

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

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

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

MR. TREVIÑO: Great. And would -- so okay.

Good.

MR. PREWITT: So do you need a second?

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

MR. PREWITT: Yes.

MR. TREVIÑO: Do we need a second?

MR. PREWITT: I'll second that.

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

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

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

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

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

MR. TREVIÑO: Member Prewitt?

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

MR. TREVIÑO: For?

MR. PREWITT: For some discussion about --

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

MR. PREWITT: Okay.

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

MR. PREWITT: I will withdraw the motion.

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

MS. WASHBURN: Second.

MR. TREVIÑO: We have a second, someone?

MS. WASHBURN: Second.

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

MS. BEAVER: No. Then you just go ahead and -- there's a motion --
MR. TREVIÑO: We've got a --

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

MR. TREVIÑO: -- second.

MS. BEAVER: The second was withdrawn.

MR. TREVIÑO: Right.

MS. BEAVER: -- and so then somebody could do an amended --

FEMALE VOICE: -- then the motion dies.

MS. BEAVER: -- the motion dies.

MR. GRAHAM: Yeah. The motion dies.

MS. BEAVER: There's no second.

MR. TREVIÑO: Okay. The motion dies.

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

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

MR. GRAHAM: Motion is dead.

MR. TREVIÑO: The motion is dead. Okay. We're starting with a clean slate here. And now, member Scott, I think you have a different motion. Is that correct?

MR. SCOTT: I move that the Board enter staff's proposed final order which modifies the PFD by amending conclusion of law 4 because the ALJ did not properly interpret the Department's rules, amending conclusions of law 11, 16, and 18 because the ALJ misapplied the law, and deleting conclusions of law 19 and 23 because the ALJ misapplied the law.
The Board is the decision-maker concerning penalties and the ALJ failed to cite the Board's authority. The ALJ limited our ability to assess appropriate penalties. The penalties in the PFD are too low to be effective. The ALJ recommended a penalty totaling $1,200 for four violations.

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

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

MALE VOICE: Uh-huh.

MR. TREVIÑO: Do we have a second?

MR. PAINTER: Second.

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

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

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

MS. BEAVER: Tracey Beaver, general counsel.
Yes. The staff's proposed final order did recommend correcting the ALJ's conclusions of law because they misapplied the law in that they didn't include a section that would permit the Board to have additional penalty authority.

MR. BACARISSE: Right. Thank you.

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

MR. SCOTT: Yes.

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

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

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

MR. PAINTER: Yes, sir.

MR. TREVIÑO: Any further discussion on this?

(No response.)

MR. TREVIÑO: Okay. We have a motion and a second, so all in favor -- we have a motion from the Board, second from a Board member. Any further discussion?
MR. TREVIÑO: Hearing none, I call for a vote. All those in favor please signify by raising your hand. All those opposed, same sign.

(A show of hands: Members Bacaris, Graham, Painter, Prewitt, Scott, Washburn.)

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

MS. BREWSTER: It's six.

MR. TREVIÑO: Six members?

MS. BREWSTER: Yes.

MR. TREVIÑO: And opposed?

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

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

MALE VOICE: That's very unusual.

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

MS. MENJIVAR-SUDEATH: Good morning, Board
members. For the record, Sandra Menjivar-Suddeath, Internal Audit director, and I'm presenting Item 8-A, which begins on page 87 of your Board book, and it's the Internal Audit Division status update.

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

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

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

From a summary perspective, the Division is currently working on eight internal engagements. Two engagements are in the reporting phase, which means we've
done all the testing. Right now, we're just working with
the divisions on writing the results and providing the
results to management for responses.

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

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

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

For example, when we are -- when we re-factored
the Registration and Titling System, also known as RTS, this governance process was used to manage and facilitate the project and achieve outcomes. So the goal of the objective was evaluate the project management governance process.

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

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

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

We have been working with the divisions on getting responses for any issues that we identified in the audit, and we -- and it has been sent to Ms. Brewster and Ms. Mellott for review. This is a confidential audit.
which means that this audit will not be presented in the public meeting due to its nature.

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

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

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

MR. TREVIÑO: Uh-huh.

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

MR. TREVIÑO: Right.

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

MR. TREVIÑO: Great. Thank you.
MS. MENJIVAR-SUDDDEATH: Uh-huh. For the field work engagements, we are looking at our procurement and contract management. This audit is to evaluate those processes. We anticipate the report will be released in August.

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

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

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

For the second quarter, which was December 1, 2018, through February 28, 2019, we reviewed 20 internal audit recommendations, and the Department had implemented
80 percent of them. So for those who are not familiar with implementation rates, that's actually significantly high.

Most agencies usually are about 60, 50 percent. So the fact that the Agency is about 80 percent and pretty much tracks towards that, is a good thing. It shows a good ability to address concerns that are identified. This chart gives you the information related to where the audit recommendations came from.

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

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

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

And then on the planning phase, we --
MR. TREVIÑO: So coming back to that, you would characterize staff as being responsive to Internal Audit's recommendations?

MS. MENJIVAR-SUDEATH: Yes.

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

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

So this is -- this audit is now evaluating whether we actually achieved our desired outcomes with that. We literally just kicked it off yesterday, so we do anticipate, though, having that released by August 2019.

And then we have a payment card industry compliance audit.

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

We take aspects of the PCI compliance requirements -- there's 12 in total -- and evaluate one each year. For this year, we're evaluating their --
whether their -- whether we have systems in place to
ensure that we're protected against malware as well as
we're keeping up with our anti-virus protection.

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

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

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

The divisions impacted by this audit were the
Finance and Administrative Division, Office of General
Counsel, and Vehicle Titles and Registration. All three
divisions are working on addressing those recommendations,
and we anticipate full implementation by November 30,
The Texas Comptroller of Public Accounts has begun an audit on us as well, on reviewing our promotional items. That is a specific type of code that we have in our system, things that we buy, DMV cups, things to that regard.

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

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

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

MS. WASHBURN: I have a quick question. Sorry about that. On the last one. So the external audits -- so promotional items --
MS. MENJIVAR-SUDDEATH: Uh-huh.

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

MS. MENJIVAR-SUDDEATH: No.

MS. WASHBURN: Okay.

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

MS. WASHBURN: Yeah.

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

MS. WASHBURN: Uh-huh.

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

MS. WASHBURN: Okay.

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

MS. WASHBURN: Right.

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

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

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

MS. WASHBURN: Okay.

MR. TREVIÑO: Thank you.

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

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

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

MR. TREVIÑO: That's great. I think that
deserves a round of applause. Derrick, well done.

(Applause.)

MR. TREVIÑO: Moving the ball forward.

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

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

So I will be doing that for the next year.

MR. TREVIÑO: Great job, great job.

(Applause.)

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

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

MS. MENJIVAR-SUDEATH: -- hug your auditor.
Tell them how great they are. But we will be doing some activities in the Department to celebrate Internal Audit Month, including having, you know, open house next week, where we invite staff to come in and meet with us and talk to us, and just get to know us.

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

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

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

MR. GRAHAM: Somebody.

MS. MENJIVAR-SUDDEATH: Somebody knew something.

MR. TREVIÑO: Proclamation --

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

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

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

MR. TREVIÑO: Okay.

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

MR. TREVIÑO: So you can submit those in
writing in the public record later. The internal audit jokes. Anyone interested, please say so. Please.

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

MR. TREVIÑO: Any other questions?

(No response.)

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

MS. MENJIVAR-SUDEATH: Yes.

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

MS. MENJIVAR-SUDEATH: Yes. And --

MR. TREVIÑO: Great.

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

MR. TREVIÑO: Duly noted and I think that's a very progressive way to look at the Agency and thank you very much for your service. It's not simply being
accounting. It's actually making the enterprise stronger. So thank you very much.

MS. MENJIVAR-SUDEATH: Thank you.

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

MR. TREVIÑO: Yeah.

MR. GRAHAM: Yeah.

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

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

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

MR. TREVIÑO: Ms. Flores, can I -- sorry to interrupt you, but do you know what page we're on in the Board --
The contract approval procedures document lays out what will brought to the Board for approval as well as other routine contracts that the Agency, in collaboration with Ms. Brewster, will execute throughout the year.

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

This Agency, for the last 10 years, has been reliant on TXDOT for providing routine services. We are slowly but surely taking over those functions and establishing our own contracts, but because this will be a routine kind of contract, we will be working with external
parties such as the Comptroller's Office, the Texas Industries for the Blind and Handicapped, TIBH, to procure some of those services.

We do anticipate that we'll -- it will be a large dollar value, in excess of $100,000, but it will be a routine contract that we will process from year to year. We are asking that that particular contract be excluded from Board consideration.

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

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

(No response.)

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

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

MR. TREVIÑO: Correct.

MR. BACARISSE: Second.

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

(No response.)

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

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

MR. TREVIÑO: All those opposed, same sign.

(No response.)

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

MS. FLORES: Thank you.

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

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

MR. TREVIÑO: Yes, please.

MS. FLORES: Sure. Item -- Agenda Item 8-C.

And with me, to my right, is Ms. Renita Bankhead. She is the assistant chief financial officer, and she'll be presenting the second quarterly report to the Board.

MS. BANKHEAD: Good morning, everyone.

MR. TREVIÑO: Good morning.

MS. BANKHEAD: I'm Renita Bankhead.

MALE VOICE: Good morning.

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

MR. TREVIÑO: Yeah.

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

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

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

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

Moving on to page 144 of your materials. The Department is supported by the -- by Texas DMV fund revenues, with the exception of the Automobile Burglary and Theft Prevention Authority, ABTPA, and that's
supported by fees deposited in the General Revenue.

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

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

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

So we are -- overall, our collections are higher than our projections and where we were last year. We had a few little blips. Number one was the title revenue. Our actuals for '19 are higher than '18, but that's because we had an uptick in '18 because of the hurricane.
Our biggest performer is oversize and overweight permitting. It's over what we collected in '18, and it also exceeds our projections, and that's because of the strong performance in the oil and gas industry. Our miscellaneous revenues continue to exceed FY'18 collections and projections and this is due to the increase in the interest rates during that period plus those interest rates being applied to a higher fund balance.

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

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

That means that we set aside purchases. Once we process a purchase requisition, the funds are set aside
in the budget as an obligation. So we call those encumbrances. At mid-year, our obligations are within expected level.

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

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

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

So our -- the TxDMV capital budget is $35.1 million, and the obligations so far for that are
5.6 million in technology projects, and encumbrances of 12.5 also in technology and the DMV Automation Project. The majority of the capital budget is allocated to technology projects, specifically the contract with the Department of Information Resources for data center consolidation services, and that's management of hardware and software applications and technology services.

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

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

We are still in the planning phases for many of those projects, so we have not had any expenditures. Also included in this category is funding for a security and badging system, which we're still working through, and vehicles.
We have purchased 13 new vehicles this year.

So that concludes my presentation. I'm happy to answer any questions.

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

(No response.)

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

Any thoughts?

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

MS. BREWSTER: If I may --

MR. TREVIÑO: Staff --

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

They are preparing a more aggressive campaign coming up here in the next several months to hopefully address that, and we internally as an Agency are also
looking to work with them in concert to do another online push here at the Agency to hopefully move that forward.

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

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

MR. TREVIÑO: Great. Okay.

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

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

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

MR. TREVIÑO: That's an important piece.

MS. BREWSTER: I agree.

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

MS. BREWSTER: Absolutely.
MR. TREVIÑO: -- all right. Any other questions?

(No response.)

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

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

MR. TREVIÑO: Excellent.

MR. ARCHER: Last year, we issued 809,113 permits. The year before that, we issued around 700,000. So the trend is going on. I don't see any indication right now that it's going to go the other way, but it's the economy.

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

MR. ARCHER: Yes, sir. I mean, it's a
challenge, but we're able to keep up.

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

MR. ARCHER: Thank you, sir.

MR. TREVIÑO: Okay. Any other questions?

(No response.)

MR. TREVIÑO: All right.

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

MR. TREVIÑO: 161.

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

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

Since then, that house bill has moved over to the Senate. The Senate tacked on its own amendments, and now it is called Committee Substitute for House Bill 1.
The two versions between the House and the Senate approvals are different, and this table kind of shows you a comparison between the two versions.

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

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

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

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

There were two exceptional item for the Auto
Burglary and Theft Prevention program that were not recommended. Those were pushed off into something called Article 9, and it's items that are not funded, but it leaves room for continued discussion.

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

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

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

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

We provided that. So we do believe that, you know, some of our requests will make it all the way
through. For those items that are in Article 9 -- I'm sorry -- 11 -- that is considered a wish list for the State of Texas, and that wish list is very, very long.

   So what comes out of there remains to be seen.

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

   MR. TREVIÑO: Great. Any other --

   MR. GRAHAM: Question.

   MR. TREVIÑO: Member Graham?

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

   MS. FLORES: Yes, sir.

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

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

   The House is more transparent than the Senate, I will say. When the House was deliberating, they have work groups for each article. We were noticed that they were meeting. So we would show up. We're not allowed to
Our legislative budget analyst is -- you know, it's one of those protocols that you have to follow. The Legislative Budget Board analyst is at the table with the work group members, composed of the House members. If they have a question that our analyst cannot answer, the Agency representative is sitting in behind with some little card -- index cards, and you write the answer.

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

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

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

MS. FLORES: I will -- I'm looking at --
MR. GRAHAM: -- into the deliberation.

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

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

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

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

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

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

It means that the discussion is occurring.

MR. GRAHAM: Sure.

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

MR. GRAHAM: Okay. Thank you.

MR. SCOTT: Can I ask a question?

MR. TREVIÑO: Yes, member Scott.

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

MS. FLORES: Uh-huh.

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

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

MR. SCOTT: Right.

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

So if we don't receive that money, then we will
continue on the path to replace the roof in Building 5. We'll renovate the executive suite. We'll do some other things that we have on our list now. We just won't go that extra step of actually starting to renovate this building.

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

MS. FLORES: Yes, sir.

MR. SCOTT: Okay. Thank you.

MS. FLORES: Yes, sir.

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

(No response.)

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

So thank you very much.

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

MR. TREVIÑO: Yeah, yeah, yes, it is. Good value for the citizens of Texas. Okay. All right. Our
next agenda item -- okay -- is -- we move to Item 9, the
new specialty plate design. Let's get that one here.
Jeremiah Kuntz, we're heading into specialty plates
designs.

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

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

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

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

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

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

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

The Agency receives $8 for the administrative overhead of issuing those license plates. The last set of license plates, if you will, are those that are brought forward by our specialty plate marketing vendor. Currently, that is known as My Plates, and they can bring forward license plates before the Board for adoption and approval, and you will see primarily those designs coming before you.

Those are the most common that you'll be seeing. We have quite a few different license plate
options. We have 478 license plate design options. There are 180 military and disabled veteran license plate options. There are 50 license plate options with restricted use or restricted distribution.

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

MR. TREVIÑO: Jeremiah --

MR. KUNTZ: You will see --

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

MR. KUNTZ: 178.

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

MR. KUNTZ: So that has everything in it.


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

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

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

MR. TREVIÑO: Great.

MR. KUNTZ: -- and that's the various backgrounds. We have 478 various backgrounds.
MR. TREVIÑO: Is that unique to Texas?

MR. KUNTZ: Say that again?

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

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

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

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

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

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

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

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

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

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

With all of that, if there are any questions about our specialty plate program, I'd be more than happy to answer those.
MR. TREVIÑO: Does anybody have any questions or --

MS. GILLMAN: I have a question.

MR. TREVIÑO: Sure, member Gillman.

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

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

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

If they're not selling, we do remove them from the catalog. So if they do not maintain 200 registered
license plates, then we actually peel those out of the program and make them no longer available.

MR. TREVIÑO: Great.

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

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

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

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

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

MR. TREVIÑO: Board plates?

MR. GRAHAM: Yeah. Shouldn't the Board
governing plates have Board plates.

MR. TREVIÑO: Hm. Well, I think the --

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

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

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

MR. GRAHAM: Plate subcommittee.

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

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

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

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

MR. KUNTZ: Yes.

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

MR. KUNTZ: Yeah.

MR. SCOTT: So now, and how does that -- I mean, who proposes that? What --
MR. KUNTZ: Yeah. So let me go into that. One of the things that we do see, and as I was kind of laying these out, I was going -- I wanted to give you all kind of background --

MR. SCOTT: Okay.

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

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

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

That would not be a new offering to the market. It's just a redesign. So the old design would go away. The new redesign would be what's available to the public. So we will discontinue the old designs. The two on the
left will actually go away and they'll be replaced with the new designs.

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

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

It is the Save the Texas Ocelot plate, and the license plate on the left is the old license plate design. It is more of an artwork caricature. The new license plate design has more of a, you know, actual image of an ocelot on it.

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

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

(No response.)

MR. TREVIÑO: Would the committee -- or the
Board like to take all three as one possibly? Okay. So unless there's any further discussion, I'd like to entertain a motion to approve -- or to take or to reject all three? Do you have a -- do we have a motion?

Now, someone has to make a motion.

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

MR. TREVIÑO: Great. Okay.

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

So --

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

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

MR. TREVIÑO: Yes?

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

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

MR. TREVIÑO: Great.

MS. GILLMAN: I second.

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

(No response.)

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

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

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

(No response.)

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

MS. LOVE: Good morning.

MR. TREVIÑO: Good morning.

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

And this starts on page 170 of your briefing materials. Following the general update that I have about the session, I'll talk about the status of the Board
recommendations and because there are several new faces in front of me now that were not here when the Board adopted those back in October, I'll try to go into detail, but feel free to ask any questions at any time.

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

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

Pretty much by that point, there will be -- all the bills that are in flight will have been considered by the -- both chambers in the Legislature. So after the Legislature adjourns on -- for sine die on May 27, the next big deadline after that is June 16, which is the day
which the Governor has the deadline that he has to sign, veto or allow legislation to go into law without signature, and so obviously, that's a significant one, including with the budget he has line-item veto authority.

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

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

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

So we help coordinate all those efforts. And then we also hold weekly briefings with our executive team as well to make sure everyone is up to speed on what's happening. And there's some just general statistics here.
about the number of bills that were filed this session, which is just under 7,300, and of those, we have identified almost 600 that would have an impact to the Department. So we're kind of continuing to watch all of those and see what ends up making it through to the Governor's desk or not, and then may be not even from there. We'll see. At any rate, I wanted to move into a status update of the Department's Sunset legislation.

As you all are aware, our Department has been in existence for almost 10 years now, and this is our first Sunset review, and so it's a very important and helpful process that we've been through on this. As Ms. Brewster mentioned earlier, there were several management recommendations that were made by Sunset staff, which we've worked on -- we've been working to implement, but there were also several statutory recommendations. So the biggest statutory recommendation in Senate Bill 604 by Buckingham is to extent the Agency until 2031, and that's the longest extension any agency can get, of 12 years. So that is a great aspect of the bill, and so therefore, it is very good. Other than that, there were -- yesterday, the House Transportation Committee voted the bill out of the committee. So next it will go for House floor debate and
it's already been through the Senate. The House did make some changes and I just got the substitute this morning. But as we've looked through it, there were a few changes that I'll note. One of them was, the Senate had added a provision requiring that the chair of this Board be a public-appointed member. And the House committee substitute has removed that requirement.

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

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

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

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

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

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

So it will be a big team effort, if it remains that way through the session. So that is the status of the bill currently, and it is anticipated that we are going to -- or the -- I'm sorry -- that the House will have both this bill and any other Sunset legislation that is yet to pass the House Chamber for consideration on
May 14, which is one week ahead of that Senate bill deadline, to consider all Senate bills on second reading.

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

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

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

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

And how that relates to our Department is, there is a requirement in that bill for the -- for DPS to work with DMV and the county tax assessor-collectors in
looking at how a transfer of that driver license program could occur.

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


MR. SCOTT: Yes.

MR. TREVIÑO: Member Scott?

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

MS. LOVE: That's correct.

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

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

So before the next Legislature comes in, that transfer would have happened. House Bill 11 did make it
over to the Senate. It was referred to Senate Transportation but has not yet received a hearing. So it's limbo at the moment.

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

MS. LOVE: The other one --

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

MS. LOVE: Yes.

MR. SCOTT: Okay.

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

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

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

MS. LOVE: There's three. So the one is -- there is statutory creation. There is also creation by a
sponsor for -- of a State agency. And then the third one is through the My Plates program. So yes.

MR. SCOTT: Thank you.

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

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

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

And the study that was required by House Bill 1959 from the last session had us look at how to test the viability of several alternatively fueled -- or I'm sorry -- I'm thinking of my electric car -- alternative
registration options for vehicles, and one of those
included the availability of a digital license plate.

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

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

MR. SCOTT: Great.

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

MS. GILLMAN: I have one.
MR. TREVIÑO: Member Gillman?

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

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

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

MS. GILLMAN: Good.

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

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

MS. LOVE: Okay.

MR. TREVIÑO: Great work.

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

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

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

So House Bill 2835 by Representative Canales who is the Chair of the House Transportation Committee would allow for an extended registration for those registrations that expire, and if their county office happens to be closed for an extended period of time during
that expiration, you would be given an additional 30 days, and the desire there was that, when you run into situations like we did with Hurricane Harvey, and several counties have to close their offices for several days because of the recovery from the floods and things like that, that the customers that were impacted would have the opportunity to have that extra time to get their registration renewed if they couldn't get it renewed otherwise.

And that legislation is -- it passed out of the House committee and it has not yet been set for House calendar, so we're watching to see when that might occur. Additionally, House Bill 2112 by Ed Thompson who is on the House Transportation Committee has a lot of provisions as it relates to determining flood vehicles and how those salvaged titles are processed and things like that.

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

You know, some of their scope -- but -- and then also about their ability for their funds to have -- the funds be increased from what they are currently. That's actually being addressed through the budget
process, so that legislation is not being pursued further at this time.

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

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

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

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

And it would exempt any investigations that we have going on with our Enforcement Division from Public Information Act requests, until that case is concluded. So it's protecting the participants in any of those investigations until the case is concluded, and other State agencies have this type of exemption as well.
And then House Bill 3842 by Tracy King which is also -- has a companion bill of Senate Bill 2052 by Senator Juan Chuy Hinojosa. That legislation clarifies the location by which a dealer can sell vehicles. Currently, the law is apparently not clear for some people.

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

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

And there was a recommendation by the Board to look at restructuring the title dispute process. Currently, the tax assessor-collectors will have a hearing if there's an individual that does dispute any issuance of a title, whether they feel like they should have it or someone else, or the classification of the title.
And so that process is not necessarily consistently used around the state, so we were hoping to modify it, and we've been working with the tax assessor-collectors on a solution for it, but it was a little late for anything to be filed.

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

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

MR. TREVIÑO: Great. Thank you.

MS. LOVE: So that does conclude --

MR. TREVIÑO: Wow.

MS. LOVE: -- my remarks.

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

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

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

MR. TREVIÑO: Okay. All right. Fair enough,

fair enough. But thank you very much for a very thorough
presentation. Okay. All right. So next order of

business -- we move to Agenda Item No. 11, Vice Chair
election.

Do I have any nominations?

MR. PAINTER: Mr. Chair, I nominate Charles

Bacaris as the Vice Chairman.

MR. TREVIÑO: We have a motion. Do we have a

second?

MS. WASHBURN: Second.

MR. TREVIÑO: Second --

MS. WASHBURN: Yes.

MR. TREVIÑO: -- from member Washburn. We have

a motion for Board member Painter and a second from Board

member Washburn. Any further discussion?

(No response.)

MR. TREVIÑO: Hearing none, I call for the

evote. All those in favor signify by raising your hand.
(A show of hands: Members Gillman, Graham, Painter, Prewitt, Treviño, Washburn.)

MR. BACARISSE: I'm abstaining.

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

(A show of hands: Member Scott.)

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

MR. BACARISSE: Thank you.

MR. TREVIÑO: -- Vice Chairman Bacarisse.

MR. BACARISSE: Thank you.

MR. TREVIÑO: Yes, sir.

MR. BACARISSE: Thank you.

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

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

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

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

MR. TREVIÑO: Sure.

MR. GRAHAM: -- the kind of -- the concern regarding industry, until the Legislature flushes all that
out, I mean, that probably should be someone else at this point. Just -- let's just keep it --

MALE VOICE: Right.

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

MR. PAINTER: Sure.

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

Okay. So now --

MR. GRAHAM: Or assistant deputy.

MR. TREVIÑO: Assistant deputy would be even worse. No. So okay. So now we're going into executive session. We're going into closed session. It is now approximately 11:31 on May 2, 2019. We'll go into closed session under Texas Government Code, Section 551.071 and 551.074 and 551.089.
For those in the audience, I anticipate being in executive session for approximately 45 minutes.
Counsel? And we will reconvene in open session after that. With that, we are recessed from the public meeting, and we are going into executive session.

(Whereupon, at 11:31 a.m., there was an executive session.)

(12:47 p.m.)

MR. TREVIÑO: As member Prewitt and member Gillman are getting situated here, I think I will start with -- it is approximately --

THE REPORTER: 12:47.

MR. TREVIÑO: -- 12:47. The Board of the Texas DMV is now back in open session. The Board will now take up Item 14, action items from executive session. Well, actually, there are no action items -- actions arising from executive session that the Board must act upon in open session, pursuant to Section 55.102 of the Texas Government Code.

Correct? Good. So and that --

MS. BEAVER: Chairman Treviño?

MR. TREVIÑO: Yes.

MS. BEAVER: Tracey Beaver, general counsel.

MR. TREVIÑO: Yes.

MS. BEAVER: It would be good to mention that
the member Scott needed to leave early.

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

    MS. BEAVER: Yes.

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

    MR. PAINTER: Motion to adjourn.

    MR. TREVIÑO: Motion to adjourn.

    MR. BACARISSE: Second.

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

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

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

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

MEETING OF:     TxDMV Board
LOCATION:     Austin, Texas
DATE:     May 2, 2019

I do hereby certify that the foregoing pages, numbers 1 through 122, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy H. King before the Texas Department of Motor Vehicles.

DATE:  May 8, 2019

(Transcriber)
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